



# American Federation of Government Employees National Council of HUD Locals 222

*Affiliated with AFL-CIO*

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June 1, 2016

MEMORANDUM FOR: Keisha M. Hurst, Employee and Labor Relations Division, AHED

FROM:  Jerry Gross, Steward, AFGE Council 222 of HUD Locals

SUBJECT: LexisNexis for Microsoft Office Upgrade: Union Response to Management and Request for Information

This is in reply to HUD's May 13, 2016, response to AFGE Council 222's April 8 Demand to Bargain over the LexisNexis upgrade to Lexis for Microsoft Office used by Office of General Counsel (OGC) staff. Thank you for providing the user guide and other documentation to the Union.

I have noted (in **green**) below those provisions on which HUD and the Union have agreed. In order to be able to accurately respond to Management's comments (in **red**) regarding items 3, 5, and 7, the Union has included a request for information following the provisions below. The Union has offered a compromise provision for item 7.a. and a response for item 7.b. in **blue**.

1. Notice: The Department will notify all affected employees at least two weeks prior to implementing any upgrades, and shall explain the effect of the change. The information shall include a description of the changes expected in the upgrade, the use of the Excel file, the consequences for not activating the Excel file, and any expected times the system may be unavailable. **Agreed**
2. Technical Assistance: Prior to implementing the upgrade, the Department will provide a User Guide with step-by-step instructions, which will also serve as a training tool. The Department will provide all affected employees with a copy of the User Guide or a direct link to access the User Guide online. The User Guide will contain information on how to activate the Excel file, and how to use the add-in. The Department will also ensure that the HITS Help Desk and/or LexisNexis will be available to further assist employees, and will provide information on how to contact the right technical support division. **Agreed**
3. Telework Ready Employees: The Department will provide instructions for installing the upgrade on computers used by employees who telework, either as regularly scheduled telework or situational telework. The instructions will cover both government-issued laptops and privately owned computers. The Department will ensure that the upgrade is compatible with both Windows and Apple operating systems. The Department will provide the instructions for installing the upgrade on computers outside the OGC offices at the same time it issues the User Guide. The Department will ensure that employees who telework incur no additional expenses in order to implement the upgrade. **Management comment: The upgrade will be installed on the HUD issued workstation (desktop or laptop) by the**

**OCIO HUD Network contractor. OGC employees will have access to the upgrade whenever they access their HUD issued workstation, either while in the office, or when they connect to their desktop remotely when teleworking. Lexis Nexis has provided one upgrade license for each OGC Lexis Nexis account as part of the existing license agreement with OGC.**

4. No Adverse Action: The Department will not take any adverse action against employees as a result of implementing the system upgrades. The Department shall not take any adverse action against employees who are unable to access their data or perform their work due to or following the system upgrade. **Agreed**
5. Features of Upgrade: The upgrade will include all the features for Lexis Advance as well as the other features of LexisNexis for Microsoft Office. The Department will ensure that each affected employee will have the necessary username and password. **Management comment: The upgrade will have no impact on the Lexis.com or Lexis Advance features currently available to OGC Lexis Nexis account holders.**
6. Reasonable Accommodations: The Department will ensure that all training, software, and other materials conform to the requirements of all employees' reasonable accommodations. **Agreed**
7. Union Use of LexisNexis for Microsoft Office:
  - a. OGC employees who are Union representatives may use LexisNexis for Microsoft Office while on official time for representational purposes. Upon request, the Department shall install LexisNexis for Microsoft Office on those employees' computers in Union offices. **Management comment: The upgrade will be installed on the HUD issued workstation (desktop or laptop) by the OCIO HUD Network contractor. Lexis Nexis has provided one upgrade license for each OGC Lexis Nexis account as part of the existing license agreement with OGC. OGC does not provide licenses for employee's computers in Union offices.**

**Union Counter: OGC employees who are Union representatives may use LexisNexis for Microsoft Office while on official time for representational purposes.**

- b. In accordance with collective bargaining agreement Sections 48.05(1) and 48.06, Access to Federal Personnel Guidance, the Department shall provide the Union with Union ten (10) user accounts for access to LexisNexis for Microsoft Office, under the same terms as provided for CyberFeds. These ten accounts shall be in addition to any accounts of OGC employees who are Union representatives. **Management comment: OGC does not have ten (10) additional licenses available for use by the Union.**

**Union Comment: Management's response fails to address the requirements of Section 48.05(1), which states:**

**Computers in the Union local offices will be refreshed on the same office schedule and be part of the Department's maintenance/service contract. New**

**technology shall be made available to the Union as it becomes available to the Department**

**and Section 48.06, which states:**

**Access to Federal Personnel Guidance. The Department shall provide the Union with access to Office of Personnel Management, GSA, and EEOC regulations and GAO decisions. The Department agrees to pay for and provide the Union ten (10) user accounts for CyberFeds or the successor personnel case law research service subscribed to by HUD ...The Union and Management recognize that the use of or access to this service is of mutual benefit. As long as management has access to this or a successor service, a user account will be provided to the Union. (emphasis added)**

**LexisNexis for Microsoft Office provides access to federal personnel guidance and may be considered comparable to CyberFeds and a successor service to CyberFeds. The main purpose of this section was to ensure that the Union has the most complete, accurate, and updated information available, not to limit access to one specific service. As was originally envisioned with CyberFeds, the Union's use of LexisNexis for Microsoft Office is of mutual benefit.**

8. Information to the Union:

- a. Upon receipt of this demand to bargain, the Department shall advise the Union of the anticipated date of implementation or the implementation schedule for installing the upgraded add-in. **Schedule provided; start date contingent upon date agreement is reached.**
- b. The Department shall provide to the Union (Council and each affected Local) a copy of the notice issued to affected employees, the User Guide, and the instructions for telework-ready employees on or before the date the information is distributed to employees. The Department shall also provide to the Union a sample of the data collected by the Excel file. **Agreed/Provided**

The following is a Union request for information under U.S. Code § 7114 (b)(4):

Please provide the following information to Jerry Gross, Steward, AFGE Council 222, jerry.gross@hud.gov. I may be reached at 703-280-9063 or 202-402-5199, mailing address: 451 7th Street, S.W., Room 3142, Washington, DC 20410.

**INFORMATION REQUESTED:**

1. Please provide the following information related to Department's LexisNexis contract and upgrade:

- a. The procedures for installing the upgrade on each workstation if an employee does not participate in the upgrade via the Excel file.
  - b. The procedures each employee will follow to log in or otherwise access LexisNexis for Microsoft Office.
  - c. The number of computers/workstations, users, and licenses covered by the contract.
  - d. Copies of those portions of the contract related to limits on the number of users and/or computers/workstations.
  - e. The cost to add any additional licenses, workstations, or users.
  - f. Copies of those portions of the contract related to the cost to add any additional licenses, workstations, or users.
2. Please provide the number of all employees who currently use a license for Lexis Nexis, and a list of their names, positions, and geographic locations.
  3. Management has stated that the upgrade will have no impact on the Lexis.com or Lexis Advance features currently available to OGC Lexis Nexis account holders. Please provide a detailed, specific description of how the upgrade will be different from the existing version of LexisNexis for Microsoft Office, and what new features or advantages, if any, the upgrade offers.

**PARTICULARIZED NEED:** The Union has a particularized need for this information in order to develop bargaining proposals, determine appropriate responses to the Department's reply to the proposals presented above, evaluate Departmental positions on Union proposals, and effectively represent the bargaining unit. The Union also requires the information to understand how the LexisNexis upgrade affect bargaining unit personnel, in order to both formulate proposals and responses and also to determine if employees are treated fairly and equitably.

**PRIVACY ACT:** The Privacy Act does not apply to this information request as federal employees' names, positions, and geographic locations are publicly available information. No other personally identifiable information, such as social security numbers, is requested.

**PUBLIC INTEREST:** Disclosure of the requested information would provide both employees and the public with a better understanding of how the Department handles software licenses. In addition to using the information in the context of this negotiation, the Union is considering preparing a report for the bargaining unit and other interested parties.

These are preliminary proposals only, and the Union reserves the right to bargain or amend or add proposals, including information requests, in accordance with Article 49 of the collective bargaining agreement. I will serve as the chief negotiator and contact for this matter.