

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE FOOD AND DRUG ADMINISTRATION, OFFICE OF REGULATORY AFFAIRS
AND
THE NATIONAL TREASURY EMPLOYEES UNION
CONCERNING THE IMPLEMENTATION OF BLACKBERRY COMMUNICATION
DEVICES

The parties, the Food and Drug Administration, Office of Regulatory Affairs (FDA/ORA) and the National Treasury Employees Union (NTEU) represented by the undersigned hereby enter into this Memorandum of Understanding (MOU) and agree to the following terms and conditions for the implementation of this initiative:

1. Formal Notice to Employees

At least five (5) work days prior to implementation, the FDA will hold Section 7114 formal meetings, governed by applicable provisions of the FDA-NTEU Collective Bargaining Agreement (Agreement), to apprise all impacted employees of the initiative. In addition, FDA will distribute an electronic version of the MOU to all FDA employees and NTEU representatives. At the 7114 formal meeting, employees will be given an opportunity to ask questions about the initiative and receive answers from supervisors. Questions that cannot be answered by supervisors at the formal meetings will be responded to as soon as possible after the meeting.

2. The parties agree to the content of the following notice, which the FDA/ORA will issue to employees prior to the formal meeting:

“ORA plans to issue Blackberry (BB) communication devices with both voice and data (email/internet) capability to employees who **routinely** travel out of the office (foreign or domestic) to conduct operational activities (e.g. inspections, investigations, emergency, and other special assignments). The Blackberry device is intended to be used as a telephone and email device, and not as a substitute to perform other job functions such as report writing.

3. Issuance

The FDA will issue Blackberry devices to employees based on operational need and then seniority (SCD) to break ties.

4. Rescission of Issued Blackberry Devices

In the event funding is unavailable to maintain existing Blackberry devices issued to employees, the FDA will determine the order of recall based on operational need and then seniority (SCD) to break ties.

5. Job-Related Use of Blackberry Devices

The Agency will not use Blackberry usage data solely for evaluative purposes. Employees will not be expected to use the Blackberry when they believe that their personal safety would be compromised by such use in the course of duty (e.g. including but not limited to in foreign countries where a credible threat exists). The determination of when a Blackberry may safely be used in these situations will be up to the employee's discretion.

Blackberry devices are intended to be used during normal business hours to accomplish FDA assigned work; during emergency activities/assignments and; during foreign travel/duty assignments. Any use of the devices outside of normal duty hours will be at the discretion of the employee and will not be compensated. The use of Blackberry devices will be considered appropriate as necessary for employees when assigned to overtime activities/duties. In these cases, when overtime is approved in advance, the employee will be compensated in accordance with applicable laws, rules, regulations and the CBA. NTEU representatives who are issued the Blackberry device may also use it to perform representational duties consistent with the CBA.

6. Personal Use of Blackberry Devices

Personal use of Blackberries is permitted and will be governed by the same policies regarding the use of landline telephones and computers/email for personal reasons in the workplace. The Agency will not track individual usage by employees of the Blackberry devices without probable cause.

7. Device Chargers/Adapters

Each employee who is issued a Blackberry, including those temporarily issued a Blackberry, will be provided with equipment which will enable the employee to charge the blackberry device. Employees who conduct foreign inspections or otherwise are required to travel to a foreign country for work reasons will also be provided an international electrical adapter, or other equipment, as necessary to enable the employee to use and/or charge the Blackberry device while on foreign travel.

8. Do Not Call Registry

The procedure for placing an employee's Blackberry number on the Do Not Call Registry will be provided to each employee at the time the employee is issued a Blackberry.

9. Lost, Stolen, or Damaged Blackberry Devices

Employees will follow existing HHS and FDA policy, i.e., Staff Manual Guide (SMG) 2620.5 for use of government equipment to report lost, stolen, or damaged Blackberry devices. The FDA will hold employees accountable for the loss, theft or damage of Blackberry devices if consistent with HHS and FDA policies, rules and regulations.

10. Training and Set-Up

Employees who are issued Blackberry devices, including those temporarily issued a Blackberry, will be provided with sufficient training deemed necessary by the Employer to enable them to successfully use the device. Training will occur on duty time. Employees will be provided with any training materials necessary, and will be given sufficient duty time to review such materials.

Appropriate instructional materials and online training will be available at the time the Blackberry devices are issued. Technical assistance will be available via ERIC (in house IT set-up and system coordination). Additional technical assistance will be available via the vendor (AT&T or Verizon).

11. Global Positioning System (GPS) or Similar Tracking Technology

The parties agree that the primary purpose of the Blackberry device is not to track or otherwise monitor the physical location of employees. However, the parties acknowledge that GPS or similar tracking features of the Blackberry device may be used to track and monitor the physical location of employees for emergency and safety, as determined necessary on a case-by-case basis. When there is probable cause the Agency may use the GPS or similar tracking feature to track employees.

12. Wireless Hands-Free Headset

The Agency will provide each employee who receives a Blackberry device with a wireless headset (for example, Bluetooth), to the extent that funding is available and the employee requests it.

13. Effect of Policies

If the Employer determines to change any policy and/or practice that apply to this initiative, it will provide the NTEU with advance notice and bargain in accordance with applicable law, rule and regulation, and in accordance with the mid-term bargaining article (s) of the applicable Agreement.

14. Blackberry Policies

The NTEU will be provided with the Employer's policies identified in this MOU as applicable to the use of the Blackberry device. Upon request, impacted employees will also be provided with the same Employer policies and be given a reasonable amount of duty time to review those policies.

15. Reopener

Either party may reopen this MOU at any time after it has been in effect for one year. The parties may mutually agree to reopen it prior to that time.

16. Significant Problems

If either of the parties becomes aware of significant unanticipated problems that arise following the implementation of this initiative, the Agency or NTEU will inform the other, and the parties will meet to discuss and try to resolve them as soon as possible.

17. Effective date

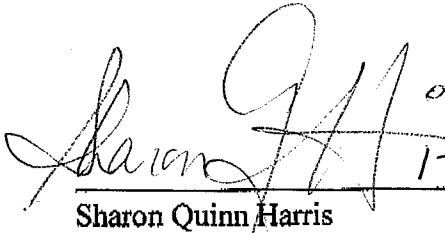
This agreement will become effective upon Agency head review or on the thirty-first (31st) day after execution and will terminate on January 20, 2012.

Memorandum of Understanding - FDA/ORA Blackberry Implementation

Page 5

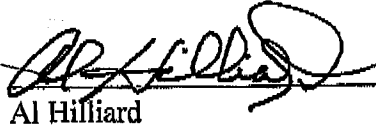
For NTEU

For FDA


1-22-10

Sharon Quinn Harris

National Negotiator


1-22-10

Al Hilliard

Director Workforce Programs