



US Department  
of Transportation

Federal Railroad  
Administration



# **MEMORANDUM OF AGREEMENT**

*between*

**FEDERAL RAILROAD ADMINISTRATION**  
**U.S. Department of Transportation**

*and*

**AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES**  
**Local 2814**

September 1, 2013

# **CONTENTS**

ARTICLE I	DEFINITION OF UNIT
ARTICLE 2	LABOR-MANAGEMENT PARTNERSHIP
ARTICLE 3	MUTUAL RIGHTS AND OBLIGATIONS OF THE PARTIES
ARTICLE 4	EQUAL EMPLOYMENT OPPORTUNITY
ARTICLE 5	UNION REPRESENTATION AND OFFICIAL TIME
ARTICLE 6	USE OF GOVERNMENT FACILITIES AND COMMUNICATIONS
ARTICLE 7	DUES DEDUCTIONS
ARTICLE 8	POSITION DESCRIPTIONS
ARTICLE 9	FILLING POSITIONS/VACANCIES
ARTICLE 10	PERFORMANCE MANAGEMENT
ARTICLE 11	EMPLOYEE DEVELOPMENT AND TRAINING
ARTICLE 12	WITHIN GRADE INCREASES
ARTICLE 13	EMPLOYEE AWARDS
ARTICLE 14	EMPLOYEE ASSISTANCE PROGRAM
ARTICLE 15	HOURS OF DUTY
ARTICLE 16	TELEWORK
ARTICLE 17	EMPLOYEE SAFETY AND HEALTH
ARTICLE 18	EMPLOYEE FINANCIAL OBLIGATIONS
ARTICLE 19	OFFICIAL RECORDS
ARTICLE 20	MOTOR VEHICLES
ARTICLE 21	REDUCTION IN FORCE, TRANSFER OF FUNCTION, FULOUGHES, SEQUESTRATION, AND REORGANIZATION

ARTICLE 22	DISCIPLINARY ACTIONS
ARTICLE 23	ADVERSE ACTIONS
ARTICLE 24	GRIEVANCE PROCEDURES
ARTICLE 25	ARBITRATION PROCEDURE
ARTICLE 26	EFFECTIVE DATE AND DURATION OF AGREEMENT

## **PREAMBLE**

In accordance with the provisions of Public Law 95-454, the following Agreement is entered into between the Federal Railroad Administration (FRA), Washington D.C., hereinafter referred to as the FRA, and the American Federation of Government Employees (AFGE) through its authorized bargaining agent AFGE, Local 2814, hereinafter referred to as the Union. Collectively, they are referred to in this Agreement as the Parties.

## **ARTICLE 1**

### **DEFINITION OF UNIT**

All professional and non-professional General Schedule and Wage Board employees of the FRA, nationwide, excluding management officials, supervisors, and employees engaged in personnel work in other than purely clerical capacity, as defined in Title VII, Civil Service Reform Act (CSRA) of 1978. The bargaining unit as defined includes bargaining unit employees in all FRA Offices; Offices of Railroad Safety, Administration, Research, Policy and Development, Chief Financial Officer, Chief Counsel, and Administrator.

## **ARTICLE 2**

### **LABOR-MANAGEMENT PARTNERSHIP**

The Parties agree to work together as partners to ensure that the FRA serves as a high performance employer and model Federal Government organization. Together we agree to pursue solutions that promote increased quality and productivity, customer service, mission accomplishment, quality of work life, and employee empowerment while considering the legitimate interests of both labor and management.

The framework for the operation of the FRA Partnership Council and the Headquarters/Regional Partnership Committees (HPC/RPC) is outlined below. However, it is agreed issues may still be pursued in applicable forums defined by Title 5 U.S.C., this Labor Agreement, and any other Federal appeals arena.

#### **Section A - FRA Partnership Council**

The Partnership Council shall consist of not more than five voting members each from the Union and the FRA. Either party may at times request to have technical resources attend a meeting. In such cases, the Labor Relations Officer and Union President will discuss the need in advance of the meeting and will mutually agree whether to include additional people at the Council meeting subject to work load requirements and agency needs. The Union may have a recording secretary, appointed by the Union President, for the purpose of taking the minutes at all meetings attended by the Union. If travel is involved, the parties will split evenly the cost of travel of the recording secretary.

The Partnership Council will meet spring and fall annually, and decide in April whether to hold an optional Summer meeting for the purpose of exchanging information and discussing/bargaining on matters of concern or interest at the national level in the broad area of personnel policy, practice, or matters affecting conditions of employment. Meetings of the Partnership Council will be held provided there are sufficient issues on the agenda. The Union President and Labor Relations Officer will, by mutual agreement, decide during April, if the optional meeting is necessary. If so, it will be held during summer. Upon mutual agreement, additional meetings may also be held.

The FRA agrees that meetings will usually be conducted during normal working hours. The FRA agrees to compensate employee union members in accordance with applicable regulations. Meetings shall be conducted in facilities furnished by the FRA.

### **Section B - Headquarters Partnership Committee (HPC)**

The HPC has been established for the purpose of discussing/resolving matters affecting employees assigned to FRA Headquarters.

The HPC shall comprise:

1. An AFGE Headquarters Steward;
2. One Representative from the Office of Human Resources selected by FRA Management;
3. One Additional employee selected by FRA Management; and
4. A member of the bargaining unit selected by the Headquarters Steward with the concurrence of AFGE Local 2814's Executive Committee

### **Section C - Regional Partnership Committees (RPC)**

Eight RPCs have been established for the purpose of discussing/resolving matters at the regional level.

The RPC shall comprise:

1. The Regional Administrator or a Deputy Regional Administrator;
2. One additional employee selected by the Regional Administrator;
3. The Regional Steward;
4. A member of the bargaining unit selected by the Regional Steward with the concurrence of AFGE Local 2814's Executive Committee; and
5. The Administrative Officer or an Administrative Assistant selected by mutual agreement of the Regional Administrator and the Regional Steward

As needed, working groups or teams may be established by an RPC to further assist in resolving matters of local interest.

### **Section D - HPC/RPC Operational Requirements**

Members of the HPC/RPCs agree that partnership involves the sharing of information, openness, receptiveness, mutual trust, and a positive attitude. All meetings will be undertaken in a constructive, well-planned, non-adversarial manner. Parties will identify agenda items in advance of the meetings. Meetings will be conducted in good faith with the objective of reaching an agreement/resolution by consensus which furthers the best interests of the FRA, its customers, and employees. Issues that have a nationwide impact will be forwarded to the Partnership Council for resolution.

In the event an HPC/RPC is unable to reach consensus on an issue, it will be forwarded in writing to the Partnership Council for resolution. Every effort will be made to reach consensus before forwarding an issue to the Council.

Meetings will be held on a quarterly basis. Written minutes will be taken and forwarded to the AFGE Secretary/Treasurer and the Labor Relations Officer.

### **Section E - Partnership Training**

The Partnership Council recognizes the need for periodic training on handling labor-management issues and using problem-solving techniques. The Council will arrange for such training to be given to members of the Partnership Council and/or HPC/RPCs as needed and as funding allows.

## **ARTICLE 3**

### **MUTUAL RIGHTS AND OBLIGATIONS OF THE PARTIES**

#### **Section A - Mutual Rights and Obligations**

1. The Parties agree that they have the mutual obligation to each other to conduct labor-management relations in a manner which is fair and equitable. The FRA and Union are committed to working together to improve the day-to-day operations of the FRA.
2. The Parties, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations.
3. The Parties agree that in the administration of all matters covered by this Agreement, officials and employees are governed by existing laws and the regulations of appropriate authorities, including subsequent published DOT and FRA policies and regulations required by law or regulation. All FRA and DOT policies not required by law or regulation in conflict with this agreement are superseded and amended by this agreement.

### Section B - Rights and Obligations of the Union

1. The Union is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering personnel policies and practices and working conditions of employees in the bargaining unit described in Article 1.
2. The Union is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The Union shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit. The Union shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of the FRA in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee and the employee requests representation.

### Section C - Rights and Obligations of Employees

1. The Parties agree that employees have and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join and assist a labor organization, or to refrain from any such activity. Except as otherwise expressly provided in this Agreement and/or law or regulation, the right to assist a labor organization extends to participation in the management of the organization and acting for it in the capacity of an organization representative, including presentation of its views to officials of the Executive Branch, the Congress, or other appropriate authorities.
2. It is understood and agreed by the Parties that nothing in this Agreement precludes any employee, regardless of whether a member of the Union, from bringing matters of personal concern to the attention of appropriate officials under applicable law, rule, regulation, or established agency policy; or from choosing a representative in a grievance or appellate action, except as modified by Articles 22, 23 and 24.

### Section D - Rights and Obligations of Management

The Parties agree that the FRA retains the rights as set forth in 5 USC 7106.

# **ARTICLE 4**

## **EQUAL EMPLOYMENT OPPORTUNITY**

**Section A.** The Union agrees to support the FRA's efforts to assure that there is equal employment opportunity (EEO) for all persons without regard to age, race, color, religion, sex, national origin, non-disqualifying physical or mental disability, genetic information or sexual orientation. The Union shall be consulted and afforded the opportunity to provide input in the development, change, or review of plans related to a model EEO Program. The FRA shall take prompt action to rectify situations where discrimination has been determined to exist.

### **Section B.**

1. The FRA will maintain a cadre of EEO counselors who will be available to the agency and employees in the informal processing and resolution of EEO complaints as prescribed in 29 Code of Federal Regulations Part 1614, Federal Sector Equal Employment Opportunity.
2. EEO counselors will be selected and appointed by the FRA, with union consultation, from nominations/applications submitted by interested employees of FRA.
3. Managers and supervisors of EEO counselors will allow the employee duty time to fulfill their counseling duties.
4. Supervisors and managers may not be appointed as EEO counselors.
5. The FRA agrees to provide timely certified training, at its expense, for those employees selected and appointed as counselors. EEO Counselors must attend initial training prior to conducting counseling and yearly refresher training to continue as a counselor.
6. The FRA and AFGE will encourage the use of alternative dispute resolution strategies in keeping with FRA Order 1000.3 "Equal Employment Opportunity Mediation Program" in order to attempt early resolution of EEO complaints at the lowest level.
7. The Union shall be given three work days advance notice of adoption of a settlement in a EEO complaint and the opportunity to be present at the settlement discussion when: (1) the Union has been designated the representative of the employee who filed the EEO complaint; or (2) where the formal settlement will impact more than one bargaining unit employee.

### Section C. Alternative Dispute Resolution

Alternative dispute resolution is a process designed to assist parties in resolving differences in a less traditional dispute resolution mechanism (e.g., formal complaint process or court). ADR does not replace the more traditional dispute resolution mechanisms but provides an alternative. If an ADR process does not resolve the conflict, the parties still retain all rights to pursue more traditional approaches. In an effort to resolve workplace disputes at the lowest possible level prior to any formal process, the FRA and Union will encourage the use of ADR processes. Any person in a dispute may contact the Center for Alternative Dispute Resolution at DOT, Human Resources, the Office of Civil Rights, or the Union to request assistance in resolving disputes.

Section D. In the event that a formal EEO complaint has been filed by a bargaining unit employee, the union has the right to be present at the mediation or ADR, UNLESS the employee objects to the union's presence on the grounds that the Union's presence is in direct conflict with one of the employee's rights as a victim of discrimination under Title VII of the Civil Rights Act of 1964. The Union may be present at a mediation or ADR of an informal EEO complaint of a workplace dispute or ADR that is solely between two employees and involves FRA management.

Section E. The Director of Civil Rights will provide to the Union President periodic briefings on the EEO program within FRA.

Section F. In a discrimination case, the employees may make the irrevocable choice of either the negotiated procedure, as outlined in Article 24, Grievance Procedure, or statutory procedures, but not both.

## **ARTICLES**

### **Union Representation and Official Time**

Section A. The FRA shall in no way restrain, interfere with, coerce, or discriminate against designated representatives of the Union in the responsible exercise of their duties as representatives for the purpose of collective bargaining, handling grievances and appeals, or furthering effective labor-management relationships.

Section B. The Parties agree that union officials and representatives, while employed by the FRA, are expected to accomplish the duties for which they are employed. The FRA recognizes, however, that in the furtherance of good labor-management relations, the elected Union officials and appointed Union representatives have a responsibility for carrying out their appropriate representational duties. It is agreed that all Union representatives will be given official time to carry out those duties as provided in Section D of the Article. Internal Union business will not be conducted on official time.

### Section C.

1. The Union may designate and the FRA agrees to recognize 9 union representatives to be known as Regional or Headquarters Stewards. Eight representatives will be designated to represent the field staff and one to represent the Washington D.C. Headquarters staff. In addition, the Union also will have five Union Executive Committee members. Normally, Stewards will operate within the confines of their Union assigned area; however, the Union retains the discretion to assign representational duties to its representatives. The Union may have a recording secretary appointed by the Union President for the purpose of taking minutes at all meetings attended by the Union
2. The Union agrees to provide the FRA with a roster of the names, addresses (both duty station and residence), telephone numbers (including cell phone numbers issued by the government), and the area of responsibility of all union officers and Stewards. The roster will be updated expeditiously after each change.

### Section D.

1. The Union President shall be allowed up to 50% Official time for all Agency-Union Representational business. The Union Vice Presidents (Headquarters, East and West) and the Union Secretary/Treasurer shall be allowed up to 15% Official time for all Agency-Union related representational business. The Union Stewards shall be allowed up to 10% Official time for all Agency-Union related representational business. Activity handled and recorded as Official Time is shown below:

- a. Any and all formal representational activity such as investigations, preparations and presentation of grievances and appeals; to represent an employee who is presenting a complaint, grievance, or appeal; and/or to be an observer at a proceeding for which the Union is not a designated representative, except as otherwise provided in 5 USC 7131.
- b. For each regional or multi-regional discipline specific, workshops, conferences, the Union President (or designee) shall be granted up to three days of official time to attend. The FRA agrees to reimburse the Union 50% of travel and per diem costs incurred under this provision.
- c. The Union President (or designee) shall be granted official time during an orientation course to meet with new employees and discuss the role of the Union.
- d. The FRA agrees to grant a bank of 520 hours of Official Time during a 12-month period to those union representatives who attend labor relations training of mutual benefit to the Union and the FRA. Normally, no employee will be permitted to use more than 40 hours of such time in any one year period. However, longer periods will be approved when unusual or occasional opportunities are available which would further serve the interests of the FRA and the Union. A written request for the use of Official Time will be submitted by elected union officers to the Labor Relations Officer before the start of the scheduled training session. Any disputes that may arise over the application of this Article shall be referred to the Partnership Council.

e. The Union Secretary/Treasurer shall be granted additional official time as needed for completing the necessary reports and forms required by law, rule, regulation, and/or the Department of Labor. The Secretary/Treasurer shall be allowed duty time to process union dues requests for DOT payroll deduction and revocation requests, and to work with the LRO to rectify/resolve any errors and questions on payroll deductions and revocations.

f. Additional Official time may be requested from the FRA Labor Officer and granted as necessary and appropriate. Notification by the union representatives of the use of official time will be made at the earliest opportunity to the FRA Labor Relations Officer (LRO). The LRO will be informed of the anticipated amount of official time to be used on each occasion. The use (times/date(s)) of the granted official time will be coordinated with the employee's supervisor. All official time shall be recorded accordingly with the labor codes in the DOT Time and Attendance system. Any disputes that arise over application of this article shall be referred to the Partnership Council for resolution before resorting to the grievance procedure.

Section E. The following types of activities are mutually beneficial and in the best interests of the agency in accomplishing its work and mission therefore, handled and recorded as Duty Time:

1. Any and all informal agency-union partnership activities such as discussions with management officials, any pre-decisional involvement with working conditions issues and/or problems, serving on ad-hoc policy committees and permanent partnership committees/council, preparation of comments on proposed orders or directives of the FRA affecting personnel policies, practices, and working conditions, when requested to do so by the FRA.

Section F. If a union representative, elected or appointed, is temporarily assigned as an acting supervisor or manager, the representative may not exercise the rights and privileges of his/her Union office until the temporary assignment is completed. Further, the representative may not take part in the processing of a grievance, appeal, or complaint which arose during the temporary assignment when he or she was directly involved as a supervisor or manager.

## **ARTICLE 6**

### **USE OF GOVERNMENT FACILITIES AND COMMUNICATIONS**

Section A. At the request of an authorized Union representative, permission for use of available space at FRA facilities for Union activities, such as business membership meetings, during non-duty hours, will be granted subject to safety and security regulations and provided that such meetings will not interfere with normal operations or functions of the FRA activity. Available space, such as conference rooms, unoccupied offices, and similar facilities not currently in use, also may be made available upon request by authorized representatives for preparation in a grievance, arbitration, or adverse action case.

Section B.

1. The FRA agrees to provide the Union President an adequate copy, as available, of applicable regulations, guidelines, and policies upon request. This information will be available for review and reference by employees and union representatives. If a representative with a specific question finds a particular regulation or reference unavailable, the FRA will see that applicable portions of the documents are made available.
2. The FRA will furnish a list of new hires, separations, promotions and reassignments to the Union President on a quarterly basis. The list will include name, job title, grade/series, effective date and location and will differentiate between "to" and "from" duty stations and whether separation was the result of retirement or death.

Section C. The FRA agrees that electronic bulletin board space shall be made available by the FRA on the FRA internal website for the display of union literature, correspondence, notices, etc. as well as official publications of the National Office of AFGE. This type of literature/information may also be distributed by the Union. The Union agrees that such literature/documents/information will not contain items relating to partisan political matters, or propaganda against, or attacks upon, individuals or activities of the FRA, DOT, or the Federal Government. The website established for the Union by FRA and maintained by the Union will be for informational posting only and will not have a dialog, chat or response functionality. Nothing in this material or information distributed or posted shall imply sponsorship or endorsement by the FRA.

Section D. All FRA employees shall have access to an electronic copy of this agreement. The FRA further will ensure the agreement is posted on its internal website.

Section E. The following Government facilities, equipment, and services may be used by the Union or its representatives in the conduct of labor/employee relations:

1. Duplication of memoranda and comments required by this Agreement printed in black and white and two- sided.
2. FRA communication systems, computers, printers and photocopiers may be used when required to perform representational activities or to respond to management initiated activities. These communication systems and equipment will not be used to conduct internal union business.;

Section F. The Federal Railroad Administration will provide AFGE Local 2814 an enclosed office with lockable door at FRA Headquarters.

# **ARTICLE 7**

## **DUES DEDUCTIONS**

**Section A.** This Article covers all eligible employees in the bargaining unit who:

1. Are members in good standing in the Union;
2. Voluntarily complete Standard Form 1187, Request an Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues; and
3. Receive compensation sufficient to cover the total amount of the allotment.

**Section B - Union Responsibilities:**

1. Informing and educating its members on the voluntary nature of the system for the allotment of labor organizations' dues, including conditions under which the allotment may be revoked;
2. Providing to its members Standard Form 1187, Request for Payroll Deductions for Labor Organization Dues;
3. Notifying the FRA's Office of Human Resources, in writing of:
  - a. The names and titles of officials authorized to make the necessary certification of Standard Form 1187 in accordance with this Agreement;
  - b. The name, title, and the address of the Secretary-Treasurer to whom remittance should be sent, including how the check should be made out;
  - c. Any change in the amount of membership dues (See Section D1);
  - d. The name of any employee who has been expelled or ceases to be a member in good standing in the Union within 30 calendar days of the date of such final determination; and
4. Forwarding properly executed and certified Standard Form 1187 to the Office of Human Resources on a timely basis.

**Section C - Management Responsibilities:**

1. Permitting and processing voluntary allotment of dues in accordance with this Agreement;
2. Withholding dues on a biweekly basis through DOT Payroll deductions;

3. Notifying the employee and the Union when an employee is not eligible for an allotment because he/she is not included in the bargaining unit. The Office of Human Resources is responsible for this notification.
4. All appropriately approved Union requests for Union dues (withholding or revocations) shall go through the FRA Labor Relations Officer (LRO) to DOT Payroll. The LRO shall ensure the request is in accordance with the applicable contract provisions and forward to payroll for appropriate processing.
5. Providing the following information on the remittance listing:
  - a. The employee names in which deductions are being made, or has authorized to be made, during the current pay period, plus the employee names for whom authorizations were applicable in the previous pay period but for whom amounts are not being deducted in the current pay period.
  - b. For each employee or group of employees, the following information will be given to the extent applicable:
    - (1) Identification of the employee by chapter, local, lodge, or other equivalent component of the Union;
    - (2) Amount withheld;
    - (3) New allotments;
    - (4) No deduction because employee's compensation is insufficient to permit a deduction; and
    - (5) Identification of employees whose deductions have terminated and a statement of reason for termination of deductions; i.e., separation, transfer, retirement, death, promotion, resignation, revocation of deductions (memorandum or SF 1188).

Section D - Joint Stipulations. The Parties agree that:

1. The amount of the dues to be deducted as allotments from compensation may not be changed more frequently than once every six months.
2. Administrative errors in remittance checks will be corrected and adjusted in the next remittance check to be issued to the Union. If the Union is not scheduled to receive a remittance check after discovery of the error, the Union agrees to promptly refund the amount of erroneous remittance.

Section E - Effective Dates for Actions Under This Article:

<u>Action</u>	<u>Effective Date</u>
1. Starting dues withholding	Beginning the pay period immediately following receipt in the Payroll Office of the properly completed and certified Standard Form 1187 ("Request for Payroll Deductions for Labor Organization Dues").
2. Change in dues amounts	Beginning the pay period immediately following receipt in the Payroll Office of the appropriate certification by the Union.
3. Revocation by employee	A revocation shall be effective beginning the first full pay period after November 1, following the completion of one year membership. To revoke an allotment, the employee shall submit an SF-1188 ("Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Due") to the Union Secretary/Treasurer for processing with the FRA Labor Relations Officer.
4. Termination due to loss of membership in good standing	Beginning the pay period immediately following receipt in the Payroll Office of appropriate Union notification.
5. Termination due to loss of recognition on which period allotment was based	Beginning the pay period immediately following receipt in the Payroll Office of the notice of loss of recognition.
6. Termination due to separation or movement to a recognition area not covered by this Agreement	(a) If action is effective first day of a pay period, termination of allotment will be at the end of preceding pay period. (b) If action is effective on any day other than first day of a pay period, termination of allotment will automatically be at end of pay period.

# **ARTICLES**

## **POSITION DESCRIPTIONS**

**Section A.** The Parties agree to the importance of ensuring the accuracy of an employee's position description since (a) it is the continuing basis for the classification, grade, and pay of an employee; and (b) it also serves as a basis for the development of an employee's performance plan.

1. The FRA shall delineate in a position description, in accordance with applicable Office of Personnel Management classification standards, the kinds and range of duties that an employee may be expected to perform.
2. The FRA agrees that phrases such as "other duties assigned" or "other related duties" when used in the position description shall generally be interpreted as duties related to the position and at the grade level of the employee assigned to the position. The parties agree that such definition in no way restricts the FRA in the right to assign work to employees and to determine job content.
3. The FRA shall initiate action to change the position description in a timely manner if the recurring major duties and responsibilities identified in an employee's position description change.
4. If related duties become a regular, continuing portion of an employee's work assignment, the FRA shall revise the position description and critical job elements, as appropriate, to reflect the changes.
5. Position descriptions will be reviewed annually and their accuracy certified in writing.

**Section B.** If an employee concludes that his/her position description is no longer accurate, the employee shall discuss his/her concerns about the accuracy of the position description and its classification with the supervisor. Together the employee and supervisor shall make a good faith effort, if necessary with the assistance of a representative of the Office of Human Resources, to resolve the problem. If these efforts fail to resolve the matter, the employee may request a desk audit or prepare a formal classification appeal within 30 calendar days from notification by the appropriate supervisor to the Office of Human Resources. The supervisor should make this request within 5 working days of the date of the failure to resolve the matter. When a desk audit has been requested by an employee, the FRA must make a good faith effort to perform the desk audit as soon as possible. However, the requested desk audit must be performed within 60 calendar days from notification by the employee to the Office of Human Resources.

When an employee elects to appeal a classification of a position, s/he has the option of either appealing it through the appropriate staff in the Office of the Secretary, US Department of Transportation or submitting the appeal to the Office of Personnel Management (OPM). The steps for submitting appeals to the OPM are outlined in 5 CFR Part 511, Subpart F.

Section H. Selections for vacancies will be made within the following time frames:

When there is an internal candidate for a bargaining unit vacancy who meets the criteria in Section D above, every attempt will be made to make a selection within 60 calendar days after the closing date of the vacancy announcement.

1. When there is an internal candidate for a bargaining unit vacancy who meets the criteria in Section E above, every attempt will be made to make a selection within 60 calendar days after the closing date of the vacancy announcement.
2. When there is no internal candidate, every attempt will be made to make a selection within 60 calendar days after the closing date of the vacancy announcement provided that Management may at its option make a second selection without advertising in those instances where the selectee declines anytime during the pre-employment process.
3. Failure to meet these time frames will result in readvertisement of the vacancy unless the time frames have been extended by mutual agreement by both parties.
4. The FRA agrees to notify an employee of selection for a reassignment as far in advance of the effective date of the reassignment as practicable. FRA agrees, when possible, to seriously and fairly consider concerns expressed by the employee in establishing the effective date of the reassignment.

Section I. All candidates applying for positions through the FRA Merit Promotion Plan will be notified in writing concerning the "Qualified" or "Not Qualified" determinations of their applications. After a selection has been made, the candidates considered will be notified in writing and advised if they were among the "Best Qualified" candidates referred to the selecting official(s).

Section J. Within 10 work days after an employee has been selected for a promotion to a position within the bargaining unit, the Union President will be furnished the names of the employees who applied for that position.

Section K.

1. The Union will be briefed on a promotion package for bargaining unit positions when it has reason to believe a discrepancy exists. Requests for this briefing must be made in writing by the Union to the Director of HR within 15 work days after receipt of the notification of selection, and should contain information that describes the discrepancy and why the Union believes a discrepancy exists.
2. The Union will provide the Agency, in writing, with the name of the union representative who will participate in the briefing. Employees who applied for the position at issue are not eligible to be the designated representative.

3. The HR representative will make the pertinent records from the package available to the Union representative within 15 work days of receipt of the briefing request. The Union representative shall treat information confidentially. Promotion package reviews will take place in the Office of Human Resources, FRA, Washington, D.C., in the presence of an HR representative.

## **ARTICLE 10**

### **PERFORMANCE MANAGEMENT**

The Performance Management Program as it applies to Federal Railroad Administration employees will be in accordance with 5 USC Chapter 43, 5 CFR Part 430, appropriate OPM regulations, and FRA Order 3430.5D, Performance Management Program.

## **ARTICLE 11**

### **EMPLOYEE DEVELOPMENT AND TRAINING**

Section A. The FRA and the Union recognize that training and career development counseling are effective means of assessing, guiding, and developing employee performance capabilities and utilization.

The FRA agrees to offer career counseling to interested employees concerning training opportunities available to them to the extent resources permit. The FRA further agrees to inform employees about the availability of career counseling.

Section B. The FRA, to the extent practicable, shall seek to provide training and development for employees through on-the-job training and the use of internal and external formal training courses so they may develop and enhance their individual capabilities. The FRA shall give priority consideration to training related directly to the current official duties of employees, and, when appropriate, to career development.

Supervisors shall discuss training needs with employees during the mid-term performance evaluation and during the annual performance appraisal sessions. Employees are encouraged to present reasonable suggestions concerning their training needs to their supervisors. It is the FRA's responsibility to determine if the training proposed is directly related to accomplishing the employee's job requirements and is necessary. The FRA shall consider requested training in accordance with applicable law or regulation. This includes consideration of other training requests which would result in better organizational or individual performance. Nomination and selection in training and career development programs and courses shall be made in a fair and impartial manner.

Section C. The FRA shall develop plans to meet the training needs of reassigned employees. Such plans will address such concerns as the needs of the employee, and the time needed to achieve the purposes of the plan.

Section D. The parties agree that employee self-development should be encouraged. Therefore, the FRA shall make available to employees timely information concerning non-technical training courses and programs of which it is informed, and which are known to be available from Government or non-Government sources. To accomplish this, information such as correspondence courses, and training/education opportunities will be available through the appropriate headquarters/regional office.

Section E. As soon as possible before the start of non-technical training activities, the FRA shall notify employees whether or not their applications have been approved.

Section F. Documentation of completed training forms for non-technical training of eight hours or more shall be placed in the employee's Official Personnel Folder.

Section G. The FRA agrees that opportunities should be available to employees who demonstrate potential and interest so that they might advance in their careers and perform at their highest potential within FRA. To the extent practicable and consistent with budgetary constraints, the FRA Employee Development and Training Program shall provide opportunities for:

1. Employees to improve their skills, knowledge, and abilities through experience, assignments, selected courses, and career counseling;
2. More effective utilization of employee potential. If an individual's potential has been assessed through the selection process and given planned development, he/she will be better prepared for a career with advancement opportunities;
3. Career mobility for qualified employees; and
4. A broader agency base for selection of personnel for the technical, administrative, professional positions and thus diversify the employee population in those careers.

Candidates for upward mobility positions under the Employee Development and Training Program will be competitively selected, through the Merit Promotion System, from career or career-conditional employees in grades GS-1 through GS-9 or their wage grade equivalents.

Training of upward mobility participants under the Employee Development and Training Program may be flexible in terms of length and sequence or scope of training, in accordance with the needs of the individual trainee and agency requirements and constraints.

Section H. An employee's Individual Development Plan (IDP) must be developed in conjunction with the performance appraisal system. An IDP shall be required of employees in a formal training program, such as the upward mobility or leadership development programs.

## **ARTICLE 12**

### **WITHIN GRADE INCREASES**

All determinations of the granting or denial of a Within Grade Increase shall be governed by 5 C.F.R. Part 531, Subpart D, Within Grade Increases; applicable regulations; and FRA Order 3430.5D, Performance Management Program.

## **ARTICLE 13**

### **EMPLOYEE AWARDS**

Section A. The FRA Awards program shall be in accordance with the Employee Awards and Recognition Program Order (FRA Order 3450.1C).

Any employee may recommend a cash or time-off award. However, managers and supervisors must concur with the recommendation and final approval rests with the Chief Counsel, respective Associate Administrator, or equivalent. (Exception: The DOT Acquisition Award requires approval by the Deputy Administrator.)

For honorary awards, nominations can be submitted by employees or supervisors. However, all honorary awards must receive concurrence by the Chief Counsel, respective Associate Administrator, or equivalent. Final approval of honorary awards rests with the Administrator.

The FRA's Office of Human Resources will provide technical review of all award recommendations for employees to ensure conformance with applicable regulations prior to final approval by the Administrator, respective Associate Administrator, Chief Counsel and other appropriate officials, or their designees.

Section B. It is agreed that the FRA will provide the Union President with written notification of awards granted to unit employees within 10 working days after administrative processing by the Office of Human Resources. Notification may be made by e-mail.

Section C. The FRA Awards Committee comprised of labor and management representatives from each office will conduct periodic reviews of the awards program and make recommendations to improve the program.

# **ARTICLE 14**

## **EMPLOYEE ASSISTANCE PROGRAM**

**Section A.** The FRA will provide a referral service for those employees who are in need of employee assistance. The objective of this program is to provide assistance to employees in dealing with health, family, and financial matters. The Union agrees to cooperate fully with the FRA in this program and to provide necessary encouragement and information to employees seeking help under this program.

**Section B.** The Parties are concerned with an individual's health and family problems when it interferes with the safe and efficient performance of assigned duties, disrupts the efficiency of the agency, reduces his/her dependability, reflects discredit on the agency, or is a criminal offense.

**Section C.** An employee having treatable health problems will receive the same careful consideration and offer of assistance that would be extended for any other illness or health problem. Sick leave, annual leave, and/or leave without pay will be granted for the purpose of treatment or rehabilitation.

**Section D.** Voluntary participation in this or a similar program by employees who have realized or been made aware of a health, family, or financial problem is encouraged. The continued service, job security, or promotion opportunity of an employee shall not be jeopardized by requests for counseling or therapeutic assistance. However, an employee so afflicted will be held accountable for all disciplinary infractions if rehabilitative measures fail and/or poor performance continues. All referrals must be made on an objective and factual basis, rather than any unsupported assumption.

**Section E.** It is agreed that the FRA will follow the spirit and intent of applicable laws, regulations, and policies dealing with health, family, and financial matters. These applicable laws, regulations, and policies include (but are not all inclusive): Title 5 Code of Federal Regulations (CFR), Part 792, Federal Employees' Health and Counseling Programs; Privacy Act of 1974; and related Title 49 CFR, Parts 2 and 10.

**Section F.** Subject to all laws, regulations and policies of confidentiality, communication shall occur between the Office of Human Resources, Civil Rights Office, EAP program and/or Senior management and Regional management as pertinent, so as there is an awareness of an employee raised EAP related issue. Any discussion with Management in this regard will be restricted to issue(s) of job performance or conduct. The following steps will be taken at these meetings:

1. Give the employee a clear, positive statement indicating the job performance deficiency or conduct issue involved;
2. Explain the function of the Employee Assistance Program and the benefits available;

3. Emphasize that help for the existing problem may be covered under the program and handled on a confidential basis;
4. Remind the employee that unless the identified problem is corrected, the employee is subject to existing penalties for unsatisfactory job performance or conduct; and
5. Upon his/her request, the employee may have the Union representative present at this meeting.

## **ARTICLE 15**

### **HOURS OF DUTY**

**Section A.** The basic workweek, tours of duty, and hours of work for bargaining unit employees will be established and changed in accordance with 5 CFR Part 610, FRA Alternative Work Schedule (AWS) Order 3600.5, and FRA Alternative Work Schedule (Maxiflex) Order 3600.7. The opportunity to participate in the Flexible Work Schedule (Flexitour) program will be afforded to bargaining unit members. The opportunity to participate in the Compressed Work Schedule (CWS 5-4/9 Plan) will be afforded to headquarters bargaining unit members and field bargaining unit members in administrative positions. In addition, these personnel may, at the Associate Administrator or Chief Counsel's discretion, be afforded the opportunity to participate in the Four-Ten Plan. Office of Safety Field bargaining unit members, except those personnel in administrative positions, will be afforded the opportunity to participate in the Maxiflex program.

**Section B.** The FRA will use Alternative Work Schedule (AWS) programs to enhance operational efficiency, promote program goals, and enrich the quality of life.

**Section C.** The parties agree that, in so far as practical, travel during non-duty hours (e.g. weekends, holidays, and leave periods) shall not be required by the FRA. To the maximum extent practicable, the FRA shall schedule time to be spent by an employee away from his or her official duty station in the regularly scheduled work week of the employee. When it is essential that the FRA require the employee to travel outside of the regularly scheduled work week or hours of duty where the employee would normally not be compensated for this time, the basic work week or duty hours will be adjusted to encompass such travel, or the employee may be entitled to travel compensatory time. Where this is not possible, the reasons for specifically ordering travel during non-duty hours will be provided in writing to the employee by the FRA.

**Section D.** Time in travel status away from the duty station is considered hours of work when it meets one of the following criteria:

1. It involves the performance of work while traveling;
2. It is incident to travel that involves the performance of work while traveling;

3. It is carried out under arduous conditions; or,
4. It results from an event which could not be scheduled or controlled administratively.

Section E. Employees on per diem shall be reimbursed at the applicable rate according to circumstances established by DOT regulations and other appropriate laws and regulations.

Section F. The FRA shall endeavor to process all temporary duty vouchers to employees within 10 working days after an accurate voucher has been received by the accounting office.

## **ARTICLE 16**

### **TELEWORK**

The Parties recognize the value that a telework program contributes to helping accomplish the mission, goals, and work objectives of the FRA in a cost effective manner. In that telework has substantially changed the way in which FRA does business, supervisors and employees must work together in a partnership-like atmosphere to ensure that the telework program operates without sacrificing the efficiency of FRA operations and customer relationships. Therefore, the telework program shall be in accordance with FRA Telework Order 3600.3B and the associated implementation plans.

## **ARTICLE 17**

### **EMPLOYEE SAFETY AND HEALTH PROGRAM**

Section A. The FRA will ensure safe, healthy work conditions for employees, to the extent that the work locations and conditions are under the FRA jurisdiction. The FRA recognizes an obligation for the safety of employees and does not require that they expose themselves to undue personal risks. The FRA agrees to abide by all OSHA rules and regulations and FRA Orders. An employee who believes that he/she may be exposed to an unsafe or be subject to undue personal risk should contact and explain the situation to his/her supervisor. The supervisor shall delay the assignment until such time that he/she has the opportunity to consult with an Industrial Hygienist staff member, investigate the situation and determine appropriate action(s). The Supervisor shall advise the employee of action(s) taken and advise the employee of what the employee should do about the situation. The supervisor will report the situation to FRA's Safety and Health Official (i.e. Associate Administrator for the Office of Railroad Safety and Chief Safety Officer) in a timely manner.

Section B. A joint Safety and Health Committee comprised of three employee representatives selected by the Union and three FRA Management representatives is established under this Article and OSHA requirements. Further, a representative from Human Resources and Chief Counsel shall attend the S&H committee meetings as the committee advisors on personnel and legal related issues, respectively. The role and duty of the committee is to discuss, request research, and review FRA employee safety and health conditions; make recommendations of policy and action regarding FRA employee safety and health to the FRA Associate Administrator for the Office of Railroad Safety and Chief Safety Officer.

Section C. All FRA employees, particularly those employees who perform their duties outdoors and on railroad properties shall be provided with necessary Personal Protective Equipment (PPE) to perform their duties in a safe manner. The S&H equipment requirements will be needs based and fulfilled in a reasonable manner (guided by OSHA rules and regulations, appropriate ANSI Standards, FRA Guidance and Policy and S&H Committee guidance and recommendations. The PPE purchased shall meet all required safety criteria and of reasonable and cost. All PPE and estimated cost must be requested and supervisor approved prior to purchase.

**List of Approved PPE that can be reimbursed  
(OSHA and ANSI approved)**

Safety Boots or Safety toe caps,(Chemical resistant safety boots as appropriate)(Caps must meet ASTM F2412 & F2413 Standards)  
Safety Glasses (Prescription or non-prescription)(FRA Provides Non-prescription glasses)  
Hard hat with liner (FRA Provides)  
Reflective Vests (FRA Provides)  
Workgloves (cloth or leather, chemical resistant as appropriate)  
Clip-on Ice Creepers  
Rainboots or Slip-ons  
Hearing Protection  
First Aid Kit (FRA Provides)  
Snake-bite kit and protection wear (As appropriate)  
Coveralls  
Fall-protection equipment (FRA Provides)  
Regular or Explosion proof flashlight (As appropriate).  
Raingear (one or two piece)  
Chemical Exposure protection (as appropriate).  
Boot maintenance- resoling.

\*Additional needs/requests shall be referred to the FRA Safety and Health Committee for consideration and determination of safety appropriateness.

\*Prescription glasses (Cap of \$750 each year provided the employee's safety glasses are damaged or eye prescription has changed and the safety glasses need replacement).

Employees who work occasionally in the field will be provided the basic PPE.

Claims of reimbursement (vouchers) need to be filed for processing no later than the end of August prior to the end of the fiscal year.

Employees who participate in this program are required to utilize the equipment covered by this section when conditions warrant. Failure to do so could result in disciplinary action.

## **ARTICLE 18**

### **EMPLOYEE FINANCIAL OBLIGATIONS**

This provides guidance on employee responsibility and accountability in making government obligations on a government credit card. All charges must be in compliance with government guidance and FRA policy. Failure to do so could result in garnishment of wages, discipline or both.

#### **Government Credit Cards:**

1. **Individual Government Travel Credit Card** - (Travel Cards) Public Law 105-264 stipulates that the government-sponsored, contractor-issued travel card shall be used by all U.S. Government personnel to pay for costs incident to official business travel unless exempted. The employee, upon his/her job being designated as requiring a government travel card shall take and complete the required training and apply through their office for the travel card. The service provider will assess an applicant's credit worthiness; however, that credit assessment will not impact an applicant's credit history or FICO credit score as reviewed by other lenders or creditors. Depending upon the results of the credit check the employee will be issued an unrestricted or restricted travel card. Employees must keep their travel card in good standing. Failure to use the Government travel card as issued by the contracted travel card service provider may subject the traveling employee to administrative or disciplinary action. Employees shall adhere to the procedures set forth in DOT policy and applicable FRA guidance. Individual cardholders are responsible for payment in full of undisputed amounts as noted in monthly billing statements from the travel card service provider. Employees are responsible for providing the service provider with the address of their primary residence and notifying the service provider of any changes of address. Employees whose Government travel card account has been cancelled due to travel card misuse and/or abuse are ineligible to receive DOT travel card accounts. Employee's credit rating may be affected if the employee's account is frequently delinquent or cancelled. Employees who are found to have misused their travel card, or have made late payment(s) or failed to make payments are subject to disciplinary action up to and including removal. (Note: If it is critical that an employee must travel to perform duties, then removal from that position would be necessary.)

2. **GSA Issued Government Credit cards for Government Operated Vehicles (GOV)- (Fleet Cards)** The GSA supplies a Smart Pay Fleet Charge Card with all leased Government Operated motor vehicles (GOV). The GSA contractor issued fleet charge card is the only Federal Government-issued charge card that may only be used for GSA-leased fleet motor vehicles. The card is unique for each car bearing its license plate number. The GSA Smart Pay Fleet Charge Card shall be used to obtain services and supplies at selected service stations. All major oil companies accept the card. If a service station does not accept the card, employees should call one of the two "Maintenance Authorization" telephone numbers listed on the reverse side of the GSA Smart Pay Fleet Charge Card. The card provider will furnish the vendor a MasterCard authorization. Drivers may use a GSA Smart Fleet Charge Card specifically issued for fueling. These cards are also designed to collect motor vehicle data (such as vehicle tag number, its duty location, the number of gallons of fuel purchased, and the date of purchase) at the time of purchase. Where appropriate, State sales and motor fuel taxes are deducted from fuel purchases by the fleet charge card services contractor before FRA is billed. The Federal Government small purchase credit card does not collect motor vehicle data for amounts less than \$2,500.00 nor does it deduct State sales and motor fuel taxes. If maintenance or repairs will exceed \$100, the employee operating the motor vehicle should contact the Maintenance Control Center (MCC) for pre-approval. Also, purchases of batteries, tires, and glass must always be authorized prior to purchase, regardless of cost.

3. **Office Supplies Government Credit Cards - (Purchase Cards)** The GSA SmartPay purchase card program provides government credit purchase cards to Federal employees to make official Government purchases for supplies, goods, and services under the micro-purchase threshold of \$3,000. Cardholders are either appointed by their Agency/Organization Program Coordinator (A/OPC) or designated by an Approving Official (AO). The employee's personal credit history is not a criterion for receiving a purchase charge card. Similarly, use of the purchase charge card will not affect the employee's personal credit history. All purchase card accounts are Centrally Billed Accounts (CBA), and the liability for transactions made by authorized cardholders is borne by the Government. The Government is not liable for transactions on the card when the use of the card is by a person who does not have actual, implied, or apparent authority for such use. Cardholders can purchase any commercially available supply or service within spending limits and not prohibited by either Federal or agency-specific procurement regulations. Purchases that are **STRICTLY PROHIBITED** include long-term rental or lease of land or buildings; travel or travel-related expenses (not including conference rooms, meeting spaces, and local transportation services); and cash advances (unless permitted by your agency/ organization. The purchase charge card can **NEVER** be used for **personal reasons**. The card holder's name is imprinted on the card. Only the cardholder is authorized to use the card. The card cannot be loaned or borrowed. No member of the employee's family or staff, including the employee's supervisor, may use the purchase charge card.

Cardholders are responsible to:

- Secure the card
- Maintain a purchase log
- Use the card only to make informed buys of approved supplies and services
- Ensure availability of funds before purchase

- Be aware of reasonable prices offered in the marketplace
- Observe all dollar limits on purchases
- Reconcile and document transactions
- Use the card ethically

Any employee found to be have misused a purchase card will be subject to disciplinary action up to and including removal from Federal service.

## **ARTICLE 19**

### **OFFICIAL RECORDS**

**Section A.** No Official personnel record may be collected, maintained, or retained, except in accordance with law, Government-wide regulations, agency regulations, and this Agreement or its supplements. Employees shall be advised of the location and be allowed to review it upon request. All personnel records shall be maintained in strict accordance with Chapter 3, Personnel, of the National Archives Records Management (NARA) Schedule.

**Section B.**

1. Employees and/or their representatives shall have the right to examine records personally identified to the employee (i.e., Official Personnel Folder, EEO, appeal and grievance records, etc.), position descriptions, and classification standards during normal duty hours. Employees, or their representatives, may receive copies of personally identified records which have not been previously furnished.
2. Requests for a copy of other agency records that the Union indicates are relevant and necessary for investigating possible or processing active appeals or grievances that are readily available, will be complied with.
3. FRA employees' access to their own medical records maintained by the FRA may be refused only if, in the sole judgment of a health care professional, their disclosure would be harmful to the mental or physical health of the individual. In such cases, the medical record(s) may be released only to an employee's representative designated in writing.
4. The employee shall have the right to prepare and enter a concise statement of disagreement with any document filed in his/her Official Personnel Folder. Nothing in this Section shall negate an employee's right to grieve any matter.

**Section C.**

- I. All Official Personnel Folders shall be purged and information disposed of in accordance with appropriate records control schedules.

2. When Official Personnel Folders are purged, documents will be sent to the employee who shall determine their disposition.
3. Each facility will maintain a follow-up system to assure that any written counseling, disciplinary, or similar action with a time limit on it is removed on the proper date and returned to the employee.
4. If any outdated or unauthorized material is accidentally left in a file, it may not be used to support any personnel action detrimental to the employee.

Section D. Subject to law, rule, and regulation, if supervisors make a personal decision to keep notes on employees, the notes or files (1) must be kept absolutely uncirculated -- they cannot be reviewed by anyone else not authorized by regulation, and (2) must be maintained in a secure fashion in order to prevent disclosure. The time frames for retaining supervisory notes shall be up to two years unless used in a personnel action.

## **ARTICLE 20**

### **MOTOR VEHICLES**

Section A. Employees who are required to operate a motor vehicle on a regular basis and in excess of 1,000 miles per month in the performance of their official duties will be assigned a Government vehicle (GOV), unless the employee elects to use his/her personal vehicle (POV) for such official duties. The assignment of a Government vehicle constitutes a commitment which requires the employee to use the vehicle for all temporary duty travel. Such commitment will be for a six month period. Employees who wish to be released from this commitment must give sufficient notice of at least three months in advance for termination of the commitment. GOV vehicles will not be assigned to Railroad Safety Inspector Trainees.

Section B. For reasons of health, safety, and efficient job performance, the FRA agrees to request air conditioning in Government-furnished automobiles. Employees using Government vehicles may be granted, upon request and subject to availability, a larger size Government vehicle when their physical attributes deem it necessary. Employees using Government vehicles may be granted, upon request and subject to availability and budgetary constraints, a 4-wheel drive Government vehicle in accordance with the 4-wheel drive vehicle policy. If a pick-up truck is requested, justified, and subject to availability, the truck must have an extended cab.

Section C. Federal employees will only be allowed to operate and be passengers in Government Operated Vehicles (GOV).

Section D. When a Government vehicle is used by an employee for official travel, its use shall be limited to official purposes (31 USC 1344) which include transportation between places where the employee's presence is required incident to official business; between such places and places of temporary lodging when public transportation is unavailable or its use is impractical; and between either of the above places and suitable eating places, drug stores, barber shops, places of worship, cleaning establishments, and similar places necessary for the sustenance,

comfort, or health of the employee to foster the continued efficient performance of Government business.

Section E. If an employee elects not to use the Government vehicle as required by Section D, he/she may elect to use a personal vehicle on a regular basis rather than a Government vehicle. The employee will make his/her preference known to the Regional Administrator. The employee may not exercise this option more than once each six months. Employees who wish to be released from their commitment to use a personal vehicle will give sufficient notice of at least three months prior to terminating their election to use a personal vehicle. Employees will be released from their commitment as soon as possible.

Section F. Employees will not be required to carry other employees in their personal vehicles.

## **ARTICLE 21**

### **REDUCTION IN FORCE, FURLOUGHS, TRANSFER OF FUNCTION, SEQUESTRATION AND REORGANIZATION**

Section A. The Parties agree that in the event of a reduction in force, transfer of function, or reorganization, the FRA will notify the Union reasonably in advance of such an event. Normally, such notice will be given 60 calendar days in advance, except furloughs which notice will be given at least 30 calendar days in advance.

Section B. The FRA will provide relevant information regarding the extent of the action and expected impact on bargaining unit employees. At the request of either Party, the Parties will meet to discuss the matter and attempt to informally agree on procedures and arrangements for implementing the action.

The Union then will notify the FRA whether it desires to negotiate on any unresolved issues.

FRA competitive areas for reduction in force consist of: 1) All positions assigned to headquarters' organizations, and 2) All positions assigned to regional offices.

## **ARTICLE 22**

### **DISCIPLINARY ACTIONS**

Section A. It is the policy of the FRA that disciplinary actions will be taken for such cause as will promote the efficiency of the service. Disciplinary actions shall be taken as soon as practicable from the event or knowledge of the event and after all relevant facts and circumstances which will form the basis for the action are available to the proposing official. However, an untimely proposed action shall not be the cause for setting aside a disciplinary action. Nothing shall preclude the Arbitrator from reviewing the circumstances surrounding the time frame

between the incident, Management's knowledge of the incident, and Management's action against the employee, including Management's reasons for taking the action.

Section B. Alternative dispute resolution is a process designed to assist parties in resolving differences in a less traditional dispute resolution mechanism (e.g., formal complaint processes or court.) ADR does not replace the more traditional dispute resolution mechanisms but provides an alternative. If an ADR process does not resolve the conflict, the parties still retain all rights to pursue more traditional approaches. In an effort to resolve workplace disputes at the lowest possible level prior to any formal process, the FRA and Union will encourage the use of ADR processes. Any person in a dispute may contact the Center for Alternative Dispute Resolution at DOT, Human Resources, the Office of Civil Rights or the Union to request assistance in resolving disputes. As it relates to potential disciplinary, adverse actions or performance based actions, ADR will be used as appropriate. Prior to filing a formal grievance, the parties have the option to discuss and attempt to settle informally.

Section C. For the purpose of this article:

1. Informal disciplinary actions (i.e., verbal counseling and written counseling memorandums) are not subject to the procedures outlined in Section D of this Article.
2. Formal Discipline:
  - a. Written Official Reprimands are official records to be retained in an employee's Official Personnel Folder. The period of retention is not more than one year. The record of reprimand will be removed from the employee's eOPF at the expiration of the designated time limit or at the time the employee leaves the rolls of the FRA, whichever occurs first.
  - b. Suspensions of 14 days or less are subject to the procedures outlined in Section D of this Article.

Section D. In any suspension proposed by the FRA, the employee is entitled to:

1. Advance written notice stating the specific reasons for the proposed action;
2. A reasonable time of not less than 7 calendar days to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;
3. Be represented by an attorney or other representative; and
4. A written decision and the specific reasons relied on in reaching that decision. The FRA agrees that the decision will be rendered a reasonable time after receipt of the employee's reply or the date the reply was due.

5. There will normally be a lapse of at least one day between the date of decision and the effective date of suspension.

Section E. If an employee alleges, after he/she has received a decision on a proposed disciplinary action, that the action has not been taken for such cause as will promote the efficiency of the service, the employee or his/her designated Union representative, may within 30 days proceed to a second step grievance under Article 24, Grievance Procedure, Section H.

Section F. All time limits in this Article may be extended by mutual consent.

## **ARTICLE 23**

### **ADVERSE ACTIONS**

Section A. For the purposes of this Article, an adverse action is defined as a removal, suspension for more than 14 calendar days, reduction in grade or pay, or a furlough of 30 calendar days or less taken under 5 CFR 752. The employee may be changed to a lower grade or removed for performance reasons under this Article (5 CFR 432).

Section B. It is the policy of the FRA that adverse actions may be taken for such cause as will promote the efficiency of the service and consistent with the provisions of law, regulation, and DOT/FRA policies.

Section C. In an adverse action proposed by the FRA, the employee is entitled to;

1. At least 30 calendar days advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;
2. The right to review the material or copies thereof on which the proposal is based and which is relied on to support the reasons in the notice of proposal;
3. No less than seven calendar days, to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer;
4. Be represented by an attorney or other representative; and
5. A written decision and the specific reasons within a reasonable time from receipt of the employee's reply or the date the reply was due.

Section D. Adverse actions shall be taken as soon as practicable from the event or knowledge of the event and after all relevant facts and circumstances which will form the basis for the action are available to the proposing official. However, an untimely proposed action shall not be the cause for setting aside an adverse action. Nothing shall preclude the Arbitrator from reviewing

the circumstances surrounding the time frame between the incident, Management's knowledge of the incident, and Management's action against the employee, including Management's reasons for taking the action.

Section E. If an employee alleges, after he/she has received a decision on a proposed adverse action, that the adverse action has not been taken for such cause which will promote the efficiency of the service, the employee may make an irrevocable decision to either:

4. Pursue the matter under the terms of Article 24, Grievance Procedure, Section H,  
**or**
5. Pursue the matter as an appeal to the Merit Systems Protection Board (MSPB) as provided in 5 CFR 752.405.

Employees will be deemed to have exercised their option at such time as they initiate a timely action under the applicable statutory procedure or file a timely grievance in writing in accordance with the negotiated grievance procedure, whichever occurs first.

## **ARTICLE 24**

### **GRIEVANCE PROCEDURE**

Section A. The purpose of this Article is to provide for a mutually accepted method for the prompt and equitable settlement of grievances at the lowest possible level.

Section B. This negotiated procedure is the exclusive forum for bargaining unit employees on matters covered, except in adverse action and discrimination cases.

Section C. A grievance is defined to be a dispute between the FRA and the Union or employee(s) which may pertain to the effect or interpretation, or a claim of breach, of this collective bargaining agreement or a matter relating to employment with the FRA and a claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting working conditions of employment not specifically excluded in Section D.

Section D. This grievance procedure does not apply to:

1. Items specified in 5 USC 7121©):
  - a. Any claimed violation of subchapter III of chapter 73 of this title (prohibited political activities);
  - b. Retirement, life insurance, or health insurance;
  - c. A suspension or removal under section 7532 (National Security);

- d. Any examination, certification, or appointment; or
  - e. The classification of any position which does not result in the reduction in grade or pay of an employee. (While not grievable, employees may appeal the classification of a position to the DOT Departmental Office of Human Resources, or the Office of Personnel Management, see Article 18, Position Classification).
2. The content (not the application) of published agency regulations and policy;
  3. The non-selection for promotion from a group of properly ranked and certified candidates;
  4. The termination of temporary employees under 5 CFR Part 316; or
  5. The termination of probationary employees under 5 CFR Part 315, Subpart H, for unsatisfactory performance, conduct, or related reasons.

**Section E.** The Parties agree to make every effort to resolve the grievance at the lowest level practical. The Parties will agree to time frames for processing a grievance, and they may agree to waive outlined steps.

**Section F.** The Union's Regional Grievance Chairpersons will process grievances in their respective regions only. The Washington Grievance Chairperson(s) will process the grievances for the employees in the metropolitan Washington area. When a grievance progresses through the steps of the grievance procedure to Washington headquarters, the Union will designate a member of the Executive Committee to present the grievance at the subsequent steps necessary.

**Section G. First Step** - An aggrieved employee shall initially seek informal resolution of the grievance by bringing it to the attention of the immediate supervisor within 20 work days of the event, or within a reasonable time that he/she has knowledge of the event giving rise to the grievance. The supervisor shall arrange for a meeting at a mutually agreeable time to discuss the grievance. The employee and Union representative will be given a reasonable amount of official time to present the grievance if they are otherwise in a duty status and are employees within the unit. The supervisor will answer the grievance orally within 15 work days or within a time frame that the parties agree to following the discussion.

**Section H. Second Step** - If the employee or the Union is not satisfied with the supervisor's reply, a formal grievance may be submitted to the supervisor next in line above the grievant's immediate supervisor or the FRA official who has the authority to provide remedial relief. The formal grievance shall be submitted in writing and shall contain the name of the grievant, supportive information (including the specific portion of the Agreement, published policy, or regulation alleged to have been violated), the corrective action desired, and the name of his/her Union representative.

The grievant shall provide a copy of the grievance to FRA's Labor Relations Officer and the Union President. The appropriate official will have 30 work days from the receipt of the grievance to try to resolve the grievance and/or advise the employee/Union in writing of the grievance decision. If the grievance is not satisfactorily settled at this level, the Union may refer the matter to arbitration, in accordance with Article 25, Arbitration Procedures, within 30 workdays.

Section I. Any grievances initiated by either the FRA or the Union shall be submitted in writing to the FRA's Labor Relations Officer or the Union President or designee, as the case may be, within 20 workdays of the date of the event or reasonable knowledge of the event giving rise to the grievance. Matters covered shall be those contained in Section C of this Article. Representatives of the FRA and the Union will meet and/or confer as soon as practical after receipt of the grievance to attempt to resolve the issue(s). The appropriate official shall give the Union or the FRA a written answer within 20 working days from the conference. If the grievance is not settled by this method, the Union or the FRA may refer the matter to arbitration within 30 workdays. The Parties agree to continuously try to settle grievances informally at the appropriate level.

Section J. All time limits in this Article may be extended by mutual consent.

## **ARTICLE 25**

### **ARBITRATION PROCEDURES**

Section A. If the Parties fail to settle any issue processed under Article 22 (Disciplinary Actions), Article 23 (Adverse Actions), or Article 24 (Grievance Procedure), the matter may be submitted to arbitration .

Section B. The Parties will select a mutually agreed upon arbitrator. Failing to agree in 15 working days, either Party (or both Parties) may submit a request to the Federal Mediation and Conciliation Service for a list of the names of five arbitrators. Within 10 working days after receipt of the list, the Parties shall meet to select an arbitrator. Failing to agree, the Parties shall flip a coin to decide who will strike the first name and alternate in striking names from the list until one name remains. That person shall serve as arbitrator.

Section C. The arbitrator will conduct the hearing as promptly as practicable on a date mutually agreeable to the Parties. The arbitrator will confine the hearing to the specific issues in question. The grievant and/or Union representative, if employed within the unit, shall be given a reasonable amount of official time to present the grievance if otherwise in a duty status. Each of the Parties shall bear the expense of its own witnesses. Those FRA employees assigned to the unit who are called as witnesses, if otherwise in a duty status, shall remain in that status. The number of witnesses summoned at any one time shall be limited to the number that can be spared consistent with FRA operational requirements. The arbitrator shall submit his/her report and award to the FRA, the aggrieved employee, and/or the Union representative as soon as possible, but in no event later than 30 calendar days following the close of the record before him/her, unless the Parties agree to waive this time requirement. The award of the arbitrator is filed by

either Party to the Federal Labor Relations Authority in accordance with the regulations prescribed by the Authority.

Section D. All fees and expenses incurred during the arbitration process; i.e. arbitrator's fees and expenses, court reporter's fees, and charges for hearing room facilities, will be shared equally by the Parties. Management will pay the travel and per diem expenses for the grievant and one Union representative to any location mutually acceptable to both Parties for the purpose of arbitration. In the event the parties cannot agree on a given location, the arbitration will be held in Washington D.C. Either Party desiring a transcript of the proceedings shall bear the total cost of each copy they obtain.

Section E. The Arbitrator shall have no power to add to, subtract from, disregard, alter, or modify any of the terms of (1) this Agreement or (2) the aforementioned published policies and regulations.

## **ARTICLE 26**

### **EFFECTIVE DATE AND DURATION OF AGREEMENT**

Section A. This labor-management agreement is effective the day following approval by AFGE and FRA.

Section B. The existing Agreement shall remain in effect for three years from its effective date and shall automatically renew itself from year to year thereafter unless either Party shall notify the other Party in writing at least 60 calendar days, but not more than 90 calendar days, prior to any anniversary date of its desire to modify or to terminate this Agreement. Any notice of desire to modify the Agreement must identify the Articles proposed for modification.

Section C. If either Party gives notice to the other Party in accordance with Section B to modify this Agreement, then within 30 calendar days from receipt of said notice, representatives of the Parties shall meet and commence negotiations. If negotiations are not completed prior to the expiration date of this Agreement, the Agreement shall be automatically extended until negotiations are completed.

Section D. By mutual agreement of the Parties, this Agreement may be opened for negotiation or renegotiation at any time.