

Transfer of MTFs to DHA

DEFCON Brief, March 25, 2022

Background

- ▶ 2017 NDAA mandated transfer of all civilian employees and military billets working on medical and research matters to the Defense Health Agency (DHA)
- ▶ Service resistance and the pandemic delayed implementation
- ▶ Recent communications from the Services to certain bargaining units indicate an accelerated timeframe mandating the transfer of approximately 65,000 employees to DHA will occur between June and the end of the fiscal year (September) in 2022.



Civilian Human Resources Agency



Civilian Transition Schedule

DHA RePPS SET 1

Effective **17 JUL 2022**

Transferring 15,942 Civilians

Direct Reporting Markets

- National Capital Region
- Coastal Mississippi
- Low Country
- Colorado
- Coastal North Carolina
- Tidewater
- Alaska
- San Antonio
- Puget Sound
- Hawaii

Small Market (SSO):

- Central KY

DHA RePPS SET 2

Effective **14 AUG 2022**

Transferring 18,054 Civilians

Direct Reporting Markets

- San Diego
- Central Texas
- Southwest Georgia
- Florida Panhandle
- Southwestern KY
- Augusta
- El Paso
- Sacramento

Small Market (SSO):

- Central OK
- West Point
- Upstate NY
- Central SC
- Central VA
- Charleston
- Central Louisiana
- Cali Desert
- New England
- Little Rock
- Los Angeles
- Las Vegas
- Garden State
- Army National Guard
- Corpus Christi

DHA RePPS SET 3

Effective **11 SEP 2022**

Transferring 13,061 Civilians

Direct Reporting Markets

- San Antonio

Small Market (SSO):

- Kansas
- Ozarks

Stand Alone MTEs (SSO)

DHAR-Europe

DHAR-INDO PACIFIC

Excellence through Partnership

AFGE Impact

- ▶ Army: 18,000 BUEs transferring from Army to DHA
- ▶ Navy: 4,700 BUEs transferring from Navy to DHA
- ▶ Air Force: 4,800 BUEs transferring from Air Force to DHA

What This Means

- ▶ Immediate Actions (in the short term)
 - ▶ Implementation bargaining about the transfer must occur AT THE LEVEL OF RECOGNITION for each unit that has employees transferring to DHA.
 - ▶ We must identify every unit that includes medical employees who we know or believe will transfer (may or may not have received a notice from the agency)
- ▶ Medium term actions
 - ▶ Petitions must be filed for every location/unit that has transferring employees to attempt to maintain recognition
 - ▶ There will be some instances where elections will be required to maintain recognition
 - ▶ AFGE GCO will be contacting Locals about petitions as the transfer time gets closer to coordinate filing.

Immediate Actions

- ▶ In the next 14 days:
 - ▶ Review the list of MTFs that will be transferring and send information about who represents the hospitals/clinics and they types of employees (nonpro, nurses, pro etc) to afgedha@afge.org. Please include the location of the facility and the Local. If you know another union represents employees at a location, please send that as well
 - ▶ Review the MTFs here:
 - ▶ <https://www.health.mil/Military-Health-Topics/MHS-Transformation/Market-Structure/Direct-Reporting-Markets>
 - ▶ <https://www.health.mil/Military-Health-Topics/MHS-Transformation/Market-Structure/Small-Market-and-Stand-Alone-MTF-Organizations>

Immediate Actions

- ▶ Contact each Local that has transferring employees (as identified after reviewing the above) and see if they have received a notice from the agency RECENTLY
 - ▶ Agencies have been sending general notices for years but at this point we are only interested in recent notices (issued in 2022) that might include, for example, the date of transfer
 - ▶ Send the notices to afgedha@afge.org
- ▶ Review any notices to see if they contain enough specificity to allow bargaining
- ▶ If no notice has been issued, the Local should inquire of the agency when such a notice will be issued and what the agency's specific plans are for transfer of the employees.

Guidance

- ▶ Initial guidance was issued on 2/22 via email to DOD Locals
- ▶ Guidance will evolve as we learn new information from the agencies
- ▶ Certain employees will be designated as performing a “readiness” function
 - ▶ These employees DO NOT transfer to DHA but will continue to work side by side with employees who do transfer
 - ▶ We need to know what employees have been designated for readiness

AFGE's DHA TRANSFER GUIDANCE (As of 2/22/22)

- 1. If the agency provides a notice that employees are transferring to DHA, but the notice is not specific and detailed about what changes in working conditions will happen for transferring employees:**

Send the Agency a Demand to Bargain.

In the Demand to Bargain, state that the Union issues this demand to bargain over the transfer of employees from the [insert agency] to DHA, but also make sure that you point out that the Agency's Notice of Transfer is legally insufficient and does not allow the Union to develop proposals because the notice fails to specify what changes will be made to the employees' terms and conditions of employment.

Under FLRA precedent, an Agency must provide notice that is "sufficiently specific or definitive regarding the actual change contemplated so as to adequately provide the union with a reasonable opportunity to request bargaining". A notice that is conditional and qualified is not sufficient. *Ogden Air Logistics Ctr., Hill AFB, Utah*, 41 FLRA 690, 698 (1991); *Internal Revenue Service*, 10 FLRA 326, 327 (1982). The Agency failed to identify what changes it proposes to implement as a result of the transfer. The Agency does not identify, for example, changes employees will have to their payroll processing systems, EEO complaint processing systems, managerial or supervisory chain of command, and/or other changes to the terms and conditions of employment for transferring employees. Thus, the Union reserves its right to bargain through the issuance of the Demand to Bargain but cannot submit proposals until the agency provides a legally sufficient notice of changes which specifically identifies the changes to the terms of conditions of employment for the Bargaining Unit employees.

- 2. Send the agency an information request seeking specific information (if not already provided) about the employees who are transferring. Also ask for information about what employees the agency has designated for readiness and are remaining with the agency.**

Send the agency the information request

Attached to this memo is a sample request. You should insert your information/letterhead and the Agency contact information. Make sure that you double check the template to ensure that no generic information or instructions remain so that it is a complete information request specifically tailored to your Local.

In addition to the Agency's telling us who is transferring to DHA, we also need them to tell us which employees they have designated as performing functions related to "readiness" and who are not transferring to DHA but remaining employed by the Agency. There may be changes related to those employees as well even though the agency does not identify or mention this in the Notice of Transfer of Function.

1. Ask the Agency to Provide the following additional information. If they will not provide it, then modify the provided formal information request to request it:

- What DHA market/organization are the employees being transferred to?
- What other MTFs are transferring to the DHA market/organization?
- What is the number of employees from other MTFs who are transferring?
- Whether the employees who are transferring from other MTFs are represented by a labor organization?
- Please identify the other labor organizations and the employees (numbers and types) they represent?

This guidance is accurate as of the date of this memo. The guidance may be modified or updated based on new information or developments.

[on letterhead addressed to HR contact]

This is a request on behalf of the American Federation of Government Employees, under 5 U.S.C. § 7114 (b)(4). For the purpose of this request, the term “information, documents, and other materials” (hereinafter “materials”) includes, but is not limited to, any typewritten or handwritten memoranda, reports, summaries, notes, charts, computer database materials, issuances, advisory letters, audio and/or video recordings, or other data in whatever form it might appear.

It is necessary that AFGE receives the following information to prepare proposals for bargaining pursuant to the agency’s notice of its intent to transfer certain employees from the [agency] to the Defense Health Agency (DHA).

1. AFGE requests the agency provide a listing of employees it has designated as performing a readiness function and who will not transfer to DHA. I am requesting that these lists include the name, job title, organization/department and first, second and third level supervisor for each of the employees.

AFGE has a particularized need for the information so that the union can develop proposals pursuant to the agency’s notice of transfer of employees to DHA. This information is also necessary so the union may determine whether it should file a grievance or unfair labor practice over the unlawful practice of having bargaining unit employees supervised by another agency. Co-employership is unlawful under 5 U.S.C. Chapter 71 and the union requires the requested information to determine whether there is a violation of law and the proper forum to bring its complaint.

2. AFGE also requests that the agency provide a listing of employees who are transferring from the [agency] to DHA that includes the name, job title, organization/department and first, second and third level supervisor for each of the transferring employees.

AFGE has a particularized need for the information so that the union can develop proposals pursuant to the agency’s notice of transfer of employees to DHA. This information is also necessary so the union may determine whether it should file a grievance or unfair labor practice over the unlawful practice of having bargaining unit employees supervised by another agency. Co-employership is unlawful under 5 U.S.C. Chapter 71 and the union requires the requested information to determine the proper forum to bring its complaint.

3. AFGE also requests that the agency provide an organizational chart showing the chain of command for employees who are transferring to DHA.

AFGE has a particularized need for the information so that the union can develop proposals pursuant to the agency's notice of transfer of employees to DHA.

Should you not completely satisfy this information request under the authority cited above, please provide me with the name and title of the person denying this request along with a written statement of the authority and reason(s) relied upon for not releasing each specific item denied. In the event you deny any portion of the request, please provide the remaining information. We also reserve the right to make any necessary supplemental requests for information. If you have any questions, please call me at