

MEMORANDUM OF UNDERSTANDING
BETWEEN
U.S. CUSTOMS AND BORDER PROTECTION
U.S. BORDER PATROL
AND
NATIONAL BORDER PATROL COUNCIL

Introduction:

This Memorandum of Understanding (MOU) is entered between U.S. Customs and Border Protection, U.S. Border Patrol (USBP) and the National Border Patrol Council (NBPC) concerning the implementation of the Small Unmanned Aircraft System (SUAS) Internal Operating Procedure (IOP).

Provisions:

1. If any provisions within this MOU conflict with the provisions within the Collective Bargaining Agreement (CBA), the provisions within the CBA will supersede over the conflicting MOU provision.
2. USBP will not require an employee to use personal funds for anything related to the SUAS program.
3. All activities performed related to this program will be completed during duty hours.
4. An order, which requires an employee to do something that is immoral, illegal, unsafe, a violation of regulations, or a violation of policy is not enforceable.
5. A Small Unmanned Aircraft System-Operator (SUAS-O) will not be removed from the program solely because they are unable to meet the 3-flight requirement every 90 days in Section 6.5.1 of the IOP, due to equipment malfunction or other circumstances out of the SUAS-O's control. If currency is lost due to the reasons captured within this provision, the SUAS-O must regain currency by following the process captured within Section 6.5.1 of the IOP.
6. An SUAS-O will not be removed from the program solely because they are unable to meet the six month requirement captured within Section 6.5.2 of the IOP, due to equipment malfunction or other circumstances out of the SUAS-O's control. If currency is lost due to the reasons captured within this provision, the SUAS-O must regain currency by following the process captured within Section 6.5.2 of the IOP.
7. Video footage associated with an administrative grievance, disciplinary, and adverse action will be maintained in compliance with the NARA Records Schedule.

8. To help ensure accuracy and consistency, agents may review footage or other data captured by an SUAS prior to preparing reports, memoranda, or other documents related to an enforcement action, that may be required to be produced as evidence in any criminal or administrative enforcement hearing.
9. Removal from the SUAS program will be for cause.
10. The parties may meet to discuss issues that arise during the life of the SUAS IOP, which are not specifically addressed in the SUAS IOP and were not addressed during initial bargaining.

11. Selection Procedures

- A. SUAS vacancies will be announced to all employees electronically (e.g., e-mail or other Sector message board), and the announcement will include the: description of the vacant assignment; duration of the assignment; anticipated tours of duty; number of vacancies; and any other known information related to the position being filled.
- B. Selections for participation under the SUAS Program will be made following the procedures within Appendix III of the November 1, 2019 CBP – NBPC Collective Bargaining Agreement.

12. Eligibility Criteria

- A. In order to participate in the SUAS Program, employees must have a performance rating of Successful (or equivalent), and:
 - i. Must be in full duty status;
 - ii. May not be on leave restriction;
 - iii. May not be the subject of a Demonstration Period/Performance Improvement Plan;
 - iv. Must not have a proposed action of suspension of seven (7) days or more, or termination; or
 - v. May not be the subject of any open investigation for an allegation which, if substantiated, that may typically receive a proposal for an adverse action.
 - B. An agent must maintain their law enforcement authority in order to participate, and continue participating in the SUAS Program.
13. The provisions within this MOU strictly applies to USBP's implementation of the SUAS IOP, and do not set a precedent for NBPC's positions in future negotiations over access to video footage and other evidence for this or other platforms.

