Memorandum of Understanding
Between
U.S. Customs and Border Protection
And
National Border Patrol Council

Shift Bids

I. Background

A. This Memorandum of Understanding (MOU) sets forth the agreement between U.S. Customs and Border Protection (CBP or Agency) and the National Border Patrol Council (NBPC or Union) concerning the following mechanisms by which employees may express an interest in requesting or being assigned to a shift. The purpose of this Shift Bid Program is to set forth procedures by which bids for shifts will exist and to collect information that is relevant in determining the need of such a program in the future.

B. The parties agree to a trial period for a shift-bid process to provide an opportunity to evaluate, discuss, and address any concerns which may arise. The parties acknowledge that this MOU will be in effect only until the implementation of a new Collective Bargaining Agreement.

C. The procedures contained in this MOU are intended to apply to all Sectors and Stations within the State of Texas. However, Chief Patrol Agents and the NBPC Local President may mutually agree not to implement this MOU at the station or sector level and maintain existing rotational shift procedures. Such an agreement must be documented in writing with a copy submitted to U.S. Border Patrol Headquarters and to the NBPC President.

II. Definitions

A. Shift – the daily tour of duty (e.g. 0600-1400 hrs.) for a station and/or worksite, hereafter referred to only as location.

A. Shift rotation – the length of time employees will remain on a shift (e.g. three, four, six, or twelve months).

B. Bump – when an employee is moved to a different shift, during the bid process, to accommodate another employee under the shift preference plan.

C. Seniority – refer to the attached seniority definition.

III. Applications

A. The Agency will determine the numbers, types and grades of employees required for each shift based upon operational requirements.

B. This MOU covers the Shift Bid process. It does not address any other aspects of shifts, tours of duty, assignments of work, or any other conditions of employment. It does not modify any other aspects of Article 28 of the current applicable Agreement between US INS and the NBPC.

C. This MOU does not apply to situations where employees are on temporary duty assignments outside of the Border Patrol (DEA task force, HSI task force, etc.).

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D. All bargaining unit employees who are subject to more than one shift will be covered by this shift-bid process.

1. Employees with less than two years of employment within their occupational series will be assigned to a shift based on the needs of the Agency.

2. Employees will be eligible to bid for the next shift rotation upon completing two years of employment in their occupational series.

3. The Shift Bid process will utilize the negotiated seniority definition (attached).

E. The established rotation of all shifts will not be shorter than three (3) months. The Agency will solicit input from the Union before setting the rotation.

F. The shift bid process will be managed by one or more management officials at the station or work location.

G. The Union's designated representative at each location will have the opportunity to review the final shift assignments prior to distribution to employees. For this purpose, the Union representative will have access to records related to the shift-bid process (i.e. the bids and shift assignments).

H. Should any dispute arise over the shift-bid process, the designated supervisor and the Union representative will attempt to settle the dispute informally. Complaints that remain unsettled may use the negotiated grievance procedure.

I. Management retains the right to place agents with disciplinary, performance, or other employment related issues on a different shift.

J. This shift bid process does not apply to employees temporarily detailed away from their permanent duty location to a different location. When employees are detailed to a different location and assigned to more than one shift, the Agency will attempt to accommodate the employees' shift preferences using seniority.

IV. Shift Selection

A. Shift selection will be based on a bid process, with each employee requesting shifts in order of preference or indicating no preference.

1. Employees will receive bid sheets at least four (4) pay periods prior to the scheduled shift change, but will have access to bid sheets at all times.

2. Employees will be given an open period of one (1) pay period to complete, update, and submit bid sheets.

3. The shift assignments will normally be posted two (2) pay periods prior to scheduled shift rotation.

4. In the event an employee fails to submit a bid-sheet or does not have one on file, the employee will be assigned to a shift at the discretion of the Agency.

5. At the end of the open period, the designated supervisor will sort the employees' shift-bid requests in order of seniority for each requested shift.

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B. Shift bid requests will remain on file and used for future shift-bid assignments until an employee submits a new shift request. New or updated requests may be submitted at any time. Requests submitted outside the open period will not be considered until the next open period.

C. All employees who are expected to be assigned to a shift at their location for the upcoming shift rotation should complete a bid sheet if they do not have one on file or wish to update their preference.

D. Except as stated herein, shift assignments will be based on seniority.

E. Shift swaps may be requested at any time, consistent with the Collective Bargaining Agreement.

F. Shift requests based on special circumstances will be considered and may be approved by management on a case by case basis after an employee has exhausted attempts to voluntarily swap shifts.

V. Shift Preference Plan

A. In order to ensure that all employees have an opportunity to work a requested shift, the Shift Preference Plan (SPP) will be followed:

1. An employee cannot be denied their first choice on more than two (2) consecutive bids.

2. When an employee has been denied their first choice on two (2) consecutive bids, he/she shall automatically be granted his/her first choice on the next bid, by way of the SPP.

3. If it becomes necessary to bump an employee from a shift, the junior-most employee on the shift will be replaced and given his/her next available choice based on seniority.

   a. No employee will be bumped more than once until all other employees assigned to the affected shift have been bumped once.

   b. The Agency will be responsible for maintaining a list of employees who have been previously bumped from their requested shift under this provision.

VI. Collateral Duties and Details

A. Employees who are assigned to collateral duties and/ or details may not be considered in the shift-bid process at the employee's permanent duty location until the employee is expected to return to regular duties, unless the specialty unit is normally a part of the traditional shift at the location.

B. If the employees assigned to collateral duties and/or details are not normally assigned to a traditional shift at the location, management may assign the individuals based upon operational need.

C. If a collateral duty and/ or detail is terminated during a shift bid rotation, the returning employee will be placed on a shift at the discretion of management, with due consideration for the employee's request.

D. Employees on details which are shorter than the current shift rotation will return to the shift to which they were previously assigned.

E. Notwithstanding the above, Management reserves the right to place agents with specialized training, skills, and certifications where needed, based on the needs of the Agency.

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VII. Light Duty/Admin Duty

A. Employees who are on administrative duty or light duty will not be factored into shift-bids unless they are expected to return during that shift rotation. If an employee returns to full duty after the shift bid process, the employee will be placed on a shift at the discretion of the agency. The agency will seek to accommodate the employee's preference if operationally possible.

VIII. Effective Date

A. This Agreement is effective 31 days after signature of both parties or upon completion of Agency Head review, whichever is occurs first. This Agreement shall expire upon the implementation of a completed national collective bargaining agreement between CBP and NBPC.

For CBP:

Dustin Burns 5/2/16
Dustin Burns Date
Chief Negotiator

Ronald D. Vitiello 5/2/16
Ronald D. Vitiello Date
Chief, USBP

For NBPC:

For 05/02/16
Brandon Judd Date
President