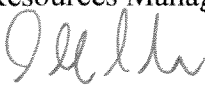




**U.S. Customs and  
Border Protection**

AUG 1 2013

TO: Sharon Smith  
Chief, Employee Support and Critical Response Branch  
Office of Human Resources Management

FROM: Donald R. Stakes   
Director, Labor-Management Relations  
Office of Human Resources Management

SUBJECT: Agency Head Review  
Memorandum of Understanding – Expansion of Fitness Pilot to NCR

The attached Memorandum of Understanding (MOU) signed July 19, 2013 memorializes a national agreement between the U.S. Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU) over the expansion of the Physical Fitness Pilot to the National Capitol Region (NCR). The negotiated terms have been reviewed in accordance with 5 U.S.C. §7114(c) and under Department of Homeland Security, Customs and Border Protection Delegation Order 10-001 dated February 23, 2010.

The MOU does not violate existing law, rule or regulation, and is hereby approved. This approval does not constitute a waiver of, or exception to, any existing law, rule, regulation, or policy.

If you have any questions or need additional assistance, you may contact Adam Mervis by telephone at (202) 863-6149 or by electronic mail at [Adam.Mervis@dhs.gov](mailto:Adam.Mervis@dhs.gov).

CC: Colleen Kelley, National President, NTEU  
Jonathan Levine, Assistant Counsel for Negotiations, NTEU  
Deborah Eres, Director, Labor-Employee Relations Field Services  
Tony Madero, Employee Fitness Advisor, Benefits Medical & Worklife Division

Attachment

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

**I. Introduction**

This Memorandum of Understanding (MOU) is entered into by, and between the United States Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU).

**II. Background**

CBP and NTEU reached a MOU Agreement to incorporate all Office of Training and Development (OTD) employees into the CBP-Wide Fitness Program Pilot in December 2012. By incorporating all OTD employees, this meant that OTD employees working within the National Capitol Region were also included within the CBP-Wide Fitness Program Pilot.

Once OTD employees within the National Capitol Region were included in the CBP-Wide Fitness Program Pilot (Pilot), CBP and NTEU decided that the Pilot should be expanded to all Assistant Commissioner Offices within the National Capitol Region. Specifically, the expansion to all Assistant Commissioner Offices means that bargaining unit employees represented by NTEU Local Chapter 128 will be included in the Pilot, as long as the employees do not fall under the jurisdiction of the Baltimore Field Office<sup>1</sup>.

**III. Terms or Provisions of Agreement:**

1. Bargaining unit employees within the National Capitol Region who are represented by NTEU Local Chapter 128 and who do not fall under the Baltimore Field Office (e.g. Dulles International Airport, Ronald Reagan National Airport, or Andrews Air Force Base), will be included in the CBP-wide Fitness Program Pilot
2. All terms of the pilot program will be applicable to the covered National Capitol Region bargaining unit employees.

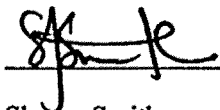
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<sup>1</sup> Employees assigned to work at Dulles International Airport, Ronald Reagan National Airport and Andrews Air Force Base are not covered under this MOU, meaning not eligible to participate in this expansion of the Fitness Pilot.

**IV. Effective Date and Termination**

This MOU will be submitted for Agency head review immediately after the final signature of the chief negotiators. This MOU will become effective thirty-one (31) days after the date it is signed by the last chief negotiator or after Agency head review, whichever occurs first. Either party may request to reopen this MOU for revision or modification in accordance with Article 26 (Bargaining) of the CBP & NTEU National Collective Bargaining Agreement.

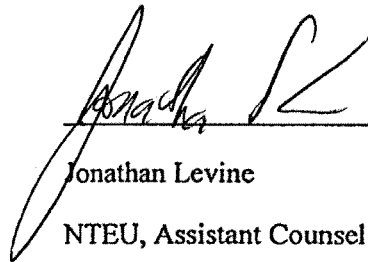
**V. Signatures**

 7/9/2013

Sharon Smith

Date

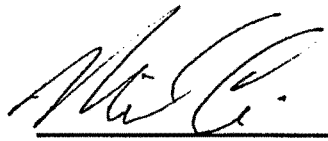
HRM, Chief, Empl. Supp. & Crit. Resp. Br.

 7/19/13

Jonathan Levine

Date

NTEU, Assistant Counsel for Negotiations

 7/9/2013

For

Adam Mervis

Date

HRM, Labor Relations

**Department of Homeland Security  
U.S. CUSTOMS AND BORDER PROTECTION**

**CBP DIRECTIVE NO. 51410-023**

**DATE:** October 2, 2012

**ORIGINATING OFFICE:** HRM: BM&W

**SUPERSEDES:**

**REVIEW DATE:** October 2015

**U.S. Customs and Border Protection  
Physical Fitness Program (Pilot)**

**1. PURPOSE.** This directive establishes the criteria and procedures for participation in U.S. Customs and Border Protection's (CBP) Physical Fitness Program (PFP) Pilot. The overall goal of the PFP is to create and support a culture within CBP where physical fitness is embraced and practiced as a core value.

**2. POLICY.** CBP promotes wellness programs that improve employee health, morale, and productivity. The PFP will target lifestyle traits that employees can change to improve their overall health. An employee's participation in the PFP is voluntary. Employees can remove themselves from the program at any time. There will be no disciplinary action for participants who do not improve or who discontinue participation in the program. Misuse of fitness time may warrant removal from the program if any provision of the program is not adhered to. This directive applies to all full-time CBP employees.

**3. AUTHORITY.** Title 5, United States Code, Sections 7901 (a); Executive Orders 13511; Federal Employees' Compensation Act (FECA), Part 2, Chapter 0804-18.

**4. RESPONSIBILITIES.**

4.1 The Commissioner of CBP is responsible for the overall direction of the PFP and has the authority to take final action in matters pertaining to the PFP.

4.2 The Assistant Commissioner, Office of Human Resources Management, or designee shall facilitate the implementation of the PFP, collective bargaining in conjunction with the component offices, data collection and reporting requirements, and shall ensure compliance with laws and regulations.

4.3 Assistant Commissioners; Chief, Office of Border Patrol; and Executive Directors, or designee, shall:

- Retain operational control of the PFP implementation and overall management within their component; and
- Designate a fitness program manager to administer the fitness program within their component.

#### 4.4 Fitness Program Managers shall:

- Identify and delegate to the appropriate level of Agency authority to review, modify, approve, and/or terminate an employee's participation in the PFP;
- Administer the fitness program within their component;
- Assist in the development and administration of the PFP;
- Coordinate the staffing of all sectors and field offices with fitness coordinators; and
- Act as a primary point of contact for program matters.

#### 4.5 Fitness Coordinators shall:

- Meet the requirements as defined in the fitness coordinator standard operating procedures;
- Assist participants through goal setting and respond to program requirements;
- Provide participants with general fitness, nutrition, and program design information;
- Provide appropriate instructions on the proper use of fitness equipment;
- Regularly inspect Agency-controlled fitness equipment for wear and tear; and
- Make appropriate notifications or arrangements for equipment in need of repair.

#### 4.6 Supervisors shall:

- Approve and schedule employee participation when operational demands allow;
- Monitor employee compliance with the PFP directive and procedures;
- Report violations of the PFP to the appropriate management official; and
- Assist employees in filing a Notice of Traumatic Injury (OWCP Form CA-1) if an injury occurs while participating in the PFP.

#### 4.7 Participants shall:

- Adhere to the provisions of the PFP;
- Prior to participating, must register for the program via an online database tracking system. Any medical expenses that may be incurred by the employee to qualify for program participation are the full responsibility of the employee; and
- Maintain a record of activities and submit as required using the CBP Fit website.

### 5. PROCEDURES.

5.1 Authorization of duty time remains contingent upon operational demands and is subject to supervisory approval.

5.2 Full-time employees may be authorized up to three (3) hours per week during regularly scheduled work hours to participate in the PFP.

5.3 Hours of participation in the program are not cumulative. Unused hours will not be carried to the subsequent week.

5.4 No overtime is authorized for participation in the PFP.

**6.0 CANCELLATION.** This directive shall remain in effect until cancellation or until superseded by an updated version.

**7.0 NO PRIVATE RIGHTS CREATED.** This document is an internal statement of CBP and does not create or confer any rights, privileges, or benefits for any person or party.

**8.0 DISCLOSURE.** This document contains information that may be exempt from disclosure to the public under the Regulations of the Department of Homeland Security. No part of this document shall be disclosed to the public without express authority from CBP.

**9.0 ADDITIONAL RESOURCES.**

9.1 CBP Fit website

9.2 CBP Physical Fitness Guide

Katherine M. Coffman  
Assistant Commissioner  
Office of Human Resources Management