

## MEMORANDUM OF UNDERSTANDING

The parties to this Memorandum of Understanding (MOU) are the National Federation of Federal Employees, Local 1998 (NFFE) and the Department of State, Bureau of Consular Affairs, Passport Services (PPT). The parties to date have shared pertinent information and exchanged proposals regarding the Passport Data Interim Systems Access Audit Program.

The parties agree that the privacy of all passport applicants shall be protected. PPT acknowledges that NFFE requested to negotiate regarding the impact and implementation of this program in accordance with Articles 12 of the collective bargaining agreement (CBA). This MOU signifies the conclusion of these negotiations and outlines an agreement between the parties. PPT will notify and negotiate, in accordance with Articles 12 of the CBA, with NFFE if any changes are contemplated that will affect this program.

The Interim Systems Access Audit Program is designed to deter unauthorized access to Passport Systems, particularly PIERS and TDIS. To ensure that all Passport Services Bargaining Unit Employees (BUEs) who access, search and/or review Passport Records via Passport Databases, including PIERS and TDIS, do not suffer unwarranted *harm*, the parties agree to the following provisions:

1. Employees have the authority to search passport databases, including PIERS and TDIS, in accordance with their official job duties.
2. The Employer will designate an ISSO in each office and inform employees of the name of the ISSO.
3. In accordance with Article 6, Section 3 of the CBA, the Employer will continue to inform employees of what PIERS and TDIS searches are considered part of their official job duties. Employees are encouraged to continue utilizing PIERS in accordance with their official job duties (for example, verifying parental information for minors who present no proof of parental relationship but only a passport issued subsequent to 2001, verifying ID witness information as submitted on a DS-71, verifying information on others listed on the passport application to help determine identity or fraud, adjudicating complex citizenship cases where parent's date of citizenship needs to be determined). Any PIERS search requires a specific need to know. Employees should understand their access to PIERS is monitored and searches unrelated to a valid need to know are not permitted.
4. The Employer agrees that until such time when a technological enhancement of PIERS is developed allowing for employees to indicate the purpose of a specific search, time will be allotted to employees to maintain a personal log recording search criteria and intent of a non-applicant search. (PIERS searches performed on Passport applicants can be traced via TDIS.) The purpose of this log is to create a record which an employee could use in order to explain/justify a PIERS search if later questioned. The Employer will give advance notice to the Union of any

technological enhancement of PIERS, in accordance with Article 12 of the CBA. The Employer will allow BUEs to record as 'non-measurable' productive time in MIS or other work reporting system time spent maintaining such a log as follows: logging 1-5 non-applicant PIERS searches will be recorded in 15 minute increments as 'non-measurable' time in MIS; 6-10 will be recorded as 30 minutes, and so on. It is understood that PIERS searches are a normal part of the job for many employees. Only PIERS searches accessed outside of TDIS, including those searches that do not result in a record, would be included in a log. A log would include the name of the applicant whose file is being searched, the reason why it was searched (e.g., parent of applicant/derivative case), and the current application number connected to the reason why it was searched or – if there is no current application number – the name of the staff member who authorized or requested the search. Employees may keep this log electronically or in writing, but if in writing it must be secured. Employees may request assistance from the supervisor or system administrator in order to create the log or in obtaining guidance on what entries on the log would be helpful towards explaining the reasons for a search. If a supervisor initiates an inquiry into the reason for the number of PIERS searches done by an employee on a given day, the employee can justify the number of searches by forwarding the log corresponding to that day's PIERS searches if such a log was completed in accordance with the explanation above. If a meeting is held on that subject, the time will be recorded using the "Meeting" category in MIS. (Log attached.)

5. The Interim Systems Access Audit Program's process will evaluate whether or not a specific record was searched in the scope of an employee's official duties. To document their own performance successes, or to dispute allegations of errors or deficiencies in performance, employees may also view the PIERS files of the cases they adjudicated during the performance year.
6. Employees will be notified, in a timely manner, of any issues or concerns with regards to a search of PIERS and/or TDIS.
7. If any employee is interviewed as a result of an audit or other investigation (e.g., OIG), they are entitled to invoke their Weingarten Rights (Article 6, Section 2b of the CBA and Department Announcement 2007-06-124 dated June 26, 2007) and have a Union representative present.
8. In order to afford employees their Weingarten Rights, the Employer will accept, as a written and timely response to the email below, a statement from the email recipient invoking this right. NFFE agrees that employees invoking this right must respond by email within 24 hours of receipt of this email, or if this email is received the day before a non-work day (e.g., on Friday) employees will have until close of business the following work day (e.g., Monday) to respond. The employee will then have 48 hours to address the questions in the email after consultation with a NFFE representative. If employees do not address the questions within 48 hours after invoking this right, their access to PIERS may be suspended.

Access to PIERS may be reinstated if and when the employee responds to the questions. If the employee is on leave on the day(s) immediately after the email is received, it is understood that the employee will be given sufficient work time to resolve the issue and seek reinstatement of PIERS upon his/her return. Given the very short timeframe in which to respond, the Employer will not interfere with an employee's right to meet with a Union representative on official time if they have invoked their Weingarten right. The Employer agrees to notify agency management of this procedure. The Employer agrees that the email below constitutes an assignment of work that takes precedence over any assignments of work done by agency management, and that no employee shall be disciplined or receive any negative reaction from agency management when he/she complies with the assignment of work received in the email below.

SAMPLE PIERS-RELATED EMAIL:

The Office of Legal Affairs, Law Enforcement Liaison, and Passport Services is the custodian of passport files. As custodian of passport files, we are responsible for monitoring the release of passport records and the users of PIERS to identify trends or patterns with respect to search requests for passport files being sought under the Freedom of Information Act and the Privacy Act.

Our records show that you searched and viewed the following passport records:

Passport Number	Subject
999999999	JOHN A DOE

As a result of your searching the above identified passport records, we are requesting that you provide a detailed response to each of the following questions:

- 1) Please identify your agency, office symbols, address and telephone number.
- 2) What is your job title? What are your official job duties?
- 3) What was the purpose of your search?
- 4) Did you to conduct this search for someone else? Please provide their name, job title, and contact information.

Your statement should include the names of individuals (include agencies/office) with whom you may have shared or passed these passport records.

This email constitutes an assignment of work. Your response should be immediate!! Failure to respond within 24 hours of this

message, may result in suspension from PIERS, until this issue is resolved.

9. Interviews of employees regarding the reasons for PIERS searches will respect the employees' rights under the Privacy Act and will be conducted in accordance with Article 6, Sections 5 and 15 of the CBA.
10. Employees shall record the time spent in the interview and the time requested and approved in advance to meet with a Union representative or otherwise prepare for an interview using the appropriate MIS (or other work report) category.
11. Employees will have the opportunity to respond to inquires about specific PIERS access to include that they do not recall the reason for a particular search; however, employees should not assume their answer will be sufficient to resolve the investigation.
12. Disciplinary action regarding unauthorized Passport Database searches will be fair, reasonable, and consistent taking into account all mitigating and aggravating factors, and will be commensurate with the level of responsibility of the employee.
13. When BUEs are engaged in formal training sessions they will be directed by training officials as to which PIERS record they can access for training purposes.
14. The Employer agrees to notify the Union in advance of any future database or other auditing programs, in accordance with Article 12 of the CBA.

PPT/FO will notify NFFE Local 1998 when this program becomes effective.

By their signatures below, the parties agree that this concludes negotiations over the impact and implementation of the Interim Systems Access Audit Program.



Colin Walle  
Union President  
NFFE Local 1998



Dorothy D. Flaak, Acting Director  
Passport Services  
Field Operations (PPT/FO)



Robert Arnold  
Secretary-Treasurer  
NFFE Local 1998

8/14/08  
DATE

**PIERS Access Log**

- 1. Current Passport Application #:
- 2. Name of Individual's PIERS record searched:
- 3. Relationship of record holder to current applicant:
- 4. Reason for search:

**Date:**

- 1. **0123456789**
- 2. **John Doe**
- 3. **Father**
- 4. **Identifying Witness**

- 1.
- 2.
- 3.
- 4.
  
- 1.
- 2.
- 3.
- 4.

**Date:**

- 1.**
- 2.**
- 3.**
- 4.**

- 1.**
- 2.**
- 3.**
- 4.**