

Memorandum of Understanding  
Between  
AFGE Local 2923 and NIEHS  
HHS ID "Smart Card" or PIV Initiative

The Parties agree that the security and safety of employees, contractors and affiliates and Federal facilities is critical. According to the Homeland Security Presidential Directive (HSPD) 12 dated August 27, 2004, "It is the policy of the United States to enhance security, increase Government efficiency, reduce identity fraud, and protect personal privacy by establishing a mandatory, Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractors".

The intent of this MOA is to ensure security while preserving confidentiality and privacy as well as an efficient government.

Applicants and employees retain any and all rights and privileges granted to them through Federal Regulations, the NIEHS/AFGE agreement and HSPD-12.

All Applicants and Employees may be subject to a background investigation appropriate to the position they occupy at the Agency. There may be instances where an employee has already completed a Federal background investigation that may preclude the requirement of completing another one. The Agency shall make such decisions, and provide the rationale for such to the employee upon request.

All suitability determinations shall only be in accordance with 5 CFR subpart 731.

The Agency shall provide adequate notice and information to employees regarding the PIV process and will make available personnel who can assist employees through this procedure. The Agency shall ensure that the information sent via e-mail to employees is recognizable as important and from a credible source. The Agency agrees that it is their responsibility to ensure that the correspondence with employees regarding background investigations are communicated in a clear and official manner so that such correspondence is not considered to be "spam" or some other possible malicious electronic communication. Employees are responsible for completing requirements in a timely manner. Any employee who is not provided adequate notice or who could not meet the initial time requirements when a valid reason is provided, shall be given additional time to complete the paperwork.

The Agency shall consider any methods that may save money or resources and make this process as easy for employees as practicable. Training for employees shall be user-friendly and effective. The Agency shall notify employees of contact information to assist employees through this process whenever requested.

Background investigations are expected to be completed during duty time. Employees will be permitted 8 hours of duty time to complete all background information forms. For those employees more time, particularly any employee who must complete extra forms, they shall be given additional duty time as appropriate and on a case-by-case basis.

Employees shall be granted duty time to correct any errors, omissions, or oversights or provide clarification on their paperwork involving the PIV card prior to any disciplinary action being brought against them. This excludes egregious or criminal offenses.

If an employee is determined to be unsuitable for Federal service or is unable to verify the employee's identity and the Agency proposes the removal of employee from federal service, the employee has the right to dispute the action using applicable grievance, appeal, or complaint procedures available under Federal regulations including but not limited to Title 5 CFR 731.401 and subpart 731.501, 5 CFR 315, 5 CFR 752, other rules and/or regulations as appropriate, HHS Directives, or the AFGE 2923/NIEHS collective bargaining agreement.

During any grievance, appeal, or complaint procedures the employee shall be allowed to maintain their current duties, functions, and entry to NIEHS space and access all necessary systems unless it has been determined that the employee is a valid threat to the Agency or its employees or inconsistent with National security. In such cases the Employee cannot be permitted to continue his/her duties.

Where the employee is not permitted to continue with their regular duties the Agency shall consider other options such as detail assignments, leave or temporary reassignments.

The employee has the right to Union representation during any/all grievance, appeal, or complaint procedures.

The bases regarding any adverse actions or negative suitability or security determinations shall be promptly released to the employee.

The Agency agrees to make the application and background investigation process easily accessible and online to the extent within their control. This is determined by the OPM and NIH has no control over the applicable forms, releases or OPM's automated systems.

Employees must notify their administrative officer of a lost, damaged, disabled or stolen card as soon as they can. In the interim, employees will be issued a temporary badge for physical access only until the HHS ID badge clearance process has been completed. There will be no cost to employees, however if the policy changes, the Union shall be notified and permitted to bargain such a change to completion prior to implementation.

Employees must safeguard their badge. Employees shall not be charged for damaged, lost, or stolen PIV cards. Employees will not be disciplined for accidental loss or damage to a PIV card.

The following information will NOT be on the PIV or ID badge:

- \* Social Security Number
- \* Home Address
- \* Home Phone number

The Agency agrees to ensure the security of the information contained on PIV cards from digital theft or through other electronic interception method.

Employees are required to keep the HHS ID Badges (PIV or smartcards) in their electromagnetically opaque badge holders, supplied by the Agency as they agreed to when the HHS ID Badge was issued to them. If personal information has been compromised the Agency agrees to assist the employee to the maximum extent practicable in correcting the situation.

The only persons authorized to the personal information on the PIV card are personnel security, suitability, and investigations professionals who have the appropriate security clearance and who have a demonstrated need to access the information.

The Parties agree that the PIV card shall not be used as a monitoring device. However, the Parties agree that there may be times that the PIV card may be used to verify that an employee has accessed a campus, a building, a lab or office or a data system during an investigation or in an emergency or security event. Such information shall be provided to the Union upon request when it involves BUE's during any grievance investigation or process.

PIV cards shall not be used as a timekeeping device or timecard, or other monitoring device, unless NIH policies change. And in that instance, the Union shall be notified and permitted to negotiate, prior to implementation, in accordance with 5 U.S.C. Ch. 71.

The Agency shall ensure that the use of the PIV card for computer access or any other access shall be easy-to-use and as efficient as current means of entering passwords. In the event the employee's password is forgotten the Agency shall provide employees with a method to reset the password.

If additional software is necessary for personally owned computers the Agency will supply such software, budget permitting.

The Agency shall update the Union on a regular basis regarding the PIV implementation process.

Employees have a right to their background investigation file. They may request the file by writing to:

OPM, Federal Investigative Processing Center  
PO Box 618  
Boyers, PA 16018-0618

And include their full name, social security number, date and place of birth (city and state) and signature.

Nothing in this document changes or waives either party's rights.

For the Agency:

/s/ Noreen E. Gordon  
Labor & Employee Relations Specialist

20 September 2011

For the Union:

/s/ Bill Jirles  
President, AFGE Local 2923

9-20-11