

SIDE LETTER AGREEMENT

Between

The City of San Jose

And

The Municipal Employees' Federation, AFSCME, Local 101 (MEF)

The City of San Jose ("City") and the Municipal Employees' Federation, AFSCME, Local 101 ("MEF") acknowledge that the MEF Memorandum of Agreement ("MOA") has the following language:

ARTICLE 8 SHIFT BIDDING

8.1 The work unit may determine the method for assigning shifts, subject to approval by the Department Director or designee and advance notice to the Union, pursuant to Section 6.7. Absent any existing method for shift bidding, seniority in class shall be used to assign shifts subject to:

1. operational needs,
2. the Department Director's, or designee's, right to deny a shift assignment based upon the need to provide quality service to the public, or
3. the need to assign employees based on special skills.

The City and MEF hereby agree that the attached "Guidelines for 'Shift Bidding by Seniority' for Police Data Specialists and Sr. Police Data Specialists" shall be the method for assigning shifts for employees in the classifications of Police Data Specialist I/II (1181/1182/1183/1184), and Senior Police Data Specialist (1185).

This agreement and attached "Guidelines for 'Shift Bidding by Seniority' for Police Data Specialists and Sr. Police Data Specialists" shall not supersede any other section of the MEF MOA, including Article 5 entitled "Management Rights."

This agreement shall become effective when signed by all the parties.

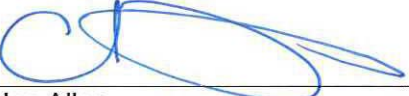
FOR THE CITY:

FOR THE UNION:

 3/27/17
 _____ Date
 Jennifer Schembri
 Director of Employee Relations

 3/21/17
 _____ Date
 Robyn Zamora
 President, MEF, AFSCME Local 101

 3/23/17
 _____ Date
 Mark Bustillos
 Deputy Chief of Police

 3-21-17
 _____ Date
 Charles Allen
 Business Agent, AFSCME Local 101

 3/24/17
 _____ Date
 Marco Mercado
 Assistant to the City Manager, OER

Enclosure

Guidelines for 'Shift Bidding by Seniority' for the Police Data Specialists and Sr. Police Data Specialists

PURPOSE

To outline general procedures for Police Data Specialists (PDSs) and Senior Police Data Specialists (SrPDSs) during the twice annual shift bidding by seniority process in the Operations Support Services Division (OSSD) of the Bureau of Technical Services (BTS) within the San Jose Police Department (SJPD).

SHIFT BIDDING – GENERAL

Shifts shall be bid and awarded twice each year to qualified personnel based on Departmental Seniority (Please see A 8.30 – Seniority in the OSSD Guidelines). The distribution of shifts shall be based upon the existing number of PDSs able to bid, and upon division needs. OSSD personnel are qualified to bid for a shift if they meet the following conditions:

1. Must be a full duty worker by shift change. For those classified as a modified worker (personnel with any type of work restriction, including overtime restrictions), still in training, or on any type of leave of absence, the Administrative Unit must receive notice and/or medical clearance, if applicable, three (3) business days before the shift packets are distributed. Once the packets are distributed, the Administrative Unit must be notified immediately of any changes to an employee's full duty work status that occurs before the time of the actual bid.
2. Personnel who do not intend to take a leave of four (4) or more months during the six (6) months of shift change.
3. Personnel still on a leave of absence at shift change, (that is not medically related), who have a scheduled return date of two (2) months or less.
4. Modified workers may be required to bid for specific shifts that have been predetermined outside of the normal bidding process. In these cases only, those that have worker's compensation restrictions shall have shift preference over those that do not.

SHIFT BIDDING - PROTOCOL

The Administrative Unit shall post shifts along with an updated seniority list, and bidding times no later than two (2) weeks before the actual shift bid. Unusual circumstances may prevent this from occurring. In these cases, the information shall be distributed as soon as is practical.

Personnel shall be assigned at least a fifteen (15) minute bidding period for shift choice, and vacation bid. If an employee does not bid during the specified period, the employee shall make their selection based on available shifts when they do bid, or they shall receive the last shift available. The Administrative supervisors shall not attempt to call PDSs who have not bid at their specified time. Absentee written bids shall be accepted by the Supervising Police Data Specialist (SPDS) responsible for bidding in lieu of an E-Resource bid; however, the administrative supervisors shall not be responsible for lost or misrouted written bid requests.

Guidelines for 'Shift Bidding by Seniority' for the Police Data Specialists and Sr. Police Data Specialists

ADMINISTRATIVE ASSIGNMENTS

Management shall initiate administrative shift assignments (voluntary or involuntary), as necessary, to effectively manage OSSD personnel. In instances of involuntary re-assignments due to staffing concerns, the administrative assignment shall be made on the PDS series classification and reverse seniority. The employee who has been involuntarily re-assigned shall retain any previously approved vacation and compensatory time off.

If an employee has bid for a shift, and then is unable to work the shift due to an unscheduled leave or modified work conditions for two (2) months or more, the employee may be administratively assigned for the remainder of the shift.

SHIFT BIDDING – POLICE DATA SPECIALISTS I (PDS I Trainee)

Police Data Specialist I will be administratively assigned during the PDS Bid after they have successfully completed their PDS Academy, and prior to the end of their probationary period. During the PDS bid there will be positions allocated on Day Shift and Swing Shift assigned to the PDS I Trainee(s). These allocated positions will be determined by the number of PDS I Trainees being administratively assigned, and divided equally between both shifts (Days & Swings). When there is not an even divide, Day shift will receive the additional position. At the time of the PDS bid, the final bid positions remaining on both shifts will be administratively assigned to the PDS I Trainee(s).

Seniority is determined by final academic standings in the Records In House Academy. If more than 80 hours of paid or unpaid leave is taken while a PDS I is serving their probationary period, this may extend the PDS I's probation, and may change their seniority date.

SHIFT BIDDING – POLICE DATA SPECIALISTS (PDSs)

Qualified PDSs assigned to OSSD shall bid for shifts twice each year based on Departmental Seniority (refer to A 8.30 – Seniority in the OSSD Guidelines). PDSs who have completed probation as a PDS I are qualified to bid for a shift with the following exception:

1. Any PDS who has a planned shift absence of eight (8) weeks or more after the shift change (including planned retirements) will not be allowed to bid for a shift.
 - a. For each PDS not bidding, a position may be removed and staffing adjusted as appropriate.
 - b. Upon the return of a PDS, the removed position will be reinstated and a one-time bid may occur.

For any PDS's unplanned absence that occurs after shift change:

- a. PDSs and SrPDSs may adjust their shift(s) to cover the absence.
- b. Upon the return of a PDS, they may be reinstated to the shift originally bid.

Guidelines for 'Shift Bidding by Seniority' for the Police Data Specialists and Sr. Police Data Specialists

The shifts may rebid if staffing assignments change after the shift bid, and prior to shift change.

If staffing assignments change after shift change:

- a. If due to a vacancy, it will be covered with shift adjustments and/or overtime until any promotion occurs.
- b. If due to a reassignment, a one-time bid may occur.

SHIFT BIDDING – SENIOR POLICE DATA SPECIALISTS (SrPDSs)

Qualified SrPDSs assigned to OSSD shall bid for shifts twice each year, approximately two (2) weeks before the PDS bid occurs, and shall be based on Departmental Seniority (refer to A 8.30 – Seniority in the OSSD Guidelines). SrPDSs are qualified to bid for a shift with the following exceptions:

1. Any SrPDS who has a planned shift absence of eight (8) weeks or more after the shift change (including planned retirements) will not be allowed to bid for a shift.
 - a. For each SrPDS not bidding, a position may be removed and staffing adjusted as appropriate.
 - b. Upon the return of a SrPDS, the removed position will be reinstated and a one-time bid may occur.
2. Newly promoted SrPDSs may be administratively assigned for one (1) full shift bid rotation.

For any SrPDS unplanned absence that occurs after shift change:

- a. SrPDSs and Supervisors may adjust their shift(s) to cover the absence.
- b. Upon the return of a SrPDS, they may be reinstated to the shift originally bid.

The shifts may rebid if staffing assignments change after the shift bid, and prior to shift change.

If staffing assignments change after shift change:

- a. If due to a vacancy, it will be covered with shift adjustments, persons working in higher class and/or overtime until any promotion occurs.
- b. If due to a reassignment, a one-time bid may occur.

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SENIORITY

Establishing Department seniority for purposes of shift bidding is separate from citywide seniority, which is defined in the Memorandum of Agreement (MOA) between the City of San José and the Municipal Employees' Federation (MEF). For shift bidding seniority and other Department seniority issues the following guidelines shall be adhered to:

1. Seniority shall be defined as time in class, within the Department. Part-time employment is NOT a separate classification and will not have a separate seniority established.
2. Department members, who move between levels within one (1) series, shall maintain seniority within that series when returning to a lower level. If the same employee were to promote again, their prior seniority accrued at the promoted level shall not count towards shift-bidding seniority for the latest promotion.
3. An employee shall not accrue seniority if he/she moves to a different unit/department. Upon returning to OSSD the employees seniority will be re-calculated from their previous seniority date adding in the time they spent in another unit/department.
4. Non-probationary employee resigning shall not accrue seniority and, upon returning to OSSD, the employee's seniority will be re-calculated from their previous seniority date adding in the time they spent separated from service.
5. No loss of seniority for unpaid leaves up to four (4) months in duration for medical leave (with verification) or for reasons that qualify under FMLA. This applies to each episode. With the previously stated exception, one (1) day of seniority shall be lost for each ten (10) hours of unpaid absences (lost time, suspension, and reduced workweek).
6. Existing permanent employees, transferring from another department/division, shall be given the highest seniority in their academy class. In cases where there are two (2) City employees hired at the same time, the one (1) with the most City seniority shall be granted the highest seniority of the class.
7. Seniority amongst an academy group (PDS I) shall be determined by the final academic standings and end of probation date.
 - a. PDS I seniority may change, post academy, if the employee has taken more than 80 hours of paid or unpaid leave during their PDS I probationary period. The hours that are missed are a combined total hours of any paid or unpaid leaves, including, but not limited to, Sick Leave, Vacation, Personal Leave, or Compensatory Time while the PDS I is on probation.
 - b. Seniority may also change if a PDS I has their probationary period extended.
8. In the event there are two or more individuals who have the exact same seniority, the following methodology shall be used:

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- a. The last four (4) digits of the social security numbers will be totaled together. With the sum of that total, the lowest number will be the least senior on the list and following appropriately in successive order to the highest number being the most senior on the established list.
- b. In the event that there are two or more individuals whose last four (4) digits of their social security number total the same number, the following methodology shall be used:
 - i. If there is an occurrence where the sum total is equal, the secondary tie would be a random draw of **only** the employees with totals that are tied. With the first drawn being the most senior of the secondary tie, and the subsequent draw or draws continuing until all placements on the list are filled in the same manner.
- 9. Seniority for PDSs promoting together at the same time will be based on their overall test score. In the event the overall test score is the same, PDSs promoting together at the same time shall retain the seniority placement of their former class.
- 10. Permanent part-time benefited employees accrue seniority at half the rate of full-time employees.
- 11. Part-time employees without benefits (per diem) do not accrue seniority by hours worked. The seniority of those transferring back to a benefited position will be determined by re-calculating from their previous seniority date, adding in the time they spent in another unit/department.

Approved:



Mark Bustillos, Deputy Chief of Police

3/23/17

Date