



U.S. Small Business
Administration

2017
Master Labor Agreement
Between
U.S. Small Business Administration
And
American Federation of Government
Employees
AFGE Council 228

Effective Date: January 11, 2017

Term: 3 Years

Note: Clarified per MOU between SBA and AFGE dated September 19, 2017 and further amended on October 4, 2017

/s/ 10/5/2017

/s/ 10/5/2017

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The AFGE National Local 228 is coterminous with AFGE Council 228. The positions held by the officers of the council and National Local are one in the same. There is no legal effect on the Union’s ability to determine its internal structure. The intent of the changes (in all cases where “local” was replaced), is not to contract or expand the scope of the original language.

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ARTICLE 1
PARTIES TO THE AGREEMENT AND UNIT OF RECOGNITION

Section 1. Parties to the Agreement.

This agreement is made and entered into, by and between the U.S. Small Business Administration (SBA) hereinafter referred to as the “Employer” or the “Agency,” and the national Council of Small Business Administration Local (NCSBAL) on behalf of the American Federation of Government Employees (AFGE) National Office, hereinafter referred to as the “Union” or “Council 228,” and collectively known as the parties. The provisions of this Agreement shall govern the relations with the employees and the Union with the SBA with respect to conditions of employment and other matters covered by this Agreement. Unless otherwise stated, the words “employee” or “employees,” as used in this Agreement, mean an employee or employees of SBA who are included in the bargaining unit. This Agreement does not apply to employees who are excluded from the bargaining unit by law. As the exclusive representative of employees in the bargaining unit, the Union has the right to speak for and to bargain on behalf of the employees it represents.

Section 2. Unit of Recognition.

The unit of recognition covered by this Agreement is the unit certified by Federal Labor Relations Authority Case No. CH-RP-05-0005 (2005). This Agreement shall also apply to any units subsequently certified by the Federal Labor Relations Authority (FLRA) as supplementing the above certification of the consolidated unit, and also to any other units that certify AFGE as the exclusive representative during the life of this agreement. The descriptions of the certified consolidated unit and supplement thereto, as of the effective date of this agreement, are at [Appendix A](#) of this Agreement.

Section 3. Unit Exclusions.

The unit of recognition excludes all management officials or supervisors; confidential employees; employees engaged in personnel work in other than a purely clerical capacity; employees engaged in administering the provision of [5 U.S.C. 7112](#); both professional employees and other employees, unless a majority of the professional vote for inclusion in the unit; employees engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; employees primarily engaged in investigation or audit functions relating to the work of individuals employed by the Agency whose duties directly affect the internal security of the Agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity (as these terms are used in [5 U.S.C. Chapter 71](#)). Any professional employees who elect AFGE as their exclusive representative after the effective date of this Agreement will not be included in the same bargaining unit with other employees, unless a majority of those professional employees vote for inclusion in the unit. This does not change the bargaining unit status of professional employees represented by AFGE as of the effective date of this Agreement.

Section 4. **Unit Clarification.**

The Agency will advise Council 228 President in writing of any position changes and establishment of new positions within thirty (30) days of such position changes. When a position changes, and the parties do not agree over whether the position(s) is/are inside or outside the bargaining unit, the Office of Human Capital Management (OHCM) and Council 228 President are encouraged to work together to resolve the matter. If unable to reach agreement, either party may file a clarification of Unit (CU) petition with the FLRA.

ARTICLE 2

GOVERNING LAWS AND REGULATIONS

Section 1. **Purpose.**

This article sets forth the effect of laws and regulations on this Agreement.

Section 2. **Laws and Government-wide Rules and Regulations.**

In the administration of this Agreement, the Parties shall be governed by all statutes and existing Government-wide rules and regulations, as defined in [5 U.S.C. Chapter 71](#), by Agency regulations in existence as of the effective date of this Agreement to the extent those regulations do not conflict with this Agreement, and by subsequently prescribed Government-wide rules and regulations implementing [5 U.S.C. 2302 \(the prohibited personnel practices\)](#).

ARTICLE 3 TRANSIT SUBSIDY

Section 1.

All eligible employees may receive a transit subsidy from the Agency. When the Agency is directed to increase the maximum amount of the transit subsidy by law, regulation or Executive Order, the Agency will implement that increase for all employees represented by Council 228. Notwithstanding any other provision of this Agreement, when the Agency is given discretion to increase the maximum amount of the transit subsidy by law, regulation, or Executive Order, the parties will meet to negotiate over any changes in transit subsidy amounts within thirty (30) days of when the Agency receives this new discretion.

Section 2.

All employees who are currently receiving the transit subsidy are required to recertify their monthly transit commuting costs on SBA Form 2201, Public Transportation Benefit Change Request Form, to be eligible for any increase in the transit subsidy up to the currently established amount. Employees who currently are not receiving a monthly transit subsidy are required to apply on SBA Form 2176, Public Transportation Benefit Program Application, if they wish to receive the benefit.

Section 3.

Eligibility to receive the increased transit subsidy benefit up to the established amount will be approved based on the employee certifying his/her monthly transit commuting costs on SBA Form 2201, Public Transportation Benefit Change Request Form.

Section 4.

Within two (2) weeks of an increase in the transit subsidy, the Agency Agrees to issue an Informational Notice to employees that they must complete an SBA Form 2201 to increase their transit subsidy or an SBA Form 2176 if they wish to receive the benefit.

Section 5.

Within one (1) pay period after an employee covered by this Article submits a completed application for an increased transit subsidy, the Agency will submit all necessary paperwork to the Department of Transportation (DOT) for processing.

Section 6.

Within one (1) pay period after the DOT informs the Agency that an application described in the previous paragraph has been processed, the Agency will inform the affected employee by e-mail of the amount of the new transit subsidy and the date the new transit subsidy will commence.

Section 7.

Field Offices receive their transit subsidy benefits either on a monthly basis or quarterly basis through distribution from DOT through the Agency's administrative process. The number of distributions, per year, depends on the sales schedules of the local transportation system; therefore, each area's distribution schedule will be different. The Agency will work with DOT to obtain subsidy benefits for employees who sign up between distributions on the expedited basis.

ARTICLE 4
CHANGES IN PERSONNEL POLICIES, PRACTICES AND CONDITIONS OF EMPLOYMENT

Section 1. Agency Notification.

Before implementing a change in personnel policies, practices, procedures, or conditions of employment applicable to employees in the bargaining unit, the Agency will notify the appropriate Union Representative in accordance with the provisions of this Article. The giving of such notice shall not constitute a waiver or admission of any claim or contention by either the Agency or the Union that the subject matter of such notice is either de minimis or within the scope of bargaining. This applies whether the proposed change is initiated by the Agency or imposed by an external source, i.e., a change in law, an Executive Order or judicial decision.

Section 2. Definition.

For the purpose of this Article, the term “negotiate” means there is a mutual obligation to meet at reasonable times to consult and bargain in a good faith effort to reach agreement with respect to the conditions of employment affecting employees and to execute, if requested by either Party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either Party to agree to a proposal or to make a concession. The document should be signed by both Parties.

Section 3. Procedures for Notification and Timelines.

- A. Notification of proposed changes as described in Section 1 will include at a minimum, as applicable:
 - 1. A statement of the existing process or structure or organizational chart;
 - 2. A statement as to the nature and scope of the proposed change;
 - 3. Background information releasable under law showing the Agency’s reasons for the proposed change;
 - 4. If the proposed change is directed by an outside authority, the documentation from that authority, except to the extent such disclosure is prohibited by applicable law;
 - 5. The number and locations of employees the Agency anticipates will be affected;
 - 6. How the Agency expects these employees will be affected;
 - 7. The proposed implementation date; and,
 - 8. The name and title of the Agency official to whom the Union should respond.
- B. When the proposed change concerns a new policy or SOP, the Agency will also provide the Union with a copy of the text of the proposed change.
- C. Upon notice from the Agency, the appropriate Union Representative will notify the designated Management Representative of its desire to negotiate on the change within the time frame set for the level of negotiations involved. Unless mutually agreed upon, all time limits contained in this

Article will be strictly observed. When the Union's representatives are in travel status, on official business, or on approved leave, time extensions shall be granted by the Agency on a basis directly proportionate to the travel and/or approved leave involved. The Parties shall provide notification to each other in the event that such extensions are necessary, and such notification shall specify the time when the additional time begins to run and when it ends. The Parties recognize that either Party may be unavoidably absent, and in such cases, by mutual consent, extensions of the time limits shall not be unreasonably withheld. The Union should be provided enough information regarding the change that enables it to meet its responsibility under the law. The Parties will conduct their negotiations at four (4) levels, which are addressed in detail in this Article.

1. If a change proposed by the Agency affects bargaining unit employees in a single Regional, District, Branch Office, Center, Area Office, or Post of Duty, the Regional Vice President to receive the notification of the change shall be the Union Representative whose jurisdiction includes the region in which the change is proposed as furnished to the Agency under [Article 12, Section 1](#).
2. If a proposed change is initiated or proposed as a Regional program affecting bargaining unit employees in more than one office within a Region, the Agency's notification shall be communicated to the Regional Vice President of the National Council of Small Business Administration Locals (NCSBAL) whose jurisdiction includes the Region in which the change is proposed.
3. If the proposed change affects the Headquarters or unit employees in any part thereof, the notification from the Agency shall be communicated to the Regional Vice President, Region 3-Mid-Atlantic.

(/s/ Joseph P. Loddo, 10/5/2017) (/s/ Keith Lucas, 10/5/2017)

4. If the proposed change is initiated and controlled at the National level affecting bargaining unit employees Agency wide or in more than one Region, the Agency's notification shall be communicated to the Council/National Local President of the NCSBAL and to the Regional Vice President(s) whose jurisdiction includes the Region in which the change is proposed.

(/s/ Joseph P. Loddo, 10/5/2017) (/s/ Keith Lucas, 10/5/2017)

- D. In all the above cases, within three (3) workdays from the date of the notice, the appropriate Union official may request a briefing from the Agency in order to receive more complete information about the proposed change. Such request may be by telephone or e-mail. The briefing will be held within four (4) work days from the Union's request. In the event that the Union does not request a briefing from the Agency about the proposed change within three (3) work days from the date of the notice, the Union will have fifteen (15) calendar days from the date of receipt of the notification to inform the Agency of its desire to bargain. If the Union requests a briefing, the briefing may be held by teleconference, video conference (where available), or in person, depending upon the particular situation. Union officials who are bargaining unit employees will be on official time for these briefings. The Agency will pay travel and per diem expenses as appropriate for all Union Representatives participating in the briefing. The Agency will arrange to have those Agency officials participate in the briefing that can best explain the proposed change and answer the Union's questions.

1. For briefings at the Regional level, the Union may have up to two (2) representatives participate. Briefings at this level will be held by teleconference or video conference (where available), when the Parties are not co-located.
2. For briefings at the national level, the Union may have up to nine (9) representatives participate by teleconference or video conference, and up to four (4) representatives participate in person. When the Parties meet in person, the Union may have up to four (4) additional representatives participate by teleconference or videoconference (where available).
3. In order to control costs, the Parties may elect to combine these briefings with other scheduled meetings, such as the National Partnership Council Committee meetings under Article 5, or National Performance Systems Committee meetings under Article 28. These briefings will be provided to the Union prior to or after the scheduled meeting and will not detract from the time scheduled for these meetings.
4. This process is intended to enable the Union to determine whether it wishes to negotiate, identify the major issues to be bargained, and facilitate the negotiations process. Within fifteen (15) calendar days after the briefing, the Union will either inform the Agency that it does not wish to bargain over the proposed change or it will request negotiations.

Section 4. Union Requests for Negotiations.

When the Union desires to negotiate with respect to a proposed Agency initiated change in working conditions, or changes mandated by law, Executive Orders or judicial decisions, it shall notify the Agency official who was designated in the notice of proposed change, in writing, within fifteen (15) calendar days following the briefing described in Section 3 above, or if there is no briefing, fifteen (15) calendar days from receipt of the notice. Such requests will be accompanied by specific bargaining proposals. The Union will retain the option of changing its proposals or submitting additional proposals during negotiations. A request at the Regional level will include the Union's proposed dates for negotiations within the next thirty (30) days that will allow up to three (3) consecutive work days for bargaining. A request at the national level will include the Union's proposed dates for negotiations within the next forty-five (45) days that will allow up to five (5) consecutive work days for bargaining. The Agency will respond to requests within five (5) days of receipt. In all cases, negotiations will begin within thirty (30) days of the Union's request for local negotiations and within forty-five (45) days for national negotiations. The Union's request and the Agency's response will include the names of the members of each Party's negotiating team, including a designation of the Party's Chief Negotiator and alternate Chief Negotiator.

Section 5. Negotiation Levels.

Regional issues shall be discussed and negotiated at the level where the issue arises insofar as possible. Nothing herein shall be construed however to prevent either Party from designating representatives of its choice for negotiation or consultation.

Section 6. Negotiation Procedures.

Changes in conditions of employment that affect two (2) or more Agency geographic regions or affect the Agency on a nationwide basis may be of such significance that it requires a statutory obligation to bargain face-to-face. All other localized matters, where changes in conditions of employment incur an obligation to bargain under the law, will generally be negotiated through the most cost-effective method via teleconferencing, video conferencing (where available) or face-to-face, where appropriate. In such cases, the Agency will provide facilities for such conferences at no cost to the Union. If necessary facilities are not available at the Union Representatives' workplace, the Agency will provide whatever transportation that is necessary to the facilities that will be used. Agreements reached in such negotiation will be reduced to writing and signed by the Parties' Chief Negotiators. Unless otherwise permitted by law, no changes will be implemented by the Agency until proper and timely notice has been provided to the Union and all negotiations have been completed, including any impasse proceedings. Additional requests for information will be satisfied in an expeditious manner.

Section 7. Union-Initiated Changes in Conditions of Employment.

The Union retains the right to propose changes in conditions of employment at the national and Regional level. The proposal of changes shall not constitute a waiver or admission of any claim or contention by either the Agency or the Union that the subject matter of such proposal is either de minimis or within the scope of bargaining. The Council/Local President will notify the Agency's Chief Labor Relations Officer of its desire to initiate a change and will provide its initial proposals. The Agency will have fifteen (15) calendar days to respond to the Union, indicating either that it agrees with the proposed change or that it wishes to negotiate. The provisions in this Article governing negotiations at the national level over Agency-initiated changes, including the ground rules contained in Section 10 below, will apply to negotiations over Union-initiated changes.

Section 8. Limitations.

No agreement negotiated in accordance with this Agreement shall operate in any way which is in conflict with or inconsistent with any provisions of or the whole of this Agreement.

Section 9. Totality of Negotiations.

Negotiation in accordance with this Agreement shall satisfy any requirement to negotiate at any level below that at which such negotiation takes place; provided, however, that the Parties may mutually agree in writing, specifically stated to allow lower level negotiations not in conflict with or inconsistent with this Agreement or any future agreement reached under the provisions of this Article.

Section 10. Ground Rules.

The ground rules below apply to all negotiations during the term of this Agreement, including any extensions thereof, except negotiations pursuant to [Article 50](#) (eighteen (18) month reopener). The Parties will negotiate separate ground rules for the renegotiation of the Master Agreement. The ground rules below may be amended by mutual consent of the Parties.

- A. Each Party may designate up to four (4) negotiators. The Union may designate individuals who are not employed by the Agency among its negotiators. All Union negotiators who are employed by the Agency will be on official time. Dates and times and location for negotiations will be arranged by mutual consent, however, once negotiations begin, the Parties shall continue negotiating until agreement or impasse is reached. Negotiations shall normally begin at 8:30 a.m. and last until 5:00 p.m. This schedule may be altered by mutual consent of the Parties. Breaks and meal periods will be arranged by the Parties.
- B. Travel orders authorizing travel at government expense will be issued no later than ten (10) work days prior to the date of travel. Travel orders will include a travel authorization number, a budget code, directions, contact information, and check-in time for the hotel, and any other necessary specific travel information.
- C. Locations for all negotiations covered by this Agreement shall be in such location as is agreed to by the Parties. In the absence of an agreement about location, negotiations at the national level will take place in the Washington, D.C. metropolitan area, and negotiations at the Regional level will take place at the office in which employees who are most affected are located. Hotels will be selected by the Agency based upon cost and availability, except that when negotiations are at Agency Headquarters in Washington D.C., Union negotiators will make their own hotel reservations.
- D. Observers, subject matter experts, note-takers, or others who are not members of that Party's negotiating team may be present only by the mutual consent of both Parties' Chief Negotiators. Employees who appear at negotiation session(s) to present information on behalf of the Union as a subject matter expert will have travel and per diem expenses paid by the Agency in accordance with applicable law and regulation. Unless mutually agreed upon, they will leave the negotiating session as soon as their presentation to the negotiating team is finished.
- E. Either Party may substitute negotiators at any time by notifying the other Party. However, normally the Agency will not pay travel and per diem expenses for a substitute negotiator to attend a particular negotiation session once that session has begun. Under extenuating circumstances, the Agency may agree to a Union request to pay travel and per diem expenses for a substitute negotiator.
- F. Each Party will take its own notes for the negotiations. No official record of any kind will be kept. The negotiation sessions will not be recorded by means of any tape/electronic recording device.
- G. Negotiations will be held in a suitable meeting room provided by the Agency. The room for negotiations and a separate caucus room will be handicap accessible.
- H. Either Party may call a caucus through the Chief Negotiator. Prior to the beginning of the caucus, the Chief Negotiator of the caucusing team will provide the other Chief Negotiator with a suggested time limit. A caucus will not be the first order of business at any negotiating session, unless mutually agreed upon by the Chief Negotiators. The Agency will provide a caucus room in close proximity to the negotiation room and which provides privacy.
- I. The Agency will provide the Union negotiating team with the use of customary and routine services i.e., office supplies, computer, printer, telephone, internet access, tables and chairs, and access to photocopy equipment.

- J. Upon reaching tentative agreement on each provision of the proposals, the Chief Negotiators shall signify such agreement by signing the provision in blue ink on each page. The Parties may, by mutual consent, choose to re-open and change any provisions that have already been signed, prior to the conclusion of negotiations. Upon completing the negotiations, the Parties shall review and edit for consistency and make mutually agreed-upon changes.
- K. Bargaining that takes place at the national level affecting unit employees Agency-wide or in more than one Region will not exceed five (5) consecutive work days. Bargaining at Regional level will not exceed three (3) consecutive work days. If at the end of the above time frames, an agreement has not been reached, the Parties will seek the assistance of the Federal Mediation and Conciliation Service (FMCS). Mediation shall commence within no more than thirty (30) days, subject to additional delay solely due to any unavailability of the mediator within such thirty (30) day period. By mutual consent, the Parties may extend negotiations prior to seeking mediation. If mediation is not successful, either Party may seek resolution of the remaining impasse under provisions of the law.
- L. If either Party alleges that it is not obligated to negotiate on a particular proposal, the Parties will explore alternative language that will achieve the purpose of the proposal and would not render the proposal outside the scope of bargaining. If the Parties are unable to agree on such language, each Party is free to take appropriate action.
- M. An Agency written allegation of the non-negotiability of a Union proposal, made in response to a Union request for negotiation, however, will not delay bargaining and agreement on issues not in dispute. The Parties will continue negotiations to agreement or impasse on all proposals.
- N. If the Union files a negotiability appeal with the FLRA, and the Agency withdraws its allegation of non-negotiability or the FLRA rules that the Union proposal or a portion of the proposal is negotiable before a final agreement has been reached, the Parties will commence negotiations on the proposal or portion of proposal within fifteen (15) days of receipt of either the Agency withdrawal or the FLRA decision.
- O. Neither Party waives its right to seek court review of an FLRA negotiability determination.

Section 11.

Nothing in this Section shall be construed to relieve the Agency of the consequences under 5 U.S.C. Section 7116(a)(7), of the Federal Service Labor-Management Relations Statute, which provides that it is an Unfair Labor Practice for the Agency to enforce any rule or regulation in conflict with this Agreement (other than a rule or regulation implementing the Merit System Principles found in 5 U.S.C. 2302) if the Agreement was in effect before the date of the rule or regulation.

ARTICLE 5
LABOR-MANAGEMENT COOPERATION AND PARTNERSHIP

Section 1. Purpose.

This article is entered into for the purpose of promoting a cooperative relationship between the Parties with the expressed goals of improving efficiency of the government service, encouraging productive innovation, and providing a better working environment. The Parties should create a “Win-Win” relationship between the Agency, the employees, and the Union. It is strongly encouraged that the Regional level union and management establish a Labor Management Cooperation Committee (LMCC), in accordance with [Article 49](#). Either Party may request and by mutual agreement establish a LMCC for the purpose of addressing and resolving issues at the lowest level (District, Regional, Area and Center Directors). Existing local Partnership Agreements are not nullified by this Article.

Section 2. Methods.

- A. The Parties agree to engage in a labor-management cooperative program drawn from the experiences of private and public sector labor-management relationships, as adapted to suit the SBA and the AFGE by continuing a National Partnership Council that meets twice a year. By mutual agreement, the Parties may conduct additional meetings.
- B. The National Partnership Council will encourage constructive consultation and open communication between Union and management at every Regional level.
- C. LMCCs will be composed of two (2) representatives each for the union and the Agency.
- D. In Headquarters, Management Board Members and the Mid-Atlantic, Region 3, Regional Vice President, or designee(s) as the appropriate representatives for the Parties, may establish LMCCs.
- E. Union Representatives who are employees of the Agency and members of the bargaining unit affected by LMCCs will be entitled to official time to participate in these committees.
- F. The Agency agrees to pay travel and per diem for a maximum of eighteen (18) members equally appointed by both Parties serving as representatives at any National Partnership Council meeting.
- G. Union Representatives in LMCC meetings will receive allowable travel costs as specified by those particular committees.
- H. Parties agree that training for labor relations matters will be conducted on an as needed basis. All allowable fees and expenses associated with the training including cost for instructors, facilities, materials, travel and per diem will be funded by the Agency. The parties will be trained on official time.
- I. The Partnership Agreement between Management and the Union is hereby incorporated into this Article, (See [Appendix D](#)).

ARTICLE 6 GENERAL PROVISIONS

Section 1. **General.**

All bargaining unit employees shall be treated fairly and shall be accorded all rights protected by this Agreement and the law.

Section 2. **Union Representational Responsibilities.**

Union Representatives shall be free to exercise their respective responsibilities in all matters relating to personnel policies, practices and other conditions of employment, as specified in this Agreement and/or law, to advance the best interests of and to represent the employees covered by this Agreement, and they shall be permitted to engage in authorized activities on behalf of the Union under the law and this Agreement; provided, however, that nothing herein shall be construed to authorize the performance of activities of internal Union business on official time.

Section 3. **Right to Perform Union Representational Responsibilities.**

The Employer shall not restrain, interfere with, or coerce employees who are Union Representatives because of their performance of authorized Union representational duties under law and this Agreement. Further, the performance of such duties shall not adversely affect the performance appraisal of any representative who performs these representational duties strictly in accordance with the provisions of law and this Agreement.

Section 4. **Joint Responsibilities.**

The Employer shall courteously receive, and as appropriate, attend to employee concerns brought to its attention through proper channels. The Union shall courteously receive, and as appropriate, attend to Employer concerns brought to its attention through proper channels. Bargaining unit employees shall courteously receive, and as appropriate, attend to Employer concerns brought to their attention through proper channels.

Section 5. **Document Availability and Limitations.**

- A. The Union shall be granted reasonable access at reasonable times to all FLRA, FSIP, OPM, MSPB, GAO, EEOC, arbitrators, and other public regulations and decisions as may be maintained by the Agency. The Agency agrees that information covered by 5 U.S.C. 7114 (b)(4) of the statute enables the Union to better perform its representational function and is in the best interest of the Union and the Agency. The Employer will fulfill its obligation to provide information to the Union in a timely manner. Union requests for information relating to matters covered by this Agreement may also include specific citations or references to other relevant documents. Nothing in this Section shall be construed to conflict with 5 U.S.C. 7114 (b)(4)(A-C). Nothing in this Agreement shall be construed to require the Employer to provide the Union any materials, documents, or communications which are internal to management.

- B. Within five (5) days of receipt of a request for information pursuant to provisions of paragraph (a) above, the Agency will notify the requesting Union official whether it will or will not comply with the request. If the request is denied the Agency will provide an explanation and/or request clarification. If the request is approved, the Agency will provide the information as expeditiously as possible, or as soon as it becomes available with an estimated delivery date.
- C. Nothing herein waives any right either Party has under the statute.

ARTICLE 7 MANAGEMENT RIGHTS

Section 1. **General.**

Subject to Section 2 of this Article and in accordance with [5 U.S.C. 7106](#), nothing in this Agreement shall affect the authority of any management official of the Agency:

- A. To determine the mission, budget, organization, number of employees, and internal security practices of the Agency; and
- B. In accordance with applicable laws,
 - 1. To hire, assign, direct, lay off, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - 2. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;
 - 3. With respect to filling positions, to make selections for appointments from;
 - a. Among properly ranked and certified candidates for promotion; or
 - b. Any other appropriate source; and
 - 4. To take whatever actions may be necessary to carry out the Agency mission during emergencies.

Section 2. **Negotiability.**

Nothing in this Section shall preclude the Agency and the Union from negotiating:

- A. At the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty or on the technology, methods, and means of performing the work;
- B. Procedures which management officials of the Agency will observe in exercising any authority under this Section; or
- C. Appropriate arrangements for employees adversely affected by the exercise of any authority under this Section by such management officials.

ARTICLE 8 EMPLOYEE RIGHTS AND RESPONSIBILITIES

Section 1. **Employee Rights.**

In accordance with the Federal Service Labor Management Relations Statute, each employee shall have the right to form, join, or assist any labor organization, including Council 228 and its affiliated local, or to refrain from any such activity, freely and without fear or penalty or reprisal, and each employee shall be protected in the exercise of such right.

Section 2. **Collective Bargaining Rights.**

In accordance with the provisions of this Agreement and the Federal Service Labor Management Relations Statute (5 U.S.C. 7102), employees have the right to engage in collective bargaining with respect to conditions of employment through representatives of their choice.

Section 3. **Problem Resolution.**

Employees have the right to bring matters of personal concern regarding conditions of employment to the attention of the appropriate Agency official at the lowest level capable of resolving the matter. When an employee wishes to exercise this right, permission shall be requested from the employee's supervisor. The supervisor will approve such requests unless work related conditions preclude the immediate release of the employee. When immediate permission is not granted, the supervisor will inform the employee on the SBA Form 1448 ([Appendix C](#)) of the time such absence will be approved.

Section 4. **Union Membership and Dues.**

Nothing in this Agreement requires employees to become or to remain members of a labor organization, or to pay money to a labor organization except pursuant to a voluntary written authorization (Form SF 1187, Requests for Payroll Deductions for Labor Organizational Dues) by a member for the payment of dues through payroll deduction as prescribed in [Article 41](#) of this Agreement.

Section 5. **Union Representation.**

In accordance with the Federal Service Labor Management Relations Statute, the Union shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of the Agency in connection with an investigation if: (1) the employee reasonably believes that the examination may result in disciplinary action against the employee; and (2) the employee requests representation. The Agency shall annually inform employees of this right.

Section 6. **Time Extension for Representation.**

When a bargaining unit employee is notified that they are to be interviewed in any matter where their rights under Section 5 of this Article are to be exercised, and when the Union Representative of the

employee is not immediately available, the interview will be deferred for a reasonable period of time, upon the employee's request, to permit the presence of the Union Representative. If the designated representative cannot be available in a reasonable time, the employee and/or the Union will ensure that an alternate representative will be assigned as soon as practicable, as but no longer than two (2) work days. If an alternate representative is designated, the Agency will provide for a short extension, within the two (2) work day time frame, to allow the alternate Union Representative time to confer with the employee.

Section 7. Procedure to Request Representation.

A bargaining unit employee has the right to contact their Union Representative. Employees who have an employment-related problem or situation which they desire to discuss with a Union Official or steward during working hours will advise their supervisors prior to exercising their right to representation. Supervisors will grant reasonable requests for temporary absence unless work related conditions preclude the immediate release of the employee to meet with a Union Representative. If any such request is not immediately approved, the supervisor will inform the employee of the earliest time that the request will be approved. However, if the employee demonstrates an immediate need to meet with a Union Representative, the supervisor shall grant the request. The employee will give the supervisor an estimated duration of their expected absence. Upon returning from exercising their right to representation after an approved absence, the employee will inform the supervisor. SBA Form 1448 ([Appendix C](#)) shall be used to request absence for representational purposes.

Section 8. Payroll Timeliness.

The Parties agree that every employee is entitled to their paycheck and reimbursements for authorized expenditures made on behalf of the Agency at the proper time and in the proper amount. The Employer will make every reasonable effort to assure that employees receive their proper pay and reimbursements at the proper time, and that employees receive their Earnings and Leave Statements on the day they are due.

Section 9. Employee Debts.

Each employee shall handle their financial obligations in accordance with such Government-wide regulations as may be in effect at the time such debts may be called into question.

ARTICLE 9 EMPLOYEE COUNSELING ASSISTANCE

Section 1. **General.**

The Employer and the Union recognize responsibilities that are mutually beneficial and which relate to providing an Employee Assistance Program (EAP) that provides no-cost, short term counseling to assist employees with issues of a personal nature related to work and family. The program includes referral services for issues related to alcohol or drug abuse, persona/emotional, financial, marital, family, and legal matters, which adversely affect on-the-job performance, conduct, or interpersonal relationships in the work place. Accordingly, the Parties agree that early recognition of the need for assistance is important, and that if the employee agrees, measures should be taken at an early stage when the situation is most likely to be correctable. The Agency will assure that no employee will have job security or promotion opportunities jeopardized by a request for counseling or referral assistance.

Section 2. **Employee, Agency and Union Responsibilities.**

The parties recognize their responsibility to discourage unacceptable behavior by bargaining unit employees who are attendant to the matters referred to in Section 1. Toward that end, the Union and the Agency may jointly or separately counsel employees exhibiting such behavior with respect to the possible ramifications. The Union shall, at the request of the employee, consult with the appropriate Agency official for the purpose of fostering factual understanding of the circumstances attendant to the particular situation. The Parties recognize that the employee also bears responsibility to admit privately or as otherwise appropriate that a need exists, and to take actions to correct the behavior, as well as to address the related underlying cause(s).

Section 3. **Program Awareness.**

It shall be the joint responsibility of the Parties to publicize to the employees the availability of counseling and referral programs; however, no employee will be required to participate or be penalized for merely declining referral to counseling service.

Section 4. **Leave.**

Employees participating in assistance programs will be granted sick, annual, or leave without pay as authorized under Government-wide law, rule, or regulations appropriate to the specific circumstances. At the discretion of the supervisor, on a case-by-case basis, the employee may be granted administrative leave up to one (1) hour for the initial EAP counseling session.

Section 5. **Counselors.**

To the extent practical and feasible, the Employer will provide counselors knowledgeable in referring employees to appropriate assistance programs outside of the Agency.

Section 6. Discipline and Adverse Action.

When an employee, regarding a matter appropriate to the counseling assistance program contemplated by this Article, has conduct or performance issues directly related to the matter and such conduct or lack of performance would otherwise warrant Disciplinary or Adverse Action, the Employer shall follow the provisions of [Article 37](#) and [Article 38](#) of this Agreement.

Section 7. Record of Participation.

- A. Employee participation in, and information obtained through, the assistance program is confidential and records regarding an employee's participation in the program must be maintained as provided by applicable Government-wide law, rule or regulation.
- B. Without an employee's specific written consent, the supervisor May Not obtain information about the substance of the employee's involvement with a counseling program. Information obtained with the employee's authorization form such counseling programs may not serve as the basis for disciplinary or adverse actions.

ARTICLE 10 OFFICE PERSONNEL RECORDS (eOPF)

Section 1. **General.**

Employees shall have the right to examine their Office Personnel Folders during duty time. All employees will be provided with a user ID and password to access the system and obtain their OPF. Employees have the right to print out and provide a copy of their OPF to their Union Representative. Employees who do not have a password or user ID to access their OPF, will obtain one from the Office of Human Resource Solutions.

Section 2. **Content.**

Official Personnel Folders (OPF) are the property of the Office of Personnel Management, and the contents may not be removed, altered, or added to, except by proper authority. The Agency will comply with the Office of Personnel Management's Guide to Personnel Recordkeeping regarding the filing of materials in the OPF. An employee may request and will be provided a copy of any material contained in the OPF and will be accorded the opportunity to put on the record, in the folder, any reasonable statement they wish to make about unfavorable information contained in the OPF, except with respect to any final decision by a third party. No material which will reflect adversely upon the employee's character or Government career will be placed in their OPF without the employee's knowledge.

Section 3. **Performance Records.**

The Employer shall maintain employee performance files in accordance with [5 CFR 293 Subpart D](#). Employee performance files will include an Employee Performance Folder maintained by the servicing personnel office and a Performance Work Folder maintained by the rating official. These files will be maintained in accordance with governing Privacy Act regulations, appropriate retention schedules and disposition guidelines.

- A. A Performance Work Folder (PWF) is a rating official's working file in which copies of official performance ratings and other performance related documents are retained for use in initiating performance rating actions. The PWF shall contain the following documents or records:
1. The original performance plan (Personal Business Commitment Plan) and any modifications, amendments, or changes to that document made during the rating period;
 2. Any interim performance appraisal prepared during the rating period together with related correspondence and documents between management officials and the employee, related correspondence received from external sources, such as letters of commendation and complaints directly related to the employee's performance, and the employee's comments;
 3. Any Performance-based Notices of Negative Determination or Notices of Reconsideration Decisions, and a copy of any Notices of Proposal or Notices of Decisions, together with a copy of all related documentation;

4. Any Standard Form 52, "Request for Personnel Action", prepared in connection with a decision to reduce in grade, reassign, or remove an employee for Unacceptable performance;
 5. Recommendations for performance-related training and copies of completed training, when applicable;
 6. Any letters referring an employee to the Employee Assistance Program and/or offering the employee an opportunity to undergo a physical examination;
 7. Any final actions regarding recommended performance awards;
 8. Any other performance-related documents which the rating official and the reviewing official will consider, act on, or initiate;
 9. Any related correspondence and documents between management officials and the employee, related correspondence received from external sources, such as letters of commendation and complaints directly related to the employee's performance, which are applicable to appraisal activities for the employee's current rating period; and
 10. Any reasonable amount of documentation provided by the employee concerning the employee's performance.
- B. The servicing personnel office shall retain in the Employee's Performance Folder (EPF) all documents below:
1. The finalized performance plan (Personal Business Commitment Plan) and any equivalent forms used by other Federal agencies documenting employees' three most recent ratings of record given within the previous four years;
 2. A copy of any interim performance appraisal prepared during the rating period with a copy of any employee comments; and
 3. Copies of any approved performance awards within the previous four years.

Section 4. Availability of Records.

An employee or their representative who is designated in writing shall receive, upon request, copies of any documentation relied upon as evidence in the performance, disciplinary or adverse action. Internal management documents are not to be kept in an employee's Official Personnel Folder, Employee Performance Folder, or Performance Work Folder.

ARTICLE 11 UNION RIGHTS AND RESPONSIBILITIES

Section 1. **Exclusive Representation.**

Pursuant to [5 U.S.C. 7114\(a\)\(1\)](#), the Agency recognizes the Union as the exclusive representative of the employees in the unit it represents and recognizes that it is entitled to act for and negotiate collective bargaining agreements covering all employees in the unit. The Union is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

Section 2. **Representation Requirements.**

- A. Pursuant to [5 U.S.C. 7114\(a\)\(2\)\(A\)](#), the Union shall be given the opportunity to be represented at any formal discussion between one or more employees it represents and one or more representatives of the Employer concerning any grievance (to include settlement discussions) or any personnel policy or practice or other general condition of employment. This right to be represented does not extend to informal discussions between an employee and a supervisor concerning a personal problem, counseling, or work methods and assignments.
- B. The appropriate Union official will be given advance notice of any formal discussion that is to be held. If that official or designee is not available, the SBA shall notify the Council President. This advance notice will be given unless management has been prevented from doing so due to an emergency. In situations involving a meeting with a large group of employees (such as a meeting with a Branch, Division or office), the Union shall receive at least a two (2) workday notice of the meeting.
- C. At the start of each formal discussion, the SBA management representative will ask any Union Representative who may be present to state their name and Union position title. Furthermore, the SBA management representative will permit the Union Representative to ask relevant questions, and to present a brief statement before the end of the meeting outlining the Union's position concerning the issues presented by management, and to have full participatory rights during the meeting to the extent accorded to other employees.
- D. Nothing in this Section shall be construed to deny any unit employee any right protected by [5 U.S.C. 7114\(a\)\(2\)\(B\)](#).

Section 3. **Communication Goals.**

The Union recognizes the value of improved communication between employees and supervisors in order to promote efficiency and to improve the morale of employees. Union efforts in this respect will be focused on the goal of making the Agency a better place to work.

ARTICLE 12 UNION REPRESENTATION

Section 1. **Union Recognition.**

The Agency agrees to recognize those Union Representatives designated by Council 228 President, or designee, having authority to represent the Council. Such designations shall be made in writing and shall specify the scope of authority of the designated representative. Designated representatives of the Council may re-delegate, in writing, their authority. All designations and re-delegations of authority will be provided to Agency Labor Relations representative, and re-delegations shall also be provided to the appropriate Regional Administrator(s). Failure to receive notice of change in designation or re-delegation will mean the designated individual of record remains authorized to represent the Union.

Section 2. **Representational Activities.**

A. **Covered Representational Activities.**

The Agency agrees that Union Representatives shall be authorized such official time as is reasonable and necessary for Union representation activities. Such activities shall include, but not be limited to:

1. Discussing and investigating complaints, grievances or appeals with bargaining unit employees;
2. Preparing grievances and appeals of bargaining unit employees;
3. Attending meetings with supervisors and other agency officials;
4. Attending meetings as an employee's representative or as a Union observer when a Union Representative does not represent the employee;
5. Meetings/Hearings as MSPB, EEOC, arbitration and/or in discussion with FLRA;
6. Preparing and participating in statutory appeals and Unfair Labor Practice charges and complaints; and
7. New employee/transfer briefing.

B. **Activities Not Covered.**

Official time shall not include time spent on internal union business, including, but not limited to:

1. Attending Union meetings;
2. Soliciting members;
3. Collecting dues;
4. Posting notices of Union meetings;
5. Carrying out elections.

Section 3. **Travel and Per Diem.**

The Parties agree that travel and per diem in connection with representational functions will be provided as specified below. The Agency and the Union have a mutual commitment to contain travel expenses in connection with representation and agree to the following provisions:

A. Union Representatives.

1. The Agency and the union agree that, ordinarily, representation of employees or the Union on official time will be performed by Union Representatives from within the commuting area and, to the extent practicable, from within the same SBA Region or National Council of Small Business Administration Locals (NCSBAL).
2. If there is no Union Representative in the commuting area and teleconferencing/ videoconferencing are not feasible, the Agency will pay appropriate travel expenses of the nearest representative within the SBA Region or NCSBAL for the presentation of grievances.
3. Third party proceedings:
 - a. Consistent with Subsection 2, the Agency will share equally in the travel and per diem expenses for the Union Representative(s) and up to three (3) Union witnesses at an arbitration hearing.
 - b. Consistent with Subsection 2, the Agency will share equally in the travel and per diem expenses for the Union Representative within an SBA Region or NCSBAL and up to three (3) Union witnesses at other appropriate third party hearings, when an employee has designated a Union steward or official as their representative.
 - c. If any question arises over travel and per diem expenses concerning representation in connection with third party proceedings, it shall be referred to the Council President and the Agency Labor Relations representative, or appropriate designee(s), for resolution.
4. The Agency will pay travel and per diem expense for Union Representatives for mid-term and supplemental bargaining.
5. The Agency will pay for travel and per diem expenses for travel to partnership council meetings in accordance with [Article 5](#).
6. The Office of Human Resources Solutions will inform Union Representatives' supervisor(s) of invitation to travel.
7. All travel authorization requests must be submitted and approved prior to the commencement of travel in accordance with existing travel regulations.

B. Bargaining Unit Employees.

Bargaining Unit employees will be reimbursed for travel and per diem expenses in connection with meetings with Management, face-to-face oral responses to proposed disciplinary suspensions or adverse actions (ordinarily limited to the employee against whom the suspension or adverse action has been proposed plus the representative), or necessary participation in grievances or arbitrations or other third party proceedings.

Section 4. **Absence for Representation.**

When a Union Representative exercises their right to conduct labor-management relations activities, the representative will obtain the prior approval of their supervisor. However, infrequent or unplanned uses of brief duration do not require such approval. Requests for official time shall be reasonably in advance, in writing, and shall contain the reasons for the absence, in accordance with [Appendix C](#), which shall be the appropriate form to use in requesting and approving official time. The supervisor will act on the official time request at the time it is received or as soon as practicable. Use of official time will be unreasonably denied.

Section 5. **Representation While Teleworking.**

While teleworking, Union Representatives and approving officials will continue to observe the same office procedures when requesting representational time/teleworking. The SBA Form 1448 ([Appendix C](#)) will be submitted to the approving official. The approving official will inform the Union Representative when the form is approved.

Section 6. **Confirmation Requirement.**

When official time is to be used, a representative will make an appointment with the employee with whom the representative wishes to visit, and will confirm the employee's availability pursuant to [Article 8, Section 7](#) of this Agreement.

Section 7. **Official Time for Representational Activities.**

- A. The parties agree that Union Representatives will be provided reasonable and necessary official time to perform activities under law or the collective bargaining agreement, consistent with current practice. If either party believes that circumstances have changed, any change in the interpretation of "reasonable" will be made pursuant to the obligation to bargain.
- B. When employees are newly elected or appointed to Council 228, the National Office AFGE and/or Council 228 President will notify the Agency. When a Council official leaves office, they will have a right to return to work in the position of record. In the event the position of record no longer exists, they shall be assigned to a comparable position in the same office.
- C. As need arises and at the request of Council 228 President, management may at its discretion authorize up to 100 percent official time for union officials to work on contract related matters and/or special projects. The names of the specific union officials will be provided by Council 228 President to the approving Agency official.

Section 8. **Exclusive Representative.**

Except to the extent prohibited by [5 U.S.C. 7117](#), the Agency recognizes that the Federal Labor Relations Statute provides that whenever the exclusive representative represents a majority of employees in the Agency, the Agency may not assert a compelling need for Agency rules or regulations as a bar to negotiations. The Agency further recognizes that, at present, the exclusive representative represents a majority of the employees of the Agency. The Union shall provide the Agency with a list of

The AFGE National Local 228 is coterminous with AFGE Council 228. The positions held by the officers of the council and National Local are one in the same. There is no legal effect on the Union's ability to determine its internal structure. The intent of the changes (in all cases where "local" was replaced), is not to contract or expand the scope of the original language.

all Union officials for the Council, and regions. Each list shall contain the names, titles, and contact information, listed by region. The list of Union officials shall be kept up-to-date, and when changes occur, the revised list shall be sent to the Agency. The Agency shall provide the Council 228 President and all Regional Vice Presidents a list of all Management Board members on a quarterly basis. A list of OHRS employees shall be available on the [SBA intranet](#).

Section 9. Investigating Abuses of Official Time.

The parties hereto acknowledge that there is mutual benefit in addressing questions as to what is “reasonable” and what procedures should be followed to resolve problems associated with any perception by the Agency that an unreasonable amount of time is being used, or that the intent as to “reasonableness” is otherwise being abused. While the Agency retains the right to discipline any employee who abuses official time granted under this Agreement, normally, the Agency will first communicate its concerns to the Regional Vice President of the appropriate Region and simultaneously to the President of Council 228 in an attempt to resolve the situation.

ARTICLE 13 USE OF OFFICIAL FACILITIES AND COMMUNICATIONS

Section 1. **Facilities.**

- A. Depending upon the continuing availability of space in buildings it occupies in each geographic location in the bargaining unit, the Agency will provide the Union with office space for:
 - 1. Representational and/or official labor management activities described in [Article 12](#), including maintaining its files and conducting private conversations with employees; and
 - 2. Conducting regular and special Union membership meetings during non-duty hours within the normal workday of the bargaining unit employees involved.
- B. The Union agrees to comply with normal safety, security, utilization policies, and regulations concerning facilities made available when occupying space provided by the Agency. The Agency will, on an as needed basis, provide conference rooms as available for discussions between employees and Union officials. The Union will exercise reasonable and prudent care in use of such space. Neither employees nor Union Representatives shall use any Agency facilities to conduct personal business enterprises or outside employment.

Section 2. **Communication Directories.**

Agency telephone directories or listings published and/or posted on the Agency's website and/or Microsoft Outlook e-mail after the execution of this Agreement will contain the name and phone number of the Council President, the National Council of Small Business Administration Locals (NCSBAL), Regional Vice Presidents, and shop stewards for the organizational segment in which AFGE NCSBAL has exclusive recognition covered by the directory or listing. The Union shall provide the Agency's Telecommunication Specialist in the Office of Communications, having control over such directory or listing, with the name and phone numbers of the Council President, Regional Vice Presidents and shop stewards, for inclusion in the next publication of the directory or listing.

Section 3. **Communication Technologies.**

A. **Employee Use of the Agency's Electronic Communication Systems**

Employees may use the Agency's electronic communication systems to communicate with Union Representatives, Agency officials, other employees, and appropriate third parties. The Agency's electronic communications systems, including computers with e-mail and fax machines, are to be used in accordance with Agency and Federal policies and regulations. Telephone calls of up to fifteen (15) minutes in duration will not require approval from employee's immediate supervisor. Calls exceeding fifteen (15) minutes in duration will not require approval of employee's supervisor consistent with provisions of [Article 8, Section 7](#) and [Article 12, Section 4](#) of this Agreement. This approval will be documented on the SBA Form 1448 ([Appendix C](#)). Employees will use the Government telephones, including Agency issued cellular phones, in a reasonable, prudent, and cost-conscious manner. Reading, creating and transmitting such e-mails or faxes exceeding fifteen (15) minutes in duration will require approval of the employee's supervisor consistent with the

provisions of this Article. Employees who are not Union officials will not use Agency computer systems including e-mail and fax machines or telephones to lobby Congress.

B. Union Use of Agency's Electronic Communication Systems.

For representational purposes, the Union may use the Agency's electronic communication systems including: telephones, blackberries, cellular phones, and computers with e-mail and fax machines for communications with Agency officials, employees, other Union Representatives, members of Congress (except for activities that constitute grassroots lobbying or lobbying that concerns pending legislation), and appropriate third parties.

The Union will be judicious in the use of attachments to e-mail messages. Attachments will be kept to a reasonable size, with the understanding that some documents, like arbitrators' decisions can be lengthy. Messages will conform to the Agency's computer security awareness training and standards. Information sent on e-mail or electronic media or posted on a bulletin board or website will not contain libelous or slanderous statements pertaining to the federal government, to the Agency, or to any Agency supervisor, management official or employee. Messages shall not include any items or information in violation of the Hatch Act. The Agency shall have the right to request that the Union recall or remove any e-mails or electronic media that contain such information.

Section 4. Membership Campaigns.

The Agency will provide adequate facilities for membership drives at a location that will provide access to unit employees during non-duty time and lunch periods. The Union may conduct periodic membership campaigns in non-duty areas during the non-duty time of the employees involved. Agency telephones and computer systems including e-mails and fax machines may only be used by the Union to send notices and announcements for such membership drives during lunch periods, leaves, and/or non-duty time. When such a campaign is contemplated, the Union will notify the Agency at least ten (10) calendar days in advance of the beginning of the campaign. Normally, the Parties at the location where the campaign is to be conducted shall establish the conditions governing the conduct of the campaign. Where there is no Union official present, Council 228 President will be involved in establishing the conditions governing the conduct of the campaign. Upon request, the Agency will authorize Union Representatives who are not Agency employees, access to the Agency's premises to participate in membership campaigns in accordance with this Article.

Section 5. Bulletin Boards.

The Agency will continue to provide locked bulletin boards that are in place as of the effective date of this Agreement. Subject to funding, the Union will be provided with a locked bulletin board at each office where it does not have a bulletin board in which it is the exclusive representative. Such bulletin board space shall be used for the posting or displaying of materials pertaining to communications to Union members. To the extent practicable, the Union will assure that Union material is not placed elsewhere other than on the Agency's furnished bulletin boards as stated above. In no event, shall the number of bulletin boards furnished to the Union exceed the number of the Agency's bulletin boards in the same building. The Agency shall have the right to request the Union to remove any libelous or

slandorous material it finds posted on Union bulletin boards. Messages shall not include any items or information in violation of the Hatch Act.

Section 6. Use of Space and Equipment at the Appropriate Level.

- A. Subject to the availability of furniture and space, the Agency will allow the Union at any local¹ reasonable space and equipment such as a computer, desk, phone, chair, conference tables, printers, telephones, fax machines, and a locking file cabinet for representational purposes and/or official labor management activities for offices that do not presently have furniture and space. Computer equipment will have access to the Agency's Intranet network, Web Conference, e-mail, and internet. Telephones will have access to long distance network and local calling. The Agency will provide conference calling capability including codes for Agency conference line, voice mail, and caller ID commensurate with what is provided in other Agency work space. When a SBA office is redesigned, the design will include a Union office of sufficient size (if one was there) with a locked door. Redesign of an SBA office with more than a de minimis impact on employees will be treated as a Change in Conditions of Employment for purposes of [Article 4](#) of this Agreement, except that Union offices of sufficient size, with a locked door, will continue to be provided when they are already present. In Union offices, the Agency will provide the following equipment on an as available basis: a computer, printer, desk, chair(s), telephone and fax machine. Private offices already in place of the effective date of this Article will not be eliminated. Where there is a permanent change in onsite representation so that there is no one to use, the representational space provided to the Union, the Council President will notify the Chief Human Capital Officer, and the District Director, Regional Administrator, Headquarters Management Board Member, Area Director, and Center Director of that office immediately. If after 90 days the space remains unoccupied by the Union, it reverts back to the Agency. In the event where an office is assigned a permanent onsite representative, the Agency will make like kind representational space available to the Union in an area that provides privacy. For privacy purposes, if a permanent office is not available, use of a shared space equipped with a telephone, such as a conference room, interview room or vacant office, will be made available to the Union. In this instance, any suitable space that becomes available in the future, deemed excess by the Agency at that location, will be provided to the Union.
- B. The Agency will continue to provide the Council 228 President or designee with cell phone capability. The Agency will provide Regional Vice President, Region-3 Mid-Atlantic with cell phone capability. The cost for cell phone capability will be borne by the Agency. The Agency will provide the Council 228 Secretary or designee with cell phone capability.
- C. The Agency will continue to provide the Council 228 office space equipped with phone, computer, desk, chair(s) and printer located at 409 3rd Street SW, Washington, D.C., in accordance with MOU between the Parties signed 03-31-03 and 4-2-03 respectively, as well as in FLRA settlement agreement case number WA-CA-05-0105 dated 10-6 and 10-07-2005.

¹ The intent of this change is not to contract or expand the scope of the original language.

- D. The Agency will continue to provide reasonable office space as currently equipped for Regional Vice President, Mid-Atlantic, Region 3 located at 409 3rd Street SW, Washington, D.C., as currently documented in Agency Annual Inventory Report Form 110 dated March 2004.
- E. Pursuant to the Settlement Agreement in FLRA Case No. WA-CA-05-0179, the Agency will continue to provide Council 228 Officers with the WestLaw computer research tool without charge to Council 228. The Council President will designate in writing to the Chief Human Capital Officer which nine (9) council officials who are also current and retired employees of the SBA are authorized to use WestLaw. Any new officials designated by the President of Council 228 to replace previously designated officials will receive the WestLaw training two (2) pay periods following their designation. Council 228 officials who are provided WestLaw training will be given six (6) hours of official time (outside of [Article 12](#)) for such training. The cost will be borne by the Agency.
- F. The Agency will establish a website for the exclusive use of AFGE Council 228 on the intranet to post materials. AFGE Council 228 will submit materials to the office of the Chief Information Officer (OCIO) for posting on the intranet. Union items posted on the intranet may also be posted on Union bulletin boards.

Section 7. Security of Union Files.

At a minimum, the Agency will provide the Secretary of AFGE Council 228, who is an Agency employee, with a private office (four floor-to-ceiling walls with a locked door) a laptop, a computer, chair(s), telephone, fax machine, locking file cabinet, and access to a printer.

Section 8. Mail Services.

- A. The Union's mail should not be opened by the Agency. Union officials and representatives may use the inter-office mail system for regular representational communications (e.g., grievances correspondence or memos to Management). Consistent with postal regulations, the Union shall have use of Agency metered mail limited to representational matters. Such authorized use of metered mail will be limited to correspondence directed to Agency management officials, other Union officials and third parties. Mass mailings are inappropriate under this Section. After obtaining written office head approval, the Union will also be allowed to use the Agency's contracted delivery services for submissions to Agency officials and appropriate third parties for representational purposes only when material must be filed or delivered in an expedited manner, and when electronic or fax transmissions or personal delivery are not acceptable methods of delivery or filing. If the office head does not grant approval, the Union will request review by successively higher levels of Agency management.
- B. Neither employees nor Union Representatives, in connection with matters covered by this Agreement, shall use the following services for the transmittal of written materials related to representational matters: Government franked envelopes, certified, classified, or registered mail, courier, or interagency mail.

Section 9. **Copy Machine.**

Union Representatives may use the Agency's self-service copying machines in connection with their representational activities. Union Representatives will use the Government copy machines in a reasonable, prudent, and cost-conscious manner. Bulk copying (100 or more) ordinarily is not allowed under this Article. However, circumstances which occur that are beyond the control of the Parties will be addressed on a case-by-case basis.

Section 10. **Newsletter Distribution.**

The Union's newsletter may be distributed to the employees via the Agency's computer systems including e-mails and fax machines or personal delivery during non-duty hours. Newsletters shall not include any items of information in violation of the Hatch Act.

Section 11. **Distribution of Union Literature.**

The Union may distribute Union literature that constitutes internal Union business to employees during the work day, provided that the Union Representative distributing the material is in a non-work/non-duty status at the time of distribution, and the employee receiving the literature, if present at the time of the distribution, is also on lunch periods, leave, or other non-duty time.

Section 12. **Office Supplies.**

The Agency will continue to provide the Union officials with routine office supplies commensurate with what is generally used in that work location.

ARTICLE 14 ORIENTATION OF NEW EMPLOYEES

Section 1. **General.**

Within five (5) work days, all new employees will be given a comprehensive overview of SBA programs, personnel policy and other administrative information via the SBA intranet. Within five (5) work days, the Regional Vice President or designee will be afforded the opportunity to meet with the employee on official time. The employee will also be advised of their right to refrain from any such Union activity. The employee will be protected in exercising their rights. Additionally, the Union Representative may elect to be present during the orientation and will advise the employee of their right to form, join or assist any labor organization, including Council 228 of the national Council of Small Business Administration Locals (NCSBAL), freely and without fear of penalty or reprisal. This Section shall not normally be construed to require the payment of travel and per diem.

Section 2. **Union Information.**

All new employees, as well as employees, who transfer from a non-Union office, will be provided the name of the Union Representative for the employee's work area along with their phone number. An information kit will be provided by the Union and will include the following:

- E-mail, current office address, and phone number of the Union Representative(s)
- Copy of the current Master Agreement, including amendments
- A copy of the applicable AFGE health benefits and life insurance brochures, along with other benefit information.

Section 3. **Exclusive Representative.**

Employees in the unit of recognition will be informed during orientation of the status of the Union as the exclusive representative of employees in the bargaining unit.

Section 4. **New Employees.**

The Office of Human Resources Solutions will notify Council 228 President of any employee transferring into a bargaining unit office. Additionally, the SBA Daily will on a monthly basis include a list of the names of all new employees including their positions and locations.

ARTICLE 15 HOURS OF WORK

Section 1. **Basic Work Requirement.**

Basic work requirement means the number of hours excluding overtime hours, which an employee is required to work or is required to account for by leave.

- A. All full-time employees are responsible for completing an 80-hour bi-weekly basic work requirement.
- B. All part-time employees are responsible for completing a less-than 80-hour bi-weekly basic work requirement.
- C. This Article applies to all bargaining unit employees, recognizing that part-time employees' work schedules under Section 4 are adjusted to reflect their part-time work requirements.
- D. Work schedules and leave-taking must be in increments of fifteen (15) minutes.

Section 2. **Alternative Work Schedules (AWS).**

The Agency and the Union agree to support the application of flexible work schedules. Both Parties further agree that it is the mutual responsibility of the Agency and the employees to effectively accomplish the mission of the Agency. The Parties recognize that the use of AWS has the potential to improve productivity and morale and provide greater service to the public. Nothing in this Article affects existing practices regarding compensatory time.

Section 3. **Coverage of the Plans.**

- A. Any employee may continue working a standard schedule.
- B. In the event of a conflict of scheduling among employees at a given organizational unit, Service Computational Date (SCD) among employees whose final current rating of record is at least, Level (3) "Meets Expectations" will govern, in the absence of personal hardship or mission needs.
- C. This Article will be administered according to [5 U.S.C. Chapter 61, Subchapter II](#), and [5 C.F.R. 610, Subpart D](#).

Section 4. **Available Schedules.**

Employees may request to work one of the schedules listed in this section. After receiving a request, the designated management official shall evaluate the request and make a determination to approve or disapprove.

Opportunities to select different schedules and/or starting and stopping time may subsequently be requested by the employee once each quarter. Any further requests for a change in schedule or hours during the quarter will be considered if based on a personal hardship.

1. **Standard/Traditional Straight 8 Schedule**

Fixed eight hours per day, five days a week both weeks of the pay period. No flexible time band. Credit hours cannot be earned consistent with existing and future laws and Government-wide regulation.

2. **Alternate Work Schedules**

a. **Flexitour Schedule**

A flexible schedule containing core time on each weekday in which a full-time employee has a basic work requirement of eight hours per day and 40 hours per week, in which the employee, having selected starting and stopping times within the flexible time band, continues to adhere to these times. Under the Flexitour Schedule, credit hours can be accrued. Credit hours are governed by existing and future laws and Government-wide regulations (See [Article 2, Section 1](#)).

b. **Gliding Schedule**

A flexible schedule (Ten 8 hour work days, 40 hours per week each pay period) in which a full-time employee has the basic work requirement in each day, and may change the arrival time daily as long as it is within the established flexible time band. Credit hours can be earned and are governed by existing and future laws and Government-wide regulations.

c. **5-4/9 Schedule (Maxiflex)**

Eight 9 hour work days, one 8 hour work day, and one day off per pay period, and the employee may change the arrival time daily as long as it is within the established flexible time band. Credit hours can be earned and are governed by existing and future laws and Government-wide regulation.

d. **5-4/9 Schedule (Compressed)**

Eight 9 hour days, one 8 hour work day and one day off per pay period with fixed arrival and departure times. Credit hours cannot be earned consistent with existing and future laws and Government-wide regulation.

e. **4/10 Schedule (Compressed)**

Four 10 hour days and one day off each week of the pay period with fixed arrival and departure times within the flexible time bands and adhere to these times. Existing 4/10 schedule arrangements in the Offices of the Chief Information Officer (OCIO), and the Office of Administration (OA), will continue under their current terms and conditions. Credit hours cannot be earned and are governed by existing and future laws and Government-wide regulations.

Section 5. **Work Hours.**

- A. Employees can begin their regular workday as early as 6:00 a.m. and can end their regular workday as late as 6:00 p.m. in accordance with Section 8, Monday through Friday.
- B. Credit Hours worked in excess of an employee's basic work schedule may not be worked earlier than 6:00 a.m., unless otherwise approved in advance by a management official. If declined, the management official shall provide a reason. All employees must be on duty or an approved absence during the core hours of 9:30 a.m. – 3:00 p.m.

When selecting work schedules, employees and supervisors are responsible for assuring the employee's presence or on approved leave for the basic work requirement and core hours in light of the length of the employee's lunch period.

- C. Holidays. If any employee on a flexible schedule is relieved or prevented from working on a day designated as a holiday, such employee is entitled to pay with respect to that day for eight (8) hours. In the case of a part-time employee, an appropriate portion of the employees required basic work requirement is credited for pay purposes. (See 5 U.S.C. 6124 and Executive Order 11582).
- D. Lunch Period. Each Employee shall schedule with the designated management official's approval, a lunch period of 30, 45, or 60 minutes during the daily basic work requirement. Lunch periods shall not be scheduled for more than one (1) hour. The lunch period is the employee's own time to use and is not included in the basic work requirement. In the event of a special work requirement, the lunch period may be rescheduled. There is no set time when an employee must take lunch; however it cannot be taken immediately after the beginning of the work day or immediately prior to quitting time.
- E. Relief from Video Display Terminals (VDT), computer monitors. Employees whose duties require prolonged periods using video display terminals may elect ten (10) minute work periods away from the VDT for each hour of such duties.

Section 6. **Time Accounting.**

Employees are not required to sign-in or sign-out on a daily basis; however, for the purpose of payroll, time and attendance records will be maintained and certified by the employee and the appropriate management official at the end of each pay period.

Section 7. **Coverage of Mission Needs.**

- A. Consistent with the purposes of this Article, employees, the Union and designated management officials will make reasonable efforts to promote the successful administration of this Article so as to meet the needs of SBA and the needs of employees. Efforts may include such actions as:
 - 1. Answering phones;
 - 2. Handling inquiries from the public;
 - 3. Responding to program needs based on business necessity;
 - 4. Providing office representation at essential meetings;

The AFGE National Local 228 is coterminous with AFGE Council 228. The positions held by the officers of the council and National Local are one in the same. There is no legal effect on the Union's ability to determine its internal structure. The intent of the changes (in all cases where "local" was replaced), is not to contract or expand the scope of the original language.

5. Adequate supervisory coverage.
- B. Coverage requirements, once established by the designated management official, will remain in force and effect until altered, amended, or revised.
- C. Employees assigned to training or any other temporary assignment with an established schedule will adhere to the established schedule of the temporary assignment for the duration of the assignment.
- D. The Union and management officials will make an effort to develop creative approaches to improve administration in Labor Management Relations Committees.
- E. Employees who are on an Alternative Work Schedule (AWS) in accordance with Section 4(c)(1) may be required to adjust starting and ending times in order to provide essential coverage within an office. In that instance, the employee who may be required to adjust their preferred hours of arrival and departure will be equitably rotated with other employees to the extent practicable.

Section 8. Definitions.

The following definitions shall apply.

- A. **Maxiflex Schedule** means a type of flexible work schedule that contains core hours on fewer than ten (10) workdays in the biweekly pay period and in which a full-time employee has a basic work requirement of 80 hours for the bi-weekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the organization.
- B. **Compressed Work Schedule**, which may take a variety of forms, requires full-time employees to work 80 hours in less than ten (10) days in a pay period. Also, the times of arrival and departure from the office are regular and fixed under a compressed schedule.
- C. **Credit Hours** mean any hours, within a flexible schedule, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a work week or a work day. There are limitations to the accumulation of credit hours; see 5 U.S.C. 6126. Employees may accumulate and carry over up to 24 credit hours in a pay period, and cannot carry the excess over from one pay period to another. The Employer, the Union and the Bargaining Unit Employees are governed by existing and future laws and Government-wide regulations (See [Article 2, Section 1](#)).
- D. **Core Hours** are those designated times and days during the biweekly pay period when a full-time employee must be present for work. With the supervisor's approval, an employee may use leave during core hours.
- E. **Overtime Hours** are all compensable hours in excess of the employee's basic work requirement, and do not include compensatory hours.
- F. **Compensatory Time** means time off in lieu of payment for overtime hours. An employee may request time off in lieu of payment for overtime hours.

- G. **Break Period** means a period during the daily basic work requirement when an employee may leave the workstation and be relieved of duties. Paid break periods are part of the basic work requirement and cannot be accumulated but can be deferred or interrupted when necessary. Each employee may elect one (1) fifteen-minute paid break period during any four (4) hour basic work requirement.
- H. **Holiday** means a day or portion of a day designated as a holiday by a Federal statute or Executive Order.

ARTICLE 16

OVERTIME

Section 1. Responsibilities.

- A. The Agency, the Union and the employees share a mutual responsibility for expedient and efficient service to the public. This includes a willingness on the part of employees to be available when workloads require the use of overtime. The need for the completion of the work to be done is the primary consideration in the utilization of overtime. Recognizing this, the assignment of an individual to overtime work or the denial of such assignment will not be made to reward or discipline an employee. Overtime may be required of an employee; however, supervisors shall take into account any personal hardship to an employee resulting from an overtime assignment. At the discretion of the manager, and to the extent practicable, an employee may upon request, be released from an overtime assignment, if a qualified replacement is available and willing to work.
- B. Employees who are required by the Agency to work overtime will be compensated in accordance with applicable law and regulations. No employee should work overtime unless it is authorized and officially approved, in advance, by the appropriate Management Board member, Regional Administrator, District Director, Center Director, Area Director, supervisor or their designee. However, nothing in this Article precludes or impairs an employee who believes they have worked overtime hours without being compensated properly from filing a grievance under [Article 39](#) of this Agreement, alleging a violation of the Fair Labor Standards Act (FLSA) or the Federal Employees Pay Act (FEPA).
- C. The overtime pay rules apply to employees working at the office, at home, telecenter, or other locations, and whether they are performing duties on workdays, weekends or holidays.

Section 2. Overtime Work.

- A. Overtime work is that which is ordered, approved, and worked in excess of the employee's scheduled workday (i.e., eight (8) hours, nine (9) hours, or ten (10) hours) or in excess of forty (40) hours in a week.
- B. For employees on a flexible work schedule under [Article 15](#) of this Agreement, work in excess of the scheduled workday which is to be compensated by credit hours is not considered overtime work for this Article.

Section 3. Procedures for Assigning Overtime.

- A. Overtime will be distributed as equitably as possible among employees within the work unit where the overtime is required who are qualified to perform the specific tasks the Agency needs in the time allocated. Records of overtime worked by the employees shall be made available to the Union, subject to requirements of the Privacy Act. Reasonable efforts will be made to assign overtime as equitably as possible on an annual basis for each calendar year. For the purposes of equality, overtime offered to an employee and declined will be documented for purposes of the equitable distribution of available overtime.

- B. The Agency will seek to avoid overtime assignments that result in employees working excessively long periods (i.e., two weeks) without a day off.
- C. Employees who are performing a particular task or project during the regular working hours normally will be given the first opportunity to work any overtime that may be required on that task or project, provided that the need for such overtime is not the result of the lack of performance by those employees. Consideration will then be given to all employees within the work unit who volunteer to work overtime. Qualified employees from other work units within the office may also volunteer. If there are insufficient qualified volunteers from the department/division where the overtime is required, the Agency may assign employees to work overtime first from within that department/division and then from outside that department/division.
- D. Employees shall be given as much advance notice of overtime to be worked as is possible. When overtime is required and advance notice is short, the supervisor will take into consideration individual employee problems, such as bus schedules, car pool arrangements, child care, documented health issues and other hardships. In the event that any employee who declines overtime due to a hardship is nonetheless ordered to perform overtime work, he/she may appeal immediately to the next available level of supervision, stating the hardship and any other reasons in support of the employee's need. It shall be the responsibility of the supervisor at the next higher level to review the situation and to assure that bona fide hardship is given due consideration. Normally, the higher-level supervisor will give the employee their written decision prior to the scheduled start of the overtime work. In the absence of that decision the employee is still expected to work the overtime.

Section 4. Compensation.

- A. Consistent with the FLSA, and other applicable laws and regulations, non-exempt and exempt employees shall receive additional compensation for overtime work as defined in Section 2, above. This compensation will either be in the form of overtime premium pay or compensatory time off.
- B. The rate of overtime premium pay is normally one and one-half times the employee's hourly rate of pay.
 - 1. For FLSA-exempt employees whose rate of pay exceeds GS-10, Step 1 (including applicable locality pay), the rate of overtime premium pay is equal to the greater of (a) one and one-half times the hourly rate of pay for GS-10, Step 1, or (b) the employee's hourly rate of pay.
- C. FLSA-exempt employee's whose salary is less than or equal to GS-10, Step 10 (including any locality pay the employee receives) will be allowed to choose between compensatory time and overtime pay. The Agency cannot force such employees to accept compensatory time in lieu of overtime premium pay.
- D. If the FLSA-exempt employee's salary exceeds GS-10, Step 10, the Agency may require that the employee accept compensatory time in lieu of overtime premium pay.
- E. FLSA-non-exempt employees may choose to receive compensatory time off in lieu of overtime pay. The Agency cannot force such employees to accept compensatory time in lieu of overtime premium pay.

- F. Compensatory time earned is equal to the amount of time spent in overtime work, e.g., one hour and fifteen minutes of overtime work yields one hour and fifteen minutes of compensatory time.
- G. Management shall not show preferential treatment to employees based on their choice between taking overtime pay or compensatory time.

Section 5. Call Back Overtime.

An employee shall receive at least two (2) hours pay at the applicable overtime rate if they are called back to work outside the basic workweek or workday and the overtime is not contiguous with the regular workweek or workday.

Section 6. Break Periods.

Employees on overtime will be allowed a fifteen (15) minute paid break every four (4) hours for such overtime.

Section 7. Earning and Using Compensatory Time.

- A. Employees who elect to receive compensatory time in lieu of overtime pay must submit a written request to the supervisor prior to performance of the overtime work. The supervisor shall respond in writing whether the compensatory time is approved prior to the performance of the overtime work.
- B. The Agency may decide not to approve the request for compensatory time and require that the employee be compensated with overtime premium pay instead. If the employee is FLSA-exempt and their rate of pay is less than or equal to GS-10, Step 10 (including any locality pay the employee receives), or the employee is FLSA non-exempt, the employee will decide whether to accept overtime premium pay. (See Sections 4c & 4e, above). If the employee will not accept overtime pay, the supervisor will inform the employee that they may not work the overtime.
- C. Employees, whether FLSA-exempt or FLSA-non-exempt, must use accrued compensatory time off by the end of the 26th pay period after the pay period during which it was earned. If the employee either fails to take earned compensatory time off within twenty-six (26) pay periods or leaves the Agency before that time, the employee will be paid for this unused compensatory time at the rate of overtime premium pay in effect at the time the compensatory time was earned.

Section 8. Request for Overtime Premium Pay or Compensatory Time.

Supervisors must approve in advance all employee overtime premium pay and compensatory time hours using the form the Parties jointly negotiate SBA Form 454 (Request to Work Overtime) attached to this Agreement at [Appendix F](#).

ARTICLE 17 ANNUAL LEAVE

Section 1. **General.**

Annual leave is an earned benefit. It is agreed that employees have a right to use their earned annual leave subject to the needs of the Agency. The employee shall ensure that requests for annual leave are submitted in a timely and reasonable manner with sufficient lead times to facilitate the effective scheduling of leave and prevent its loss. The Agency agrees to grant annual leave in a manner which is consistent with the needs of the Agency. Employees may request annual leave for any duration, for any time and in any pattern desired. Management will approve employee requests for annual leave as soon as possible. It is agreed that annual leave shall be granted to allow every employee an annual vacation period of extended leave for rest and recreation and to provide time off for personal and emergency purposes. Annual leave will be granted on an equitable basis and the Agency will make a reasonable attempt to satisfy the leave requests of employees. All use or lose annual leave must be scheduled and approved at least six (6) weeks prior to the end of the leave year consistent with the Agency's annual policy reminder notice. Conflicts in scheduling extended leave will generally be resolved in favor of the employee with the earliest service computation date. However, in the event that the leave request of one (1) of the employees would have been or is denied because of a workload or organizational need, the SCD will not be the sole deciding factor. Subsequent conflict(s) among the same employees will be resolved by granting leave to the next senior employee who has not been previously granted extended leave.

Section 2. **Scheduling Leave.**

- A. Employees generally shall plan their annual leave well in advance to ensure that requests are submitted in a timely manner with sufficient lead times to accommodate the process of approval and scheduling the employee's desired leave plan. The minimum amount of time that may be scheduled as annual leave is fifteen (15) minutes. As a general guideline, the longer the duration of the leave time requested, the greater the lead time that should be provided to management. Leave requests for use or lose annual leave must be submitted consistent with the guideline provided above in Section 1. General.
- B. Employees requesting annual leave during and after religious/holiday seasons should appropriately add additional lead time to their requests for annual leave. Management at the appropriate level will determine and communicate to the staff the minimum staffing levels required to meet the mission critical needs of the office during religious/holiday seasons and seek to accommodate as many employee leave requests as practical. Scheduling conflicts will be resolved as outlined above in Section 1. General.
- C. If the supervisor denies a request for annual leave, they will give a reason for the denial in writing.

Section 3. **Approval Requirement.**

Management will attempt to accommodate an employee's annual leave request submitted in accordance with this Article and consistent with pending workload and operational needs of the employee's work unit. The Agency will seek to accommodate the planned annual leave requested by

employees as long as there is a good faith effort by the employee to submit leave requests consistent with Section 2. Employees shall submit all annual leave requests directly to their supervisor or other designated approving official. A simple notification by an employee or his or her absence or intent to be absent does not constitute approval of annual leave.

Section 4. Cancellation of Approved Leave.

- A. Leave may not be cancelled or denied for arbitrary or capricious reason. Management should not cancel approved annual leave unless it is absolutely necessary to meet the emergent mission critical operational needs of the Agency. In the unlikely event that this situation should occur, supervisors will meet with the affected employees as far in advance of the approved annual leave schedule as possible. Management will inform them of the emergent mission critical reason for the change and explore alternatives for rescheduling their approved annual leave. Rescheduling conflicts will be resolved by the same guidelines used for scheduling conflicts as outlined above in Section 1. General.
- B. In the event that the approved annual leave is cancelled and causes a financial loss to the employee (e.g., when paying in advance for non-refundable airfare, cruises, hotel rooms, etc.), the Agency will provide a written explanation on Agency letterhead or make a telephone call indicating that the employee's leave was canceled due to official government business to help recoup the financial loss. Such action by the Agency will be initiated upon the request of the employee.

Section 5. Emergency Leave.

Requests for emergency annual leave must be approved by the employee's immediate supervisor or other designated approving official. Emergency annual leave requests shall be called in as soon as possible. The Agency will ensure that an approving authority is available to approve emergency annual leave requests throughout the workday. Absent extraordinary circumstances outside the control of the employee, the employee will call in the request for emergency annual leave as soon as possible. If necessary, a voice mail message to the employee's supervisor will be sufficient. Approval or disapproval of an employee's request for emergency leave will be addressed on a case-by-case basis. Management will normally try to accommodate an employee's request for emergency leave, but may take into account whether the employee is under a written leave restriction or there is a demonstrated trend of potential leave abuse.

Section 6. Advance of Annual Leave.

The maximum amount of advanced annual leave that can be approved is the total number of hours that the requesting employee would normally accrue before the end of the leave year. In the event that the employee is serving under a temporary appointment, the maximum amount of advanced leave that can be approved is the total amount they will earn by the end of the scheduled expiration date of the appointment. Supervisors shall take the past leave record of the requesting employee under consideration before approving advanced annual leave, and there must be a reasonable expectation that the employee will actually return to work.

Section 7. **Extended Leave for Union Representatives.**

- A. While the Agency retains the discretion to decide, the Agency will seriously consider approving a request for annual leave or leave without pay, for a period of up to one year, to any employee selected to serve in the capacity of a district or national AFGE Union officer or representative on condition that:
 - 1. No more than one (1) such request will be honored from any one (1) employee per calendar year; and
 - 2. No more than one (1) such SBA employee shall be on such annual leave or leave without pay at any one time.
- B. The Agency may consider but is not obligated to approve a petition for another year of such leave if a previous year has been granted. Any such request shall be submitted in writing at least ninety (90) days prior to the expiration of the current approved leave.

Section 8. **No Seasonal Exclusion.**

In no case will any particular time of the year or season be excluded from consideration for the granting of annual leave only because it is a particular time or season of the year. However, management can consider staffing patterns, workload, and office coverage requirements in making their determination.

ARTICLE 18

SICK LEAVE

Section 1. General.

Employees will accrue sick leave in accordance with the Statute and appropriate regulations. Leave may be used in increments of fifteen (15) minutes. Employees have the right to utilize sick leave for themselves and to care for family members. If an employee has used all of their sick leave and allotments for FMLA, they can request to use their annual leave. Annual leave may be substituted for sick leave in accordance with applicable annual leave regulations.

Section 2. Use of Sick Leave.

Employees have the right to utilize sick leave for circumstances set forth in [5 CFR 630.401](#) (See [Appendix G](#) this Agreement).

Requested sick leave for examination(s) and/or treatment(s) shall normally be granted, provided the leave is requested in advance. Prior arrangement shall not be required in cases of sudden illness or emergency. The Employer shall grant sick leave when the employee, or family member for whom the employee has to care for, is afflicted with a contagious disease, or when in the opinion of the attending physician, through exposure to contagious disease, the presence of the employee at work would jeopardize the health of others.

If the amount of leave exceeds the amount of administrative leave allowed in [Article 19, Other Leave](#), such leave will be administered in accordance with 5 Code of Federal Regulations, 630 and can be used to make arrangements necessitated by the death of a family member or attend the funeral of a family member.

Sickness occurring during a period of annual leave may be charged to sick leave and the charge against annual leave reduced accordingly, provided the duration of sickness is in excess of two (2) consecutive workdays and the request is made to the supervisor on the second day of the illness.

Section 3. Sick Leave Certification.

- A. Employees normally shall not be required to furnish a medical certificate to substantiate a request for approval of sick leave unless such sick leave exceeds three (3) consecutive workdays. In cases where the nature of the illness was such that an employee did not need to see a medical practitioner, the employee's written statement concerning the illness may be considered as acceptable evidence.
- B. The statement will indicate why a physician was not seen, for example, remoteness of area, nature of illness, or other specific reasons. The supervisor may request clarification should the employee's written statement not be sufficient to support the request. An employee with a chronic medical condition that does not require medical treatment but does result in periodic absences from work will not be required to furnish a physician's certificate on a continuing basis if the employee: (1) is not on leave restriction and (2) provides, if requested, an updated valid medical certificate every six (6) months which clearly states the continuing need for the periodic

absences. Medical certification must include a statement that the employee was incapacitated for work and date(s) of incapacitation. This will be considered sufficient for medical certification purposes. This applies to both sick leave of more than three (3) days and certification for sick leave restrictions.

Section 4. Abuse of Sick Leave.

In individual cases, if there is indication that the employee may be abusing sick leave privileges, based on timing, amount, and/or patterns of sickness or illness, the Agency may require the employee to submit a medical certificate each time the employee wishes to use sick leave. When the Agency puts such a requirement in effect, management will advise the employee in writing of the specific bases for that decision. If this does not bring about improvement in the employee's sick leave record, the employee will be advised in writing that all future requests for sick leave must be supported by a medical certificate.

Section 5. Certification Review.

Requirements for medical certificates will be reviewed no later than every six (6) months. When an employee's record has significantly improved, the requirement will be rescinded in writing. All cases requiring a medical certification for each absence shall be reviewed by the appropriate supervisor. Disagreements regarding such a requirement shall be reviewed by the next level supervisor to determine its appropriateness. Following each formal review, the employee will be notified in writing whether the restriction is to be lifted or to be continued on the basis of their sick leave record. The employee may request the presence of a Union Representative at the formal review.

Section 6. Health Unit Authorization and Treatment.

Employees who, because of illness are released from duty on advice of the appropriate health unit shall not be required to furnish a medical certificate to substantiate that instance of sick leave. It is agreed that time spent by employees in obtaining examination or treatment at the appropriate health unit shall be in duty status and will not be charged or recorded as sick leave if the employee is returned to duty.

Section 7. Advance of Sick Leave.

In cases of serious illness or disability, employees should be advanced sick leave up to the maximum of 240 hours provided by law. Such advance leave shall be requested from the appropriate District Director, Regional Administrator, or Headquarters Management Board Member Area Director and Center Director under the following circumstances:

- A. The request is supported by a medical certificate including the estimated date of return to duty;
- B. The amount of advance sick leave does not exceed 240 hours at any one time;
- C. There is reasonable assurance the employee will return to duty; and

- D. The sick leave advanced shall not exceed the amount, which will be earned during the remaining period of employment.

Section 8. Maternity Leave.

In accordance with applicable regulations governing leave, and the Family Medical Leave Act, sick leave may be used for those periods of absence related to incapacitation due to pregnancy and confinement. Annual leave or LWOP can be used when sick leave is not sufficient to cover this period.

Section 9. Earnings and Leave Statement.

The Employer and the Union recognize the privacy of the information, including sick leave, contained on individual earnings and leave statements. They agree that these statements will be handled in a practical but discreet manner.

Section 10. Emergency Sick Leave Authorization.

Requests for approval of sick leave in an emergency may be approved by the employee's immediate supervisor or other designated official in increments of fifteen (15) minutes. Notice of unanticipated sick leave will be given by the employee to their supervisor or the supervisor's designee within two (2) hours of the office's normal starting time for an employee on a fixed work schedule and no later than 11:30 a.m. for an employee on a gliding work schedule on the first day of their absence and on each day thereafter. If the degree of illness or injury prohibits compliance with the above two (2) hour limit, the employee will report their absence as soon as possible. A voice mail message to the employee's supervisor or designee will be sufficient if direct contact cannot be made. Under normal circumstances, the employee should leave a contact number. The Agency will have someone available during the first two (2) hours of each shift who has authority to grant requests for leave.

Section 11. Illness on Duty.

In the event that a bargaining unit employee becomes ill while on duty or while traveling in the course of a duty assignment, and in the event such illness requires the employee to leave their place of duty, the Employer will use all appropriate and lawful means to assist the employee in getting to an appropriate place where medical treatment may be rendered.

Section 12. Leave Misrepresentation.

No approved leave or approved absence will be a basis for disciplinary action except when it is clearly established that the employee submitted fraudulent documentation or misrepresented the reasons for the absence.

Section 13. **Privacy.**

The Agency will treat, as confidential, any medical information given by an employee in support of a request for sick leave. The Agency may disclose such information subject to the Privacy Act regulations.

ARTICLE 19

OTHER LEAVE OR ABSENCE

Section 1. **Voting and Registration Leave.**

The Agency agrees that when the voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, they will be granted an amount of excused absence to vote or register to vote, which will permit them to report to work up to three (3) hours after the polls open or leave up to three (3) hours before the polls close, whichever requires the lesser amount of time. Additionally, any employee engaged in official travel who cannot adhere to the above, shall be granted a comparable amount of time to accomplish absentee voting. Under unusual circumstances, an employee can be excused up to a full day pursuant to applicable regulations.

Section 2. **Inclement Weather Dismissal.**

The Agency agrees that when it becomes necessary to close any duty station because of inclement weather or any other emergency condition and to grant administrative leave, management will provide the information as soon as possible to all employees in the field via an established system. Teleworkers are exempt from this policy except those who are at a telework center. The established system will be developed at the Regional level between Union and Management.

Section 3. **Emergency Notification.**

If a general emergency condition exists which prevents or hinders bargaining unit employees from getting to work when the duty station is not closed, and if management has rendered a decision to grant administrative leave to those who are actually affected by the condition, management will inform affected bargaining unit employees. There shall be a duty on the part of any such employee to communicate with their office at the first opportunity.

Section 4. **Media Notification of Emergency Closing.**

When any employee has reasonably relied upon the public media announcement that their duty station or that all federal offices in their area are closed due to weather or other conditions, they will not be charged annual leave if, in fact, the SBA office remains open and the employee, relying on the announcement, is unaware that the office is open.

Section 5. **Procedure for Emergency Leave Authorization.**

When a duty station is open, but inclement weather or other emergency conditions affecting travel prevent a bargaining unit employee from getting to work on time or from getting to work at all, the employee tardiness or absence may be excused by management without charge to leave when management can determine that the employee made a reasonable effort to get to work. The criteria for making such a determination include, but are not necessarily limited to: (1) the distance between the employee's residence and place of work; (2) the modes of transportation available; (3) the efforts made by the employee to get to work; and, (4) the nature or severity of the weather or emergency

condition. There shall be a duty on the part of any such employee to communicate with their office at the first opportunity.

Section 6. Maternity and Parental Leave.

An employee maybe granted leave without pay, sick leave or annual leave, as appropriate to the individual case, to carry out parental responsibilities in connection with the birth or adoption of a child. The Employer agrees to follow a liberal leave policy in granting requests for leave in connection with childbirth or adoption. Responsibilities in connection with the care of children or other dependent immediate family members may be carried out pursuant to requests for annual leave, sick leave, or leave without pay under the terms of [Article 17](#), [Article 18](#), and this Article. (See [Appendix G](#))

Section 7. Leave Without Pay.

Notwithstanding any Article herein pertaining to accrued leave, every bargaining unit employee shall have the right to request leave without pay to be taken at the employee's option, in lieu of accrued leave or in cases where no accrued leave is available. Requests and approvals shall be handled in the same manner as annual and/or sick leave in accordance with [Article 17](#), [Article 18](#), and this Article. Requests for leave without pay will not be denied arbitrarily. Supervisors will state the reasons for any denial in writing upon request.

Section 8. Return to Duty.

The Union and the Employer agrees that employees returning to duty from leaves of absence granted or approved will be placed in the position held at the time that the leave of absence began, or in a comparable position, within the same office location, provided the office is in existence.

Section 9. Court Leave.

Employees will be granted court leave without loss of pay or reduction in leave to which they are otherwise entitled during periods of absence in connection with a judicial proceeding when serving as jurors or as witnesses on behalf of a party as prescribed by appropriate regulations.

Section 10. Tardiness.

Infrequent tardiness of less than one (1) hour may, in the judgement of the supervisor, be excused if the reasons given are acceptable. If the decision is made to charge the tardiness to leave, the employee is authorized to use annual or Leave Without Pay (LWOP) in increments of fifteen (15) minutes.

Section 11. Religious Observance.

The Agency will encourage a liberal leave policy to allow employees to participate in religious observances. Employees will be granted religious observance leave provided such leave usage does not interfere with the efficient accomplishment of the Agency's mission.

A. Religious Compensatory Time

The Agency shall afford the employees the opportunity to work compensatory overtime and shall grant compensatory time off to an employee requesting such time off for religious observances.

B. Granting and Repaying Compensatory Time Off

The employee may work such compensatory overtime before or after the granting of compensatory time off. Advanced compensatory time off should be repaid with the appropriate amount of compensatory overtime work with the leave year.

Compensatory overtime shall be credited on an hour-for-hour basis on authorized increments of fifteen (15) minutes. Appropriate records will be kept of compensatory overtime earned and used.

C. Non-Applicability of Premium Pay

The premium pay provisions for overtime work do not apply to compensatory time worked by an employee for this purpose.

Section 12. Bereavement Leave.

The employee may be granted:

- A. Up to one (1) day administrative leave for the employee to participate as a pallbearer, a member of an Armed Services firing squad, or a guard of honor in a funeral ceremony.
- B. Up to four (4) hours administrative leave for attending the funeral of an SBA employee.
- C. Liberal leave for attending the funeral of a former SBA employee.

Section 13. Family Friendly Leave.

Employees may use up to forty (40) hours of sick leave in a year under the Federal Employee Family Friendly Leave Act (FFLA); plus, up to an additional sixty-four (64) hours may be used if that number of hours does not cause the employee's sick leave balance to fall below eighty (80) hours. The amount of sick leave to which part-time employees are entitled is a pro-rated amount of full-time employees' entitlement, in accordance with Government-wide law and regulation. Leave may be used:

- A. The employee requests Family Friendly Leave by marking the appropriate box on the OPM Form 71, "Request for Leave or Approved Absence."
- B. To care for or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such a condition, would justify the use of sick leave by such an employee; and,
- C. For the purposes relating to the death of a family member, including making arrangements for and attending the funeral of such family member.

- D. For adoption related purposes, i.e., appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.
- E. This Section is a brief summary of employee entitlements under the FFLA. The laws, rules, and regulations shall be herein incorporated by reference at [Appendix G](#).

Section 14. **Family Medical Leave.**

Under the Family Medical Leave Act (FMLA), employees are entitled to twelve (12) weeks (480 hours) of LWOP during any twelve (12) month period. An employee may elect to substitute annual leave and/or sick leave, consistent with current laws and regulations, for any unpaid leave under FMLA, for one or more of the following reasons:

- A. The birth of a son or daughter of the employee and the care of such son or daughter;
- B. The placement of a son or daughter with the employee for adoption or foster care; the care of spouse, son, daughter, or parent of the employee who has a serious health condition;
- C. A serious health condition of the employee that makes the employee unable to perform the essential functions of their positions.
- D. The employee must invoke entitlement to Family and Medical Leave by checking the box on the OPM Form 71, "Request for Leave or Approved Absence." If the leave is foreseeable, the employee must provide notice of their intent to take family and medical leave not less than thirty (30) calendar days before leave is to begin or as soon as is practical. The Agency may request medical certification for Family and Medical Leave taken to care for employee's spouse, son, daughter, or parent who has a serious health condition or of the employee.
- E. This Section is a brief summary of employee entitlements under the FFLA and FMLA. The laws, rules, and regulations shall be herein incorporated by reference. See [Appendix G](#) for Family Leave Program reference. [Appendix G](#) is not meant to reflect every fact or point of law regarding the FFLA and FLMA. This is only meant as a quick reference guide.

ARTICLE 20

SAFETY AND HEALTH

Section 1. **General.**

The Agency agrees that the health and safety of employees is one of its highest priorities. The Agency will provide and maintain safe and healthful working conditions for all employees. The Agency will designate a safety and health representative in each Regional, District, Center, Branch office, and in Headquarters whose duty it shall be to report any unhealthful, hazardous, or unsafe conditions to the Regional or Headquarters Safety Officers as appropriate. The existence of safe and healthful working conditions or the lack thereof will be determined by the application of pertinent U.S. Government laws and regulations. The Parties recognize that guidance in this respect is received at any given time by the Agency from GSA and other external authority.

Section 2. **Unsafe Working Conditions.**

Consistent with its obligations under [29 C.F.R., Part 1960](#), the Agency will initiate prompt and appropriate action to correct any actual or potential unhealthy or unsafe working conditions which are observed or reported to it.

Section 3. **Duty Assignment.**

Any bargaining unit employee who is assigned duties which he or she reasonably believes could possibly endanger his or her health or safety may notify the appropriate supervisor of the situation. Reasonable belief in this respect shall be construed to be that belief which an adult, exercising normal prudence and knowledge, would be justified in holding under the particular circumstances attendant in the case in point. If the supervisor cannot solve the problem and agrees with the employee, the supervisor shall delay the assignment and refer the problem through the appropriate channels for action. In such cases, the employee will be given another assignment pending appropriate resolution of the problem.

Section 4. **Alternate Assignment Procedures.**

Should the supervisor and the employee not agree that a reasonable belief exists that unhealthy or unsafe conditions prevent immediate continued work on the assignment, the matter shall be referred immediately to the next higher level of supervision and to the appropriate health and safety officer at the Regional or Headquarters level. The employee shall also have the right to consult immediately with the appropriate Union Representatives in these circumstances. Pending consideration of the matter by the next higher level of supervision, the assignment shall be deferred. An employee who notifies his or her supervisor and then removes himself or herself from the perceived unhealthful or unsafe working conditions shall not be placed on sick or annual leave or leave without pay, or AWOL status, nor shall that employee be considered to be insubordinate; provided, however, that such self-removal must be accompanied by acts facilitating immediate assumption of other appropriate assignments to the employee from the supervisor. This authority of self-removal shall extend to situations which occur in the office environment of the employee and to situations and working

conditions which exist outside of the office by reason of the Agency's involvement in disasters, liquidation activities, and other programs which require activities to be carried on away from the Agency office.

Section 5. Decision Authority.

When an employee exercises this authority of self-removal, the authority to order the employee back on the job under the conditions complained of shall reside in the Regional Administrator or the official at the Assistant or Associate Administrator level in the Headquarters whose program area includes line authority over the employee. Nothing in this Section shall be construed to deny any employee the right to grieve any Agency action or to seek any other remedy otherwise available to the employee.

Section 6. Safety Equipment.

All required safety and personal protective equipment will be furnished and maintained by the Agency. The Agency shall determine what is required in this respect, but will receive and consider the views of the Union in making any such determination.

Section 7. Health Service.

The Agency shall receive and consider any views of the Union respecting health services provided by any authority on the Agency's premises. The Agency will periodically review the adequacy of these services.

Section 8. Medical Care.

The Agency agrees to use its best efforts to secure medical examination by the Public Health Service or other appropriate authority, at no charge to the employee, in cases where an employee is exposed to highly dangerous substances in the performance of official duties. Such examinations shall be voluntary on the part of the employee. The results of any such examination shall be communicated only to the employee and/or to a physician designated by the employee.

Section 9. Health Maintenance Services.

The Agency shall make available such health maintenance and physical examinations, through the Public Health Service or other appropriate authority, as may be consistent with applicable law and contracts between the Agency and the Public Health Service and consistent with fair and equitable allocation of available services among all Agency employees.

Section 10. Health and Safety Hazards.

Notwithstanding any provision in Sections 1 through 9, above, the Agency agrees to receive and consider at any time from the Union, notification of perceived health and safety problems. Such notification shall be furnished to the health and safety representative or officer in the location where the problem exists.

Section 11. **Health and Wellness Activities.**

SBA employees may elect an unpaid break of 30, 45, or 60 minutes. With prior supervisory approval, employees may take an extended unpaid break (“Health and Wellness Break”) to participate in health and wellness activities, achieve work-life balance, or accommodate personal needs within the scope of the flexible time bands, work hours, and office requirements. The Health and Wellness Break may not exceed an additional hour. Health and Wellness Breaks may be approved on an ad hoc basis or as part of the regular work schedule. Supervisors will provide reasonable notice to employees when office requirements make it necessary to revoke or temporarily suspend Health and Wellness Breaks. Employees must extend their work day by the equivalent amount of time (either 30, 45, or 60 minutes) should they elect to take a Health and Wellness Break.

ARTICLE 21
FEDERAL WOMEN'S PROGRAM

Section 1. General.

The Parties agree that the Agency Federal Women's Program (FWP) shall be administered in accordance with [Executive Order 11478](#) and applicable Office of Personnel Management regulations and instructions.

Section 2. Coordinators.

The Union may nominate individuals to serve as Federal Women's Program Coordinators in their respective areas of representation.

Section 3. Selection.

The Federal Women's Program Coordinators shall be selected and appointed by the Agency through a system which identifies interested and qualified personnel.

Section 4. Union Input.

The Parties agree that the Agency will receive and consider the Union's views with respect to development and implementation of, and significant changes to, the Federal Women's Program.

Section 5. Communication.

Normally, all discussions with the Union shall be carried out at the Regional level as appropriate. The discussions will be carried out either face-to-face, by telephone, or by written communication. This shall not include the payment of travel and per diem except as may be mutually agreed upon by the Parties.

ARTICLE 22

EQUAL EMPLOYMENT OPPORTUNITY

Section 1. **General.**

The Agency recognizes its responsibilities under law, and the Agency will strive to assure that all employees have equal employment opportunities and that no one is discriminated against because of race, marital status, color, national origin, sex, religion, age, or mental or physical disability. Additionally, no employee will be subjected to any form of reprisal for participating in the EEO process. The Agency recognizes their responsibility for promoting equal opportunity through a positive, continuing program.

Section 2. **Objectives.**

The Agency agrees that they will give full support to the equal employment opportunity policy and program objectives established by law and the comprehensive plans and programs established by the Agency to attain equal employment opportunity objectives. The Agency will work aggressively and effectively to assure that:

- A. Complaints of discrimination on any of the grounds listed in this Article are given prompt and fair consideration and that every effort is made to provide for just and expeditious resolution of each complaint;
- B. Persons who complain of alleged discrimination or who participate in the EEO process will not be impeded in their efforts, and are free from restraint, interference, coercion, discrimination, or reprisal; and
- C. Every employee has the right to work in an environment free of intimidating, hostile, offensive sexual overtures and sexual harassment. Sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as taking or refusing to take a personnel action, including promotion of employees who submit to sexual advances or refusing to promote employees who resist or protest sexual overtures.

Section 3. **Content of the Agency's EEO Management Directive 715.**

- A. The Agency's EEO Program is designed to promote equal employment opportunity in every aspect of SBA's personnel policy and practice in accordance with the applicable law and government-wide regulations. The Agency shall conduct a continuing campaign to eliminate discrimination from its personnel practices, policies and employment conditions consistent with [29 CFR 1614](#) and with [EEOC Management Directive \(MD\) 110 and 715](#). The Agency will have a positive, ongoing and results-oriented program of affirmative employment.
- B. Consistent with EEO regulations, the EEO program shall provide prompt, fair, and impartial processing of complaints at the informal and formal complaint stage. As part of the EEO program, Management will:

1. Establish a system through the MD 715 process for periodic evaluation of the effectiveness of the Agency's overall equal employment effort;
 2. Review Agency's EEO policies and procedures for consistency with applicable laws and regulations, and provide training opportunities for Agency managers, experts, and Union Representatives to ensure that EEO policies and procedures are current.
- C. Consistent with the Agreement and EEO regulations, the EEO program shall include, but not limited to:
1. Providing prompt, fair, and impartial processing of complaints at the counseling and complaint stage and expeditious adjudication of complaints of discrimination filed through the EEO administrative complaint process or the negotiated grievance procedure. The Agency shall provide through various media including at a minimum, the Agency's website and periodic emails) the names and current contact information of all relevant individuals responsible for counseling, processing, and adjudicating complaints. Persons who complain of alleged discrimination, who participate in presenting such complaints or who present information or evidence relevant to such complaints, shall not be impeded by the Agency in such efforts and will be free from restraint, interference, discrimination or reprisal.
 2. Conducting a continuing proactive campaign to remove every form of prejudice and discrimination from the Agency's personnel policies, practices, and working conditions, including establishing and maintaining training and education programs.
 3. Managing an anti-harassment policy and program intended to take immediate and appropriate corrective action, including the use of disciplinary actions to eliminate harassing conduct against employees, managers, and supervisors.
 4. Reviewing, evaluating, and training managerial and supervisory personnel to ensure the enforcement and implementation of the equal employment policy and program.
 5. Establishing a system through the MD 715 process for periodically evaluating the effectiveness of the Agency's overall equal employment efforts; taking appropriate disciplinary action against employees, managers, and supervisors who engage in discriminatory practices. Employees who participate in any process leading to such disciplinary action shall be free from reprisal.

Section 4. Distribution.

Upon request, the Agency agrees to provide a copy of the Management Directive 715 report and a copy of the Rights and Responsibilities of Individuals in the EEO Process which outlines the Agency's equal employment opportunity complaints procedures.

Section 5. Posting.

The Office of Diversity, Inclusion and Civil Rights (ODI&CR) telephone number and office locations will be posted on all official bulletin boards within their areas of responsibility.

Section 6. **Selection.**

The Office of Diversity, Inclusion and Civil Rights (ODI&CR) is required to have a sufficient number of qualified Equal Employment Opportunity (EEO) Counselors as required by Federal regulations. The EEO counseling program is a vital function of the Agency's efforts to prevent discrimination in the workplace. The ODI&CR office recruits, selects, trains and assigns SBA employees to serve as EEO Counselors. Whenever a need to recruit a collateral duty EEO Counselor occurs, the appropriate Union Representatives will be notified and afforded an opportunity to nominate candidates to fulfill this requirement. Nominations from Headquarters and Field Officers are submitted directly to the AA/ODI&CR with the appropriate supervisory approval that the nominee may spend up to 20% of their time as a collateral duty EEO Counselor. The AA/ODI&CR will give due consideration to any such nominee when selecting an individual as an EEO Counselor. All EEO Counselors will be trained in accordance with the applicable regulations and procedures.

Section 7. **Representation.**

An Employee has the right to be accompanied, represented and advised by a representative of his or her choice at any stage of the complaint procedure. The representative must be designated by the complainant in writing and may be changed by written notification to the EEO Counselor and/or the Office of Diversity, Inclusion and Civil Rights Compliance (EEO&CRC). If the Employee is an employee who chooses another employee as a representative, and that employee is willing to represent the Employee and is otherwise available, the designated representative must not be denied permission to do so, unless such representation would constitute a clear conflict of interest or permission is not granted for other valid reasons.

- A. The Employee and the Employee's representative will be informed that actions which may be raised under either the EEO complaint procedure or the Negotiated Grievance Procedure, but cannot be raised under both procedures.
- B. If it is determined that the employee has filed the same issue under both procedures the employee and their representative will be notified that only one procedure can be pursued. If the Office of Diversity, Inclusion and Civil Rights determines that the Employee has filed a grievance first (and thus elected the Grievance Procedure), the ODI&CR will dismiss the employee's later-filed EEO Complaint.

Section 8. **People with Disabilities.**

In accordance with the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, as amended, the American with Disabilities Act (ADA) Amendments Act of 2008; and other Government-wide rules and regulations pertaining to the employment of individuals with disabilities, SBA is committed to provide reasonable accommodations to qualified employees.

- A. SBA will offer reasonable accommodation to the known physical or mental limitation of qualified individuals with a disability, regardless of type of appointment, in accordance with law, unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of SBA's program as defined in [29 C.F.R. 1614.203](#).

- B. If requested, the supervisor will provide an employee with information on filing a request for reasonable accommodation. An employee may request reasonable accommodation orally or in writing. The supervisors the appropriate management official with authority to engage in an interactive process with the employee to discuss reasonable accommodation.
- C. The parties recognize that individual accommodations will be determined on a case-by-case basis, taking into consideration the employee's specific disability, existing limitations, essential job functions, the work environment, and any undue hardship imposed on the operations of SBA's program. Qualified employees with disabilities may request specific accommodations.
- D. The Agency agrees that reasonable accommodation means an adjustment made to a job excluding the essential functions and/or the work environment that enables a qualified person with a disability to perform the duties of that position.
- E. Should a non-probationary employee become unable to perform the essential functions of his or her position even with reasonable accommodation due to a disability, the Agency shall offer to reassign the employee when a funded vacant position is available and the other conditions in [29 C.F.R. 1614.203\(g\)](#) are met.
- F. For employees with disabilities, job restructuring is one of the principal means by which some qualified workers with disabilities can be accommodated. The principal steps in restructuring a job are:
 - 1. Identify which factor, if any, which makes a job incompatible with a worker's disability.
 - 2. If a barrier is identified in a nonessential job function, it may be eliminated so that the capabilities of the person may be used to the best advantage.
 - 3. Job restructuring does not alter the essential functions of the job, rather, any changes made are those which enable the person with a disability to perform those functions.
- G. Both parties agree that in many cases, changes in the work environment enables persons with disabilities to more effectively perform their job duties. Alterations may be, but not limited to for example: raising or lowering equipment, installing special holding devices on desks, benches, chairs or machines. With respect to the modernized systems environment, examples of accommodations are:
 - 1. The surface that holds the terminal will be adjusted to a level suitable to the employee's needs.
 - 2. The keyboards will have "light touch."
 - 3. Guards and other adaptive devices will be considered.
 - 4. Operational and training materials will be available in Braille.
 - 5. Lap trays will be considered.
 - 6. Computer based voice-output systems or VDT screen enlargers will be provided for visually impaired employees.
 - 7. Hardware and software will be configured to accommodate color blindness (blinking cursor, highlighting).
 - 8. Printer switches will be available in "light touch" and located in an easily accessible location.

Section 9. **Reporting.**

The Employer agrees to post and provide Council 228 President with available statistical data and reports on the employment of people with disabilities subject to the disclosure requirements of appropriate laws and regulations on an annual basis (MD715 Report) and will post certain statistical information concerning complaints of employment discrimination filed by employees, former employees and applicants for employment on a quarterly basis (No Fear Report).

Section 10. **Settlements.**

Where allowed under law, Council 228 and the appropriate Regional Vice President will be notified by ODI&CR and given an opportunity to be present at all settlement discussions concerning employee EEO complaints in order to ensure conformance with the Master Agreement and assess any effects on other bargaining unit employees.

ARTICLE 23

TELEWORK

Section 1. **General.**

A. **Definition.**

Telework refers to a work arrangement under which an employee regularly performs the duties and responsibilities of their position, and other authorized activities, from home or another worksite removed from the employee's regular place of employment.

B. **General.**

Eligible employees of the Agency may participate in telework to the maximum extent possible without diminished employee performance or Agency operations. Telework requires collaboration between management and employees to ensure success. It is the employee's responsibility to apply and gain approval from the Authorizing Agency Official (AAO i.e. – Administrator, Management Board Members, Regional Administrators, District Directors, Center Directors and Area Office Directors) through submitting Telework Agreement SBA Form 2190. An employee meeting eligibility requirements who has an approved Telework Agreement may work one or more days at home or at an approved Alternate Duty Station (ADS) rather than in the traditional office. Such an ADS can include a government or private Telework center, or the employee's home, to name a few. The approved Telework Agreement shall provide the maximum number of days and/or hours that an employee may telework each pay period. Teleworkers and non-teleworkers will be treated the same for the purposes of:

1. Periodic appraisals of job performance of employees;
2. Training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;
3. Work requirements; or
4. Other acts involving managerial discretion.

Section 2. **Types of Telework Agreements.**

A. Pre-determined (Fixed) Telework Agreements. This describes telework that occurs on a regular, recurring, and ongoing basis on an established schedule of at least one day per week.

1. Long-Term Arrangements. These agreements require a pre-determined schedule including the work days and duty hours that the employee is teleworking. The day(s) designated for telework must be the same day(s) each week. However, with approval from the employee's supervisor, the day(s) may be changed. An employee who has an approved Telework Agreement with a pre-determined fixed schedule may come into the office any day that they are scheduled to telework without affecting their approved Telework Agreement. When employees are requested to report to their Official Duty Station (ODS) for unscheduled events such as training, conferences, meetings that cannot be handled over a teleconference, or

other emergent work requirements, they will be provided reasonable advance notice and time to report. Make up days may be worked out between the employee and supervisor.

- B. Intermittent (Ad-Hoc) Telework Agreements. These agreements are suitable for employees who have an occasional need to work at home on projects/assignments having short turnaround times and/or requiring intense concentration for which a pre-determined schedule is not expected because the assignments are usually project driven and do not reoccur on a pre-determined basis. Employees with an approved intermittent Telework Agreement may also telework in response to an Agency emergency situation. With an approved ad-hoc Telework Agreement the employee will use SBA Form 2218 ([Appendix H](#)) to request ad hoc telework days from their supervisor.
- C. Short-term telework arrangements occur when:
 - 1. The ODS is not usable, e.g., during office renovations or relocation; or
 - 2. During short-term convalescence from an injury or illness for up to sixty (60) days. If longer than sixty (60) days, the employee's telework status will be reevaluated. Employees requesting telework because of short-term illness or injury must complete and submit a SBA Form 2218 to management official along with appropriate supporting documentation (i.e., an email) for three (3) days or less. Supporting medical documentation for more than three (3) days will be needed. Employees who are approved for telework in these situations are expected to meet the requirements of the Telework Agreement.

Section 3. **Eligibility.**

No position, other than Wage Grade positions, is excluded from the Telework program. Requests to participate in the telework program will be decided in a fair and equitable manner. AAO's shall not engage in improper discrimination against any employee with respect to the approval/denial to participate in the telecommuting program. Individual employees will be ineligible to telework if any of the following conditions applies:

- A. The employee's current rating of record is less than three (3) "Meets Expectations." The employee must have, and continue to maintain, a performance level of at least (3) "Meets Expectations" in order to participate in the program;
- B. The employee's duties do not lend themselves to being accomplished offsite. Denials on this basis must demonstrate that circumstances directly related to the accomplishment of that work unit's mission prohibit the performance of that position anywhere but in the Agency workplace;
- C. The employee is a trainee or summer hire employee;
- D. The employee is on leave restriction;
- E. The employee has not signed the Self-Certification Safety Checklist for Teleworking ([Appendix H](#));
- F. The employee did not sign the Privacy Act Authorization ([Appendix H](#));
- G. A new employee is within the first year probationary period (An AAO has the option to waive this exception.);

- H. The employee has received a disciplinary action in accordance with [Article 37](#) or adverse action in accordance with [Article 38](#) in the six (6) months immediately preceding their application for telework;
- I. The employee does not have the necessary and appropriate technological components and equipment to perform the work;
- J. The employee's position requires on a daily basis (i.e., every work day), direct handling of secure materials. Secure materials are those materials for which there exists a written policy (at the Government, Agency, or organizational level) restricting the use/access outside of a specific government installation or area within a government installation, and include personally identifiable information (PII). A copy of this written policy will be provided to the employee upon request.

Section 4. Denial of Requests to Telework.

The AAO will act upon the employee's request for Telework Agreement by either approving or denying the request on SBA Form 2190 within ten (10) working days of receipt of the request. A decision by the AAO not to approve the telework request or a decision by the AAO to approve ad-hoc or intermittent telework requests when the employee submitted a request for a pre-determined Telework Agreement will be considered a denial by the AAO and the denial will be provided in writing to the employee on SBA Form 2190. The employee may forward the denied request to the Telework Review Board (TRB) within fifteen (15) calendar days of receiving the AAO decision. The TRB will review the denied request and provide the employee with the Agency's final decision in writing within seven (7) work days of the receipt of the request for review. If the TRB's decision is to deny the request, the Union may invoke arbitration. The expedited arbitration process in [Article 40, Section 14](#) of this Agreement will be used.

Section 5. Telework Agreement.

The Telework Agreement under which an employee will perform work must be clearly set forth in writing and signed by the respective AAO and employee. The employee will be provided with a copy. The approved Telework Agreement will, at a minimum, contain all of the items listed in [Appendix H](#) and identify/specify the days and hours the employee is allowed to work away from the office. An employee may submit a written request to change their Telework Agreement once each calendar quarter as specified in [Article 15, Section 4\(a\)](#) of this Agreement. The Agency will respond to the employee's request within five (5) working days.

Section 6. Computer and Telecommunications Equipment.

- A. The intent of the Agency is to replace existing desktop computers with Agency issued laptops to be used for official business, including telework. The Agency will be responsible for servicing the SBA issued equipment provided to the employee. The employee will bring the equipment to the ODS for servicing.

Any employee provided with a new Agency issued laptop shall be required to return any excess equipment issued under section 6(b) and will not be eligible for any other excess/extra equipment under section 6(b).

- B. To the degree that the Agency has excess/extra equipment on hand, Management Board Members, District Directors, Regional Administrators, Center Directors, Area Directors, etc., may make such equipment available – with preference to those eligible teleworkers who do not own a desktop or laptop computer. The Agency will be responsible for servicing the equipment provided to the employee. The employee will bring the equipment to the ODS for servicing. Requests for such equipment will be made through the employee’s immediate supervisor.
- C. The employee may opt to be reimbursed for long distance telephone calls approved on the appropriate Agency or Government-wide form.
- D. In accordance with SBA standard procedures, employees may make copies of sensitive material (as distinct from secure material) they need for their work assignments and bring them to ADS.

Section 7. Training.

Employees interested in telework must complete a mandatory tutorial training module which will be provided by the Office of Human Resources Solutions. This training can be web based. Interested employees will be allocated adequate duty time to complete this training.

Section 8. Problems Affecting Work Performance.

- A. Employees will inform managers whenever problems arise at the telework site which adversely affect their ability to perform work. Examples could include situations such as equipment failure, power outages, telecommunications difficulties, etc. In such cases, the employee may engage in the work described in section 8(b), seek technical assistance described in section 8(b) below, request leave in accordance with [Articles 17 \(Annual\)](#), and [19 \(Other Leave\)](#) or report to the ODS.
- B. In the event that a teleworking employee is unable to remotely connect to the agency system, the teleworking employee shall work on tasks or projects not requiring remote access to the Agency system network. Such tasks may include, but not limited to, work on physical files the employee brings to their ADS, or work on training that may be completed without remote access to the Agency system network. Employees experiencing technical issues while teleworking shall contact the established OCIO helpdesk.

Section 9. Communication.

Two-way communications between employees and supervisors is essential to a successful telework arrangement. Employees who telework may prepare a report for their supervisor on their activities, under the same conditions as if they were not teleworking.

Section 10. Termination of Telework Agreements.

Participating in the telework program will be voluntary. Employees may terminate their Telework Agreement at any time. If management decides to terminate an employee’s Telework Agreement, management will give the employee and the Regional Vice President or designee five (5) work days advance written notice before termination. This notice shall provide the rationale for management’s decision to terminate the employee’s participation in the program. Employees will not be terminated

from participating in the telework program without just cause. The following reasons are justification for terminating and employee's Telework Agreement:

- A. The agreement no longer supports the mission of the organization/office (a written justification explaining the basis for the decision must be provided to the employee).
- B. Performance rating drops to below a level (3) "Meets Expectations." If an employee improves their performance, the AAO may at any time return the employee to regular telework without waiting until the next review cycle. Under these circumstances, the employee will not be required to submit another telework application. E-mail notice to an employee will suffice.
- C. A reassignment/detail causes a change in the nature of the work which prevents the employee from teleworking.
- D. The employee fails to maintain a continuous communication link, via telephone or e-mail with the office.
- E. It is determined that the costs of the agreement have become impractical (a written justification explaining the basis for the decision will be provided to the employee).
- F. Employee has not complied with the terms of the agreement.
- G. Normally, employees will not be removed from participation for a single or minor infraction of the Telework Program requirements; however, employees will be removed if they receive an adverse or disciplinary action based on cause that has a nexus with their ability to telework efficiently and effectively.

Section 11. Information to the Union.

With the employee's approval, a copy of the employee's applications for telework and a copy of the action taken on the applications will be provided to the Council President within seven (7) working days of a request from the Union. On request, the Agency will provide the Union with an annual report on telework participation, describing participation in each office by Department/Division and grade.

Section 12. Hours of Work and Leave.

Employees performing work at the ADS are subject to the same workday requirements as they would be if they were performing work at the ODS. Employees will continue to be covered by all provisions of [Article 16 \(Overtime\)](#), [Article 17 \(Annual\)](#), [Article 18 \(Sick\)](#) & [Article 19 \(Other Leave\)](#).

Section 13. Emergency Closing/Late Openings/Early Dismissals.

- A. On a day when an employee is scheduled to work at the ADS and their ODS building is closed for all or part of the day, the employee is normally required to perform work at the ADS.
- B. When the ODS building is closed, the employee may be excused from duty under the following conditions:
 - 1. The employee's ADS is the employee's home an emergency exists there that interferes with the employee's ability to perform work (e.g., distribution of electricity, loss of heat, etc.);

2. An emergency creates a personal hardship that prevents his/her working successfully at the telework site (e.g., related child care, etc.);
 3. The employee's duties are such that he/she cannot continue to work without contact with the ODS.
- C. If the ODS building is closed and the employee is scheduled to work at a telecenter (i.e., not the employee's home), and that telecenter is also closed for any reason, the employee will be granted administrative leave.
 - D. If the ODS building is open and the employee is scheduled to work at a telecenter (i.e., not the employee's home), and that telecenter closes early for any reason, the employee may be granted administrative leave.
 - E. If employees at the ODS are granted early dismissal for a holiday (e.g. Thanksgiving, Christmas Eve, New Year's Eve), the employee working at an ADS will also be dismissed early.
 - F. AAOs should discuss these issues with employees before the employees begin teleworking.

Section 14. **Grandfather Clause.**

Employees who are teleworking on an approved agreement as of the effective date of this Agreement may remain on telework and will not have to reapply. To the extent any provisions of those Telework Agreements do not conform to this Article, the provisions of this Article will govern.

ARTICLE 24
VETERANS RECRUITMENT APPOINTMENTS

Section 1. General.

In accordance with [5 C.F.R. 307.102\(a\)](#), the Agency has the responsibility to provide the maximum of employment and job advancement opportunities to eligible veterans of the Vietnam era and the post-Vietnam era who are qualified for such employment and advancement.

Section 2. Appointment.

A Veterans Recruitment Appointment (VRA) is made to enhance employment opportunities for veterans by providing an excepted non-competitive appointment. Employees with VRA appointments, who satisfactorily complete two (2) years of substantially continuous service under the VRA program, including training when required, shall be converted to career-conditional or career employment, as appropriate, pursuant to Public Law 107-288 and applicable Government-wide regulation.

ARTICLE 25 **WORKERS' COMPENSATION**

Section 1. General.

It is the responsibility of employees to report any injury or illness sustained in the performance of their duties to their supervisor as soon as possible, in accordance with policies of the Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor. When the Agency becomes aware that an employee has suffered an occupational illness or an injury in the performance of their duties, the supervisor or appropriate administrative or personnel official will immediately counsel the employee as to their right to file for compensation benefits and the procedures for filing claims. The appropriate forms will be provided to the employee or their representative.

Section 2. Medical Treatment.

When an injury is reported to the supervisor, the supervisor shall immediately inform the employee that he or she may go to the health unit, if any, on the premises, or at the employee's option, to a physician or hospital of the employee's choice. In emergency cases, when the employee is unable to indicate a preference, the Employer shall arrange for appropriate emergency care.

Section 3. Leave Coverage.

- A. At the end of such period of time as may be provided by statute for the carrying of occupationally ill or injured employees in a regular pay status, the affected employee may elect to be placed on accrued sick or annual leave or without pay pending a decision on their compensation claim.
- B. Once the Department of Labor has approved their claim for compensation, an employee has the right to request a leave buy back for the leave used during recovery from a job-related injury or illness. Such a request must be approved by the Department of Labor (DOL). Before the Agency can re-credit the leave to an employee, the employee must repay the Agency for the leave that has been used. The Personnel Servicing Department (PSD) shall process the change into the payroll system within two (2) full pay periods from the receipt of the repayment.

Section 4. Representation.

An occupationally ill or injured employee shall have the right to representation of their choice. Any files maintained by the Employer relative to the employee's claim shall be available for review by the employee or their designated representative.

Section 5. Non-discrimination.

The Employer shall not discriminate against any employee because the employee has sustained an injury in the performance of their duties, or because they have exercised any rights under this Article or under programs administered by OWCP, DOL.

ARTICLE 26
CHARITY DRIVES

Section 1.

The Employer and the Union mutually agree that employees will be encouraged to participate in charity drives. In no instance shall the Employer or the Union exercise undue pressure on an employee to contribute to a charity, nor shall any reprisal be taken against an employee who refrains from participating. It is further agreed that no lists will be kept showing the names of the contributors and amounts of their contribution except those that are necessary to administer the program properly.

ARTICLE 27
POSITION DESCRIPTIONS, POSITION REVIEW AND CLASSIFICATION

Section 1. Position Description.

- A. Each position covered by this Agreement that is established or changed must be accurately described in writing and classified to the proper occupational title, series and grade. It is not intended to list every duty an employee may be assigned, but reflects those major duties that are regular and recurring. Each employee will be given an accurate position description (PD) of the position to which they are assigned at the time of the assignment. The phrase generally worded as “other duties as assigned” or “other related duties” contained in the position description shall be interpreted to mean “tasks that are normally related to the position and are of an incidental nature or unique assignments that are temporary in nature and do not impact title, series, or grade level.” Management may assign incidental duties that are appropriate.
- B. Position descriptions will be kept current and accurate, and positions will be appropriately classified. Changes to a position will be incorporated in the PD to assure that the position is correctly classified/graded to the proper title, series, and grade. When significant changes or modifications of duties and responsibilities occur, the PD will be amended and/or updated to reflect such changes. Normally, this will be done within forty-five (45) calendar days of when the change or modification takes place. When a change is made to an employee’s PD, the Agency will provide the employee with a copy. When a change results in a personnel action, the electronic Official Personnel Folder (eOPF) system will generate an email notification to the employee informing that a document was added to their eOPF.

If an employee believes that their PD is not a complete and accurate description of the duties that the Agency has assigned him/her, the employee will first discuss the matter with their immediate supervisor. If the employee continues to believe that their PD is not complete and accurate, they may file a grievance under [Article 39](#) of this Agreement. It is understood that such a grievance may only challenge the completeness and accuracy of a PD. It may not challenge the employee’s position title, series, or grade.

Section 2. Position Review and Classification.

A. Agency Initiated

The Agency may conduct a position review, at its own initiation, as outlined below:

1. Informal Review

A supervisor may conduct a cursory review of a position as necessary to determine the duties are current and accurately described. Such reviews may be conducted:

- a. In the course of a performance review under [Article 28, Performance Appraisal System](#);
- b. When a vacancy occurs;

- c. In connection with a personnel action;
- d. At the employee's request, when the employee believes his/her position description is not accurately described; or
- e. At such other time as may be necessary.

If the supervisor determines that changes are required, the supervisor will contact the Servicing Human Resources office (SHRO) for guidance. The SHRO will discuss the changes proposed by the supervisor and determine the impact to the classification of the position. The employee may discuss the PD with the supervisor and/or SHRO when a question arises.

2. Formal Review

The Agency, a program head, a supervisor, or SHRO may conduct a comprehensive and systematic review of a position(s) as necessary to determine the duties are current and accurately described. Such reviews may be conducted:

- a. When a group of bargaining unit positions will be reviewed;
- b. To assist the SHRO in the evaluation and classification of a position
- c. For a systemic position review established by the Agency; or
- d. For consistency reviews identified by the SHRO or OPM.

If the review determines that changes are required, the supervisor will contact the SHRO for guidance. The SHRO will discuss the changes proposed by the supervisor and determine the impact to the classification of the position. In a formal review, the Agency will notify the Union when significant changes are made to the classification of bargaining unit position(s) as a result of reorganization, a change in major duties, a change in classification standards, or a change in the application of classification standards.

B. Employee Request

1. If an employee believes that his/her position is not correctly classified, after the position description is found to be complete and accurate, the employee should first discuss it with the supervisor. If the supervisor believes that the position should be re-described and/or re-evaluated, the supervisor should document the changes to the current position description and submit the revised PD to the SHRO for classification.
2. If the supervisor believes that the position is classified correctly, the employee should be so informed in writing. The employee may then request that a desk audit be performed.

C. Desk Audit

1. A desk Audit is no more than a conversation or interview with the person in the job, or with the supervisor of the position, or sometimes with both, usually at the work location. The purpose of an audit is to gain as much information as possible about the position. This information, combined with an analysis of other available material about the job and the organization, can help to verify details and resolve questions.

2. When disagreements concerning the accuracies of a position description cannot be resolved by the employee and the supervisor, the employee may request in writing to the supervisor for a desk audit to be performed. The supervisor will respond in writing of their approval and will submit the request for a desk audit to the SHRO. If the supervisor disapproves the request, a narrative explanation will be provided to the employee.
3. The desk audit may be conducted by telephone or personal interview with the employee(s). The interview will be scheduled for a reasonable time, which is mutually acceptable between the employee and the HR Specialist who will perform the interview. The employee will be notified seven (7) days in advance of the interview, and it will normal begin within forty-five (45) days of the request. At the time of the notice, the Agency will provide the employee with a list of questions to be reviewed during the interview and a list of items the employee should be prepared to have at the interview. The employee may present oral and/or written descriptions of the work they are currently performing to the HR Specialist. This may include copies of formal work products that the employee submitted to his/her supervisor, if available. Any document requested by the HR specialist from the employee should be presented during the interview. Work shall not be reassigned for the purpose of avoiding reclassification during an interview; however, the Agency retains its management right to assign work.
4. When a desk audit is performed, a written summary of the findings shall be presented to the Union within ninety (90) days after the audit is initiated or sooner if completed.

D. Classification Appeals

If an employee does not agree with the classification of their position, the employee may file a classification appeal in accordance with controlling regulations, but cannot file a grievance under [Article 39](#). General Schedule (GS) employees may appeal their classification directly to the Agency or to the Office of Personnel Management (OPM). If they initially file the appeal with the Agency and they do not agree with the Agency's decision, they may appeal it to OPM. Federal Wage System employees must first appeal their classification directly to the Agency. If they do not agree with the Agency's decision, they may appeal it to OPM. Upon request from an employee or Union Representative, the SHRO will provide guidance on procedures and requirements for appealing classification decisions to OPM.

Section 3. Union Participation.

1. The Union will be provided 15 day advance notice of a formal position review in the event that groups of bargaining unit positions are scheduled for such reviews. The Union will advise the Agency of its concerns regarding particular groups of bargaining unit positions scheduled for review, and the Agency will give consideration to such concerns in performing such reviews.
2. An employee may request Union representation in any position review, including any desk audit and be apprised of the results.
3. The Agency shall furnish a copy of any official PD within the bargaining unit to the Union related to representational duties in specific cases, consistent with applicable law, regulation and this Article, upon request. Normally the copy will be furnished to the Union within two (2) weeks of the request.

ARTICLE 28

PERFORMANCE APPRAISAL SYSTEM

Section 1. General Provisions.

There are few activities in an organization that have greater importance to its overall success than the method an organization chooses to evaluate and manage its personnel resources. The Parties agree that performance management for bargaining unit employees covered by SBA's Performance Appraisal System (PAS) will be carried out in accordance with this Agreement. Where there are conflicts between SBA policies, procedures, and SOPs on performance appraisal and this Agreement, the provisions of this Agreement will prevail.

This Article provides for the following:

- Personal Business Commitment (PBC) Plan which includes the employee's critical elements and performance standards;
 - Communication of personal business commitment plan to employees;
 - Establishment of methods and procedures to appraise employee performance; and
 - Correcting employee deficiencies.
1. The Parties agree that PAS will be administered in a fair, measurable, achievable, understandable, verifiable, reasonable, and equitable manner so as to permit the accurate evaluation of employee job performance. Ratings will be based upon employee performance against critical elements and performance standards, and definitions for applicable rating levels, as described below in this Article. Appraisal results will be objectively and consistently applied when used as a basis for personnel decisions. Appraisal of employee performance will be conducted in accordance with applicable laws and regulations, including, but not limited to: The Privacy Act, [5 U.S.C. Chapter 43](#), [5 C.F.R. Part 430](#), and the Civil Rights Act of 1964, as amended, and this Agreement.
 2. Definitions:
 - a. **Appraisal** is the act or process of reviewing and evaluating the performance of an employee against the established and described critical elements and standards.
 - b. **Appraisal Period** is the period of time established by an appraisal system for which an employee's performance will be reviewed and evaluated, and a rating will be prepared.
 - c. **Critical Element** is a personal business commitment, which is a work assignment of the employee's position or responsibility that is of such importance that Unacceptable performance on the element would result in a determination that the employee's overall performance is "Unacceptable." A critical element is not established for a non-critical work assignment or responsibility.

- d. **Deficient Performance** is the performance of one or more critical elements of an employee's position in a manner which fails to meet the performance standard for "Meets Expectations" performance.
- e. **Interim Performance Rating** is a rating of the employee's performance on the assigned and discussed critical elements when, during the appraisal period:
 - i. An employee or employee's rating official changes positions due to promotion, reassignment, or transfer;
 - ii. An employee's rating official retires; or
 - iii. An employee has been under performance standards and completed a detail or temporary promotion that lasted for at least 90 days during the appraisal period.
- f. **Job Specific Element** is a critical element in the employee's PBC Plan that is a specific duty or responsibility directly related to and based upon the requirements of the employee's position. The job specific element may be linked to organizational goals and/or SBA/Office strategic plans.
- g. **Non-critical Element** means a dimension or aspect of individual, team, or organizational performance, exclusive of a critical element, that is used in assigning a summary level. Such elements may include, but are not limited to, objectives, goals, program plans, work plans, and other means of expressing expected performance.
- h. **Performance Appraisal** is the written assessment of an employee's work performance against the PBC Plan critical elements and performance standards, which have been established, discussed and communicated to the employee.
- i. **Performance Standard** is the management-approved expression of the performance threshold(s), requirement(s), or expectation(s) that must be met to be appraised at particular level of performance. A performance standard may include, but is not limited to, quality, quantity, timeliness, and manner of performance.
- j. **Quarterly Progress Review** is a review that requires the supervisor to give the employee feedback on their progress and performance against performance standards, as well as obtain the employee's assessment of their efforts, accomplishments and needs.
- k. **Rating Official** is the first-line supervisor to whom the employee reports. This official is responsible for establishing and communicating to the employee the critical elements and performance standards of the position, assigning and supervising work, appraising the employee's performance, and determining the rating of record.
- l. **Reviewing Official** is the rating official's immediate supervisor who is responsible for supervision of the work of the rating official. The reviewing official shall be at a higher level in the organization than the rating official and will be an individual who is knowledgeable about

the employee's work performance. The reviewing official will review and sign off on the performance of any employee rated at the "Outstanding" or Unacceptable level.

- m. **Rating of Record** is the performance rating prepared at the end of an appraisal period for performance of Agency-Assigned duties over the entire period and the assignment of a summary level within a pattern specified in [5 C.F.R. Part 430.208\(a\)](#).
- n. **Summary Rating Levels** are the levels that will be used to rate the employees on each of their individual PBC critical elements and standards.
- o. The Agency has informed the Union that it has determined that the following numerical averages will be used when determining the overall rating of record.
 - i. **Outstanding (Level 5)**. The average of the individual critical element ratings must be at or between a numerical score of 4.6 to 5.0. No critical element may be rated lower than Exceeds Expectations (Level 4). A rating at this level requires a written justification.
 - ii. **Exceeds Expectations (Level 4)**. The average of the individual critical element ratings must be at or between a numerical score of 3.6 and 4.59. No critical element may be rated lower than Meets Expectations (Level 3).
 - iii. **Meets Expectations (Level 3)**. The average of the individual critical element ratings must be between 3.0 and 3.59. No job specific critical element may be rated lower than Meets Expectations (Level 3). A rating of this level warrants the granting of a within-grade increase in recognition of the employee's performance at an acceptable level of competence.
 - iv. **Marginal (Level 2)**. The average of the individual critical element ratings must be at or between a numerical score of 2.0 and 2.99. However, a Below Expectations rating on the job specific critical element will result in a rating at this level (Level 2). No critical element may be rated lower than Below Expectations (Level 2). A rating at this level requires written justification.
 - v. **Unacceptable (Level 1)**. If one or more critical element(s) is/are rated Fails to Meet Expectations (Level 1), the overall rating will be Fails to Meet Expectations and corrective action is required. A rating at this level requires a written justification.

Section 2. **Establishing Critical Elements and Performance Standards.**

1. The employee will be provided an opportunity to participate in the establishment of the job specific performance standard of his/her PBC Plan prior to finalization of the plan. At the beginning of the rating period, when PBCs are established, the supervisor, in conjunction with the employee, will meet and establish a PBC Plan that will be communicated to the employee and/or communicate the critical elements and performance standards will remain the same for the new rating period. The employee will be given the opportunity to review the proposed job specific critical element and standard for his/her position and will be allowed up to seven (7) calendar

days, exclusive of any official travel or approved leave, to offer comments and suggestions prior to their PBC Plan being officially finalized and provided to them. The employee acknowledges receipt of the PBC Plan by affixing an electronic signature and date in the Agency's automated performance management system. Such signature does not indicate whether the employee concurs or not, but indicates that the elements and standards were discussed with the employee.

2. Each time an employee is assigned to a new position, the Agency will communicate the specific critical elements and performance standards of the position that will apply to the employee, and the employee will be afforded an opportunity (up to seven (7) calendar days) to review, discuss and make suggestions for the new job specific element and standard before their new PBC Plan is officially finalized and provided to them.
3. Within 30 days after entry into the position and/or when an employee's position description or performance plan is changed, an employee will receive a copy of the position description and performance plan. The performance plan will set forth the specific critical elements and standards, at the "Meets Expectation" level. Employees and supervisors are jointly responsible for identifying any facts and circumstances which may need to be taken into account in the development or application of the job specific element and performance standard for appraising performance. Throughout the appraisal period, an employee may request additional clarification and direction from his/her supervisor concerning questions about performance. This will not be viewed negatively by the supervisor. Employees will be informed of the relative weights assigned to each critical element at the start of the performance period, and within five (5) work days of any changes that are made during the year.
4. All aspects of the PBC Plan will be communicated to the employee at the time the employee receives it. When an employee is expected to meet a numerical standard that is different from that which has been previously communicated, this standard will be communicated in writing via the Agency's automated performance management system. The rating official will clarify any questions the employee has concerning his/her critical elements and standards, such as explanations or examples of what the employee must do to perform at the Meets Expectations level and above.
5. All performance standards will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the job in question for each employee or position. To the maximum extent feasible, performance standards must be based on objective, reasonable, and measurable criteria, and provide a clear means of assessing whether objectives have been met. Standards will be specific, measurable, relevant, and timely, and describe work and responsibilities that are within the employee's control.
6. The Agency has informed the Union that it has determined that there shall be a minimum of three (3) critical elements for each position, unless the duties and responsibilities of the position are such that only a lesser number can be validly identified. Critical elements and standards shall be applied in a fair and equitable manner.
7. All changes in working procedures must be communicated orally or in writing to employees before the employee can be held accountable for the change. If instructions were previously in

writing and are changed, the Agency will issue new written instructions immediately or as soon as possible.

Section 3. Quarterly Progress Reviews.

- A. An employee's performance against the elements and standards should be monitored by the rating official throughout the rating period, and the rating official should communicate with the employee about problems, successes, and progress as warranted. The Parties agree not to use measures of program effectiveness to evaluate or appraise an employee's individual performance.
- B. At a minimum, all employees will receive three (3) quarterly progress reviews and one final annual review. During quarterly progress reviews, which will take place at approximately the middle of January, April and August, both the employee and rating official will exchange information and the employee may provide the supervisor with a summary of their accomplishments for the review period concerning the performance of the employee as compared to the established critical elements and performance standards found in the PBC Plan. At the review, the employee will discuss information that impacts their performance. The review will include identification and consideration of any formal or informal assistance and/or training felt to be helpful in aiding the employee to accomplish his/her PBC Plan.
- C. Progress reviews will be documented in the Agency's performance management automated system and the Agency will provide a copy of the progress review to the employee upon request.
- D. If an employee's performance falls below the Meets Expectations level, the supervisor must describe in writing via the Agency's automated performance management system the specific critical element(s) that is/are deficient, how the employee can improve performance, and any assistance provided in the quarterly review.

Section 4. Completing Performance Appraisal Ratings.

- A. An employee's performance rating will be based strictly upon his/her performance against those critical job elements that have been communicated to the employee and apply during the appropriate performance rating cycle.
- B. Employees will receive a rating of record annually that is prepared by the employee's rating official and will be documented in the Agency's performance management system.
- C. When rating employee performance, the rating and reviewing officials will consider the impact of matters that could not have been reasonably forecast or are beyond the control of the employee. In the application of standards to individual employees, the Agency will not hold employees accountable for mitigating factors such as lack of funds, lack of resources, lack of training, or frequent authorized interruptions of normal work duties.
- D. The rating period shall normally coincide with the beginning and ending dates of the fiscal year. Employees will normally receive a rating of record on an annual basis following not less than 90 calendar days of performance under established elements. However, if an employee believes that 90 calendar days is insufficient, the employee may request, and the Agency may grant an additional 30 calendar days for a total of 120 calendar days. The Agency retains discretion on extending the rating period. In no event will the extension exceed a total of 120 calendar days.

- E. Prior to finalization of the rating of record, the employee and the rating official shall meet to discuss the employee's performance. The meeting will include conversation/discussion about the employee's performance on each element for which the employee was responsible during the appraisal period. The employee may prepare a written statement of accomplishment to submit to his/her supervisor for consideration prior to the rating official preparing the employee's final rating of record. Employees who choose to prepare such statement of accomplishment shall be granted a reasonable amount of official time, up to four (4) hours. Employees who wish to do statements of accomplishment will be provided training which will include a suggested format for writing and preparing a statement of accomplishment.
- F. The rating official shall indicate his/her determinations regarding the summary rating level obtained by the employee for each element for which the employee was responsible during the appraisal period on the rating form, and shall also indicate his/her determination regarding a summary rating level. This will take place after the rating official has met with the employee, as required in paragraph e above. In instances where a rating requires the reviewing official's signature, the rating official shall meet with the employee and discuss the performance appraisal prior to preparing the rating and the reviewing official acting and signing off on the rating. The employee's signature shall indicate that the performance rating was discussed with and explained to the employee, but does not indicate concurrence. Employees will be given a copy of their performance rating within five (5) calendar days after it has been discussed and acted upon by the rating and/or reviewing official, as appropriate.
- G. Because of the importance of the annual rating of record, any disagreement between the supervisor and the employee over its content should be resolved in an expedited manner that encourages open and constructive dialogue regarding the supervisor's performance expectations, the employee's performance and the appraisal. Any grievance filed on a performance appraisal will be handled in accordance with the expedited grievance procedures under [Article 39, Section 3\(d\), Expedited Grievance Procedure](#), and any arbitration will be processed in accordance with [Article 40, Section 14, Expedited Arbitration](#).

Section 5. Forms and Certifications.

Critical elements and performance standards will be recorded on the PBC Plan. Summary Performance Ratings will be recorded via the Agency's automated performance management system. Elements, standards, and ratings will be documented in the Agency's performance management system. Employees will be given a copy of their final ratings. On all final performance ratings, the rating official will make recommendations, when appropriate, regarding a performance award and notify the employee.

Section 6. Promotions and Recruitment.

Employees serving in career ladder positions or under formal training agreements shall be considered to have demonstrated an ability to perform higher level work as required for career promotion, provided that:

1. They are rated at least "Meets Expectations" (Level 3) in all elements of their assigned position during the rating period; and

2. They meet the time in grade requirements.

Section 7. Union Official Performance Appraisals.

- A. Union officials who are granted official time for representational activities under [Article 12, Union Representation](#), will not be penalized in their performance appraisals for their use of official time. Union Officials must perform their established critical elements for at least ninety (90) calendar days before they can be rated. There is no specific amount of hours a Union Official must perform under established critical elements to be rated. All Union Officials will receive a rating unless they are on 100% official time. Supervisors, when completing ratings for union Officials, will not use performance of their Union duties to negatively impact their ratings. Their performance of assigned duties will be evaluated against assigned critical elements and performance standards only for the time they actually performed their job duties.
- B. Authorized time spent performing collateral duties (for example EEO or CFC) and/or Union representational functions will not be considered as a negative factor when evaluating an employee's critical job elements. If an employee is performing collateral duties or Union representational functions that result in frequent interruptions of normal work, such factors will not be used negatively against the employee when evaluating the employee's performance for the rating period.

Section 8. Correcting Deficient Performance.

Discussion of procedures for dealing with deficient performance in this Article pertains to situations where the Employer utilizes the procedures of [5 C.F.R. Part 432](#). This does not preclude the Employer from, or impact on the Employer when, taking action under [5 C.F.R. Part 752](#).

- A. The monitoring of employee performance is an ongoing process; supervisors will provide feedback on an employee's overall performance. Specific feedback will be given when a supervisor notices a decrease in performance below a level 3 and will include advice or recommendations on better communicating job requirements, identifying and providing supplemental training (classroom and on-the-job), and providing additional coaching, monitoring, mentoring, and other developmental activities as appropriate, to help improve employee performance until the employee shows improvement, or until such time the employee demonstrates an inability to improve.
- B. Upon documented evidence of a performance deficiency, the rating official will communicate with the employee the nature of the deficiency and will give appropriate assistance, which may include direction to the Employee Assistance Program (EAP), to give the employee the opportunity to overcome the deficiency, which may be adversely affecting accomplishment of "Meets Expectations" performance. The employee may obtain the telephone number to EAP from their servicing personnel office.
- C. Performance ratings may be used to identify performance areas where job related assistance and/or training may be warranted. The performance of one or more elements of the employee's position during the appraisal period at a level below the "Meets Expectations" performance standard may indicate potential or actual skills or knowledge deficiencies for which job-related assistance and/or training may be warranted.

Section 9. **Performance Based Actions.**

The Parties recognize that it is in the best interest of the rating official and the employee to address performance deficiencies at the earliest opportunity. Further, clear communication between the rating official and the employee is critical for the employee's successful performance.

Upon documented evidence of a performance deficiency or when a supervisor first becomes aware of such possible performance deficiency, the supervisor has a responsibility to meet with the employee. Meetings are to advise the employee of the supervisor's expectations for successful performance and what the employee and rating official can do to meet those expectations. Meetings may be documented and referenced in any negative personnel actions or Performance Improvement Plan (PIPs). The employee may request to have Union representation. It is understood that during this time period, no grievances will be filed over the manager's document suggestions.

- A. When an employee has performed against his/her critical elements and performance standards for a reasonable period of time (in most cases ninety (90) calendar days) and performance of one or more critical elements is determined to be at the Unacceptable level, the rating official must inform the employee of the Marginal performance standards that must be reached in order to be retained, and notify the employee, in writing that failure to improve performance to at least the Marginal level will result in his/her reassignment, reduction-in-grade or removal, and must give the employee at least ninety (90) calendar days to improve performance under a PIP before issuing a notice of proposal to remove or reduce-in-grade. During the PIP period, the rating official is required to provide appropriate assistance to the employee in improving his/her performance. The supervisor's efforts must be documented. The PIP notification letter shall identify for the employee:
 1. The critical elements for which performance is at Unacceptable (Level 1);
 2. Specific performance deficiencies;
 - a. Marginal (Level 2) performance standards commensurate with the employee's position, to be attained during the performance improvement period to avoid a reduction-in-grade, reassignment, or termination of employment;
 - b. The time allowed for the employee to demonstrate at least marginal (Level 2) performance;
 - c. The specific assistance (e.g., clarification of elements, performance standards, and expectations; counseling; mentoring/coaching; and/or increased direct supervision) the Rating Official will ensure the employee receives help to improve performance; and
 - d. The specific consequences of failure to improve.
- B. If performance continues to be Unacceptable at the conclusion of the PIP period specified in the notification letter, the employee may request an additional thirty (30) calendar day extension. If granted, and at the end of the thirty (30) day extension, the employee's performance continues to be Unacceptable the rating official must either reassign the employee or issue the employee a notice proposing the employee's reduction-in-grade or removal, as appropriate.

- C. Any Notice of Proposed Action shall be in writing and shall:
1. Advise the employee that performance of one (1) or more of his/her current critical elements has been found to be Unacceptable and that it is proposed to remove, reassign and/or to reduce him/her in grade, not earlier than thirty (30) days from receipt of the notice of proposal;
 2. Identify the specific critical element(s) and standards of the employee's position for which performance has been determined to be Unacceptable;
 3. Specifically cite any failure by the employee during the PIP period that will be considered in making the decision on the proposed action, i.e., examples of Unacceptable performance that occurred during the PIP, or at any time within the 1 year period ending on the date (month/day) of the notice of proposed action;
 4. Advise the employee that a written decision on the proposed action will be issued by a reviewing official not earlier than thirty (30) calendar days after receipt of the Notice of Proposal; and
 5. Inform the employee of the entitlement to request a reasonable amount of official time (up to 16 hours) to answer orally and/or in writing and that he/she may be represented by the Union or other representative. If additional time is needed, it must be requested in writing and include a basis for the additional time. Additional time will be granted if the request is reasonable. Employees may contact their Regional Vice President, Shop Steward or President of Council 228 for information regarding their Union rights.
- D. The thirty (30) day notice period established above may be extended by the Chief Human Capital Officer, as set forth in [5 C.F.R. 432](#), for a period not to exceed an additional thirty (30) days for just cause. Requests for an extension of the notice period and the reasons therefore shall be submitted in writing through the deciding official.
- E. In arriving at a decision on the proposal, the deciding official shall consider those instances of Unacceptable performance that the proposing official based the proposed action on and the employee's written and/or oral reply, if any, to the proposal. The deciding official shall then prepare a written Notice of Decision.
- F. Employees will be given two copies of a proposal for reduction-in-grade, reassignment or removal. One of the copies will have the caption: "THIS COPY MAY BE PROVIDED TO YOUR AFGE UNION REPRESENTATIVE."
- G. The Notice of Decision shall:
1. Inform the employee whether or not the proposed action is sustained or if the deciding official substitutes a less severe action than the action proposed;
 2. Identify the specific instances of Unacceptable performance on which a decision to reduce the employee in grade or remove him/her from employment is being made;
 3. Specify the effective date of any action decided upon; and
 4. Advise the employee of his/her right to appeal the decision to the Merit Systems Board (MSPB) or to grieve it under the Master Agreement between AFGE and SBA.

- H. An employee's application for disability retirement shall not stop or delay any appropriate Agency action.
- I. The procedures described in this Section do not apply to removal actions based upon deficient performance for the following groups of employees:
 - 1. Employees serving a probationary or trial period in the Federal Government;
 - 2. Employees serving on temporary time limited appointments regardless of duration; and/or
 - 3. Non-preference eligible employees serving under an excepted appointment who have not completed one (1) year of current continuous employment in the same or similar positions.

Section 10. **Reassignments.**

Reassignment of an employee as a method of addressing minimally acceptable performance will not ordinarily be used. In the event of a proposed reassignment in this circumstance, such reassignment(s) shall only be utilized after the necessary assistance (e.g., off-site training, on-the-job training, weekly meetings/discussions, shadowing, work evaluations, personal assistance/oversight, etc.) has proven to be ineffective or has been determined to be inapplicable to enable the employee to achieve an acceptable level of performance in the current job. A notice of reassignment for performance reasons shall contain an explanation of the reasons why the assistance provided was ineffective. All efforts to provide assistance will be documented. When a reassignment is proposed in these instances, the following shall apply.

- A. The reassignment shall be to a position for which the employee has potential to achieve acceptable performance;
- B. The employee will receive appropriate training and/or assistance to enable the employee to achieve an acceptable level of performance in the position;
- C. The Agency will first look for a reassignment that will not require the employee to relocate from the current commuting area;
- D. The Agency will make every effort to reassign the employee to a position at the same grade of the position held by the employee prior to reassignment;
- E. The reassignment will not be made to a position that may be reasonably anticipated to embody a critical element for which the employee has already demonstrated an inability to perform, or which embodies a critical element for which the employee has no reasonable potential to perform at an acceptable level.

In accordance with [5 C.F.R. 432.105](#), once an employee has been afforded a reasonable opportunity to demonstrate acceptable performance, an agency may propose a reduction-in-grade or removal action if the employee's performance during or following the opportunity to demonstrate acceptable performance is Unacceptable in 1 or more of the critical elements for which the employee was afforded an opportunity to demonstrate acceptable performance.

Section 11. Denial of Within-Grade Increases.

On all denials of a Within-Grade Increase (WGI), the eligible employee will be notified when the supervisor has made a negative level of competence determination (a rating of Marginal) prior to the WGI due date. A rating below Meets Expectations is below an acceptable level of competence. Any WGI an eligible employee may be due must be withheld until an acceptable level of competence is achieved, i.e., the employee's most recent rating of record must be Meets Expectations or higher. When a WGI determination is not consistent with the employee's most recent rating of record, a more current rating of record must be prepared.

1. Postponing the Determination.

In accordance with [5 C.F.R. 531.409\(c\)](#), supervisors should delay an acceptable level of competence determination when the employee has not performed under standards for the minimum appraisal period in the current position, the employee has not been informed of the performance standards for his/her position, the employee did not receive a performance rating in any position within ninety (90) calendar days of the end of the waiting period, or the employee was reduced in grade due to performance. When it is necessary to delay an acceptable level of competence determination, the employee shall be informed that their determination is postponed. The employee shall be informed of the specific time-frames and requirements for achieving performance at the "Meets Expectations" level, i.e., an acceptable level of competence. A determination shall then be made upon completion of the minimum appraisal period established by the Agency performance appraisal plan and shall be based on the employee's provisional rating or rating of record completed at the end of the appraisal period. In any case, the WGI determination should be completed no later than ninety (90) days following the date the WGI is due.

- a. If the employee achieves an acceptable level of competence during the postponement period, the WGI will be effective the first full pay period after the determination is made that the acceptable level of competence is achieved. If the employee fails to achieve an acceptable level of competence, the WGI shall be withheld in accordance with established regulations and laws.
- b. When an acceptable level of competence determination has been waived, the WGI will be granted when the employee has been in a duty status for less than one hundred and twenty (120) days during the final fifty-two (52) calendar weeks of the waiting period for one or more of the following reasons:
 - i. Absences that are creditable service in the computation of a waiting period or periods under [5 C.F.R. 531.406](#);
 - ii. Because of paid leave;
 - iii. Because the employee received service credit under the back pay provisions of [5 C.F.R. Part 550 Subpart H](#);
 - iv. Because of details to another agency or employer for which no rating has been prepared; or
 - v. Because of long-term training.

2. Request for Reconsideration Based on a Negative Determination.

- a. When a rating official issues a negative determination, the following procedures will be followed in accordance with [Section 5335\(c\) of Title 5, United States Code](#) for reconsideration of the negative determination:
 - i. An employee or an employee's personal/Union Representative may request reconsideration of the negative determination by filing, not more than 15 calendar days after receiving notice of determination, a written response to the negative determination setting forth the reasons the Agency shall reconsider the determination;
 - ii. When an employee files a request for reconsideration, the Agency shall establish an employee reconsideration file, which shall contain all pertinent documents relating to the negative determination and the request for reconsideration, including copies of the following:
 1. The written negative determination and the basis therefore;
 2. The employee's written request for reconsideration;
 3. The report of investigation when an investigation is made;
 4. The written summary or formal notes of any personal presentation made by the employee; and
 5. The Agency's decision on the request for reconsideration.The file shall not contain any document that has not been made available to the employee or their personal/Union Representative with an opportunity to submit a written exception to any summary of the employee's personal presentation;
 - iii. An employee in duty status shall be granted a reasonable amount of official time (up to 16 hours) to review the material relied upon to support the negative determination and to prepare a response to the determination; and
 - iv. The Agency shall provide the employee with a prompt written final decision, in accordance with [5 C.F.R. 531.410\(a\)\(4\)](#).
- b. The time limit to request reconsideration may be extended when the employee shows they were not notified of the time limit and was not otherwise aware of it, or that the employee was prevented by circumstances beyond their control from requesting reconsideration within the time limit.
- c. When a negative determination is sustained after reconsideration, an employee shall be informed in writing of the reasons for the decision as soon as possible.

3. Acceptable Level of Competence, i.e., Meets Expectation Level.

- a. After a WGI has been withheld, a rating official may grant the WGI at any time after it is determined that the employee has demonstrated performance at the "Meets Expectations" level. However, the rating official shall determine whether the employee's performance is at an acceptable level of competence after no more than fifty-two (52) calendar weeks following the original eligibility date for the WGI and, for as long as the

WGI continues to be denied, determinations will be made after no longer than each fifty-two (52) calendar week period.

- b. When an acceptable level of competence is achieved, a new rating of record will be assigned at the Meets Expectations level or higher. The WGI will be made effective the first day of the first pay period after the new rating of record is issued.

Section 12. Expedited Grievance Procedure for Neg. WGI Determinations & Performance Appraisals.

[This provision has been moved to [Article 39](#)]

Section 13. Rewarding Performance.

Administration of rewarding performance shall be consistent with [Article 29, Incentive Awards](#), which will provide for performance bonuses and recognition.

Section 14. Retention and Disposition of Records.

Where any performance appraisal document is needed in connection with ongoing administrative, negotiated, quasi-judicial, or judicial proceedings, the document shall be retained for as long as necessary beyond the retention schedule in the appropriate case file. Administration of the retention and disposition of records shall be consistent with [Article 10, Official Personnel Records](#).

Section 15. National Performance Systems Committee.

- A. The Employer and the Union shall establish a National Performance Systems Committee (Committee) consisting of three (3) Union Representatives appointed by the Union and three (3) representatives appointed by the Employer.
- B. SBA employees who are appointed by the Union to serve on this committee shall be on official time during the time that they are performing the functions of the Committee and carrying out their duties as members of the Committee. The Employer shall pay the travel and per diem expenses of members of the Committee for attendance at Committee meetings and for performing any activities of the Committee that require travel outside the Committee member's commuting area.
- C. The Committee shall meet semi-annually unless the Parties mutually agree to meet more frequently. These meetings will be held in Washington, DC or in another location if mutually agreed upon by both the Parties. The agenda and changes in meeting dates shall be agreed upon mutually. In addition, telephone conferences may be held on an as needed basis.
- D. The Committee shall be responsible for monitoring the PAS and to recommend changes to the PAS when it is not implemented, administered and applied Agency wide. In order to carry out this charge, the Committee shall be responsible, at a minimum, for the following:
 - 1. As determined appropriate by the Committee, additional data from any field office (Regional, District, Branch, POD, Area, Center) may be requested if problems or potential problems are perceived or identified;

The AFGE National Local 228 is coterminous with AFGE Council 228. The positions held by the officers of the council and National Local are one in the same. There is no legal effect on the Union's ability to determine its internal structure. The intent of the changes (in all cases where "local" was replaced), is not to contract or expand the scope of the original language.

2. Recommend changes and/or adjustments to the performance system to ensure that the system accomplishes its intended goals;
3. Take snapshot of the performance award system Agency wide to observe its difference or similarities;
4. Look at and recommend adoption of best practices Agency wide;
5. Find ways to reward employees who are typically overlooked;
6. Recommend introduction of a pilot program to aid the Agency in increasing and maintaining employees' high performance;
7. Verify that the appropriate training on the performance system has been provided to Agency employees prior to implementation; and
8. Conduct surveys.

ARTICLE 29 INCENTIVE AND PERFORMANCE AWARDS

Section 1. **General.**

The use of both monetary and non-monetary awards has a significant effect on employee morale, motivation and future performance. The Incentive and Performance Awards Program will be administered on a fair and equitable basis, without prejudice or favoritism being an influential factor in the selection of awardees. The SBA Incentive and Performance Awards Program's main purpose is to motivate and reward employees to continually strive for excellence. The intent of the award program is that awards serve to promote a positive work environment and are truly linked to employee contributions which enhance the Agency's mission. The incentive awards program recognizes the accomplishments of employees both as individuals and as members of groups or teams. Incentive awards can be granted to employees throughout the year in recognition of their excellent performance.

Each supervisor shall evaluate and monitor the performance of all employees under their supervision on a continuing basis to ensure those who deserve awards are nominated in a timely manner. Performance Awards which occur at the end of the Fiscal year, normally will be processed within (2) pay periods of the date properly submitted to the Office of Human Resources Solutions (OHRS). Incentive Awards, including Quick Cash, Suggestion, Special Act, Service and STAR, can be granted year round. The processing time for Incentive Awards will vary depending on the type of award. These awards normally will be processed within (2) pay periods after they are properly submitted to the OHRS.

Section 2. **Policy.**

- A. There is no limit on the number of awards that an employee may receive or the frequency with which they may receive awards within a year unless otherwise stated in this Article or prohibited by law, rule or Government-wide policy or regulation.
- B. When employees are considered for awards, the relative significance and impact of their contributions will be taken into consideration when determining which type of award would constitute appropriate recognition and, for monetary awards, in determining the amount of money to be granted.
- C. Awards will be processed timely in accordance with guidelines outlined in Section 1 of this Article.
- D. Non-monetary awards will also be utilized by Agency management on a consistent basis as a form of recognizing and rewarding employees for a job well done.

Section 3. **Award Identification and Recommendation.**

Employees and management officials are responsible for timely identification and recommendation of individual employees whom they believe should be recognized for high quality accomplishments and/or contributions.

Section 4. **Types of Awards.**

Awards which employees may be eligible to receive include, but are not limited to:

- A. Special Act Award
- B. Quick Cash Award
- C. Suggestion Award
- D. STAR Award
- E. Sustained Superior Performance Award
- F. Quality Step Increase
- G. Scorecard Award
- H. Service Award

Section 5. **Monetary Awards.**

Payment of monetary awards will be subject to the availability of the Agency's awards budget.

A. **Special Act Award**

These awards are for employees who make a special contribution to the accomplishment of the Agency's mission. A Special Act Award recognizes individuals, teams or groups for accomplishments or contributions which help promote the mission of the organization. This can be an award given for noteworthy contributions or accomplishments in the public interest which are connected with or related to the recipient's official employment. Award amounts will be linked to the significance and impact of the accomplishment or contribution. A Special Act Award may be given to an individual employee or to a group or a team. A group may consist of individuals from a single organization or multiple components/office/center/area or headquarters unit. A Special Act Award may be given to an employee who is assigned a special act to complete. This project assignment can be made by any manager within the employee's supervisory chain. Examples of special acts include projects that are assigned to the employee but are not part of the employee's job specific critical element or job description which the employee is required to complete for a supervisor, manager, District Director, Center Director, Area Director, Regional Administrator, Management Board Member or the Administrator.

B. **Quick Cash Award**

A Quick Cash Award is an on-the-spot incentive award. A Quick Cash Award provides immediate feedback and recognition to employees who demonstrate their determination to excel and to do the best they can in a particular situation. This particular award allows supervisors to promptly recognize and quickly acknowledge and reward an employee's special contribution. The employees will be notified by the appropriate manager that they are to receive a Quick Cash Award within 1 week to 2 months after completion of accomplishment and the award will be processed in accordance with procedures in Section 1 of this Article.

C. Suggestion Award

1. The Agency will encourage employees to submit suggestions under the Agency's Suggestion Program. Suggestions will be considered in a fair and equitable manner. Suggestion Awards will be granted for tangible and intangible suggestions. Employees' suggestions which are adopted by the Agency will be awarded/granted using the agreed upon SBA Form along with the appropriate monetary amount. The amount of the Suggestion Award will be granted in accordance with [Appendix I](#) of this Agreement.
2. Prior to implementing any idea submitted under the Suggestion Award Program that affects a term or condition of employment or employees, the Agency will notify the Union and comply with the provisions of [Article 4](#) of this Agreement.

D. Scorecard Award

When an office receives an award based on the accomplishment of annual goals (Scorecard Awards), all employees in that office who have a performance rating of a level 3 or above will receive an equal share of the award.

Section 6. Performance Based Awards.

A. Performance Based Awards

Performance-Based Awards include Sustained Superior Performance Awards and Quality Step Increases. Consistent with Government-wide regulations, a Summary Level Rating of 4 or 5 will be used as a basis for granting a performance award.

B. Sustained Superior Performance Award

1. A Sustained Superior Performance Award is a one-time lump sum cash payment based on an employee's rating of record. If the Agency is granting performance awards during any given fiscal year, every employee who received a summary level rating of Exceeds Expectations (Level 4) or Extraordinary (Level 5) for that year will receive a performance award.
2. Award amounts will be determined in a fair and equitable manner. Superior Performance Awards will be allocated using one of the following standards provided by OHRS:
 - a. Same dollar amount based on same rating at same grade; or
 - b. Same dollar amount based on rating regardless of grade.
 - c. If another methodology is used the Union will be notified of that methodology and will be provided with the rationale.

C. **Quality Step Increase**

A Quality Step Increase (QSI) is an increase in an employee's base pay that may be granted to General Schedule employees whose level of performance clearly and significantly exceeds their performance standards over a significant period of time (at least one year). In addition, there must be an expectation that the employee will continue to perform at this higher level for the foreseeable future. A QSI is an appropriate form of recognition for excellence in performance in circumstances where other awards are not considered to provide adequate recognition. Summary level rating of Extraordinary (Level 5) must be received by the employee and the employee must not have received a QSI within the past 52 weeks. Performance award recommendations will be communicated to the employee in accordance with [Article 28](#) of this Agreement.

Section 7. **Non-Monetary Awards.**

Non-monetary awards are considered an appropriate award when an employee's contribution does not meet the requirements for a monetary performance award, but is deserving of recognition. Non-monetary awards shall include, but not be limited to, Certificates of Commendation, Letters of Appreciation, etc.

A. **STAR Award**

STAR Awards may be granted to an individual, team or group of employees for contributions that benefit SBA. This award may be granted for contributions such as, but not limited to, the following:

1. A significant contribution involving completion of a difficult project or assignment of importance to the mission of the Agency;
2. The completion of a specific assignment or project in advance of an established deadline and with favorable results;
3. Displaying unusual initiative, innovation, or creativity in completing a project or improving the operation of a program or service;
4. Displaying unusual courtesy or responsiveness to the public which clearly demonstrates performance beyond the call of duty and which produces positive results for the Agency; and
5. Exemplary work by an employee as a canvasser for special campaigns or programs such as the Combined Federal Campaign, blood donor program, etc. Employees may also qualify for and receive a cash award for the performance of the above. A STAR Award for such an effort may not exceed two (2) workdays per activity and not more than 40 hours off during any leave year.

B. Service Award

A Service Award is a pin and certificate given to employees on the anniversary of their Service Computation Date. Such awards will be given for every five-year increment of service.

Section 8. Award Information.

Employee incentive awards information, including names, award types and dollar amounts, will be provided to Council 228 President and to the Regional Vice President or designee with jurisdiction for that area on a quarterly basis, or as otherwise agreed.

Section 9. Awards Created During the Life of the Agreement.

Prior to implementing any new awards that are to be given to bargaining unit employees, the Agency will notify the Council President regarding the nature of the award and the criteria to be used for issuing the award.

ARTICLE 30

MERIT PROMOTION

Section 1. Purpose.

The purpose and intent of this Article is to ensure that merit promotion principles are applied in a consistent manner throughout the Agency, and that all employees receive fair and equitable consideration with regard to the merit promotion program. Any changes to the Agency's merit promotion program that are not already provided in this Article will be subject to the provisions of [Article 4](#).

Section 2. General.

The merit promotion and placement program for bargaining unit positions shall be implemented consistent with the following merit system principles:

- A. Recruitment shall be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement shall be from among the highly qualified candidates available and shall be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. The Employer has an obligation to determine the source of sources which will best meet the Agency's mission and meet affirmative action and upward mobility goals.
- B. Selection shall be made without regard to political or labor organization affiliation or non-affiliation, race, color, religion, national origin, sex, marital status, age, or non-disqualifying physical or mental disability. All persons assigned to competitive positions through merit promotion must meet the minimum qualification standards prescribed or approved by the Office of Personnel management (OPM), unless an exception is approved by OPM or authorized by OPM regulations, and all selective placement factors stated on the Vacancy Announcement. Any person who meets these standards and factors will be eligible for assignment to the position.
- C. All persons shall receive fair and equitable treatment consistent with [Article 22](#) and with applicable law and regulation.
- D. All positions announced competitively to all SBA employees in the bargaining unit by actions covered by this Article shall be posted in the SBA Daily or equivalent, USAJOBS and the SBA intranet page unless filled under Section 39(b) of this Article which provides for exclusion from coverage. All positions to be filled in the bargaining unit by actions covered by this Article shall be posted in the SBA Daily or equivalent and the SBA intranet page unless filled under Section 3(b) of this Article which provides for exclusion from coverage.

Section 3. Procedures.

- A. The competitive procedures of this program apply to the following actions:
 - 1. All promotion actions other than those specifically excluded under Section 3(b), below;
 - 2. Temporary promotions over 120 days, unless excluded under Section 3, below. The conditions for making temporary promotions are as follows:

- a. Temporary promotions must be for a definite period of one (1) year or less, but may be extended for a definite period not to exceed one (1) additional year;
 - b. The OPM may authorize a temporary promotion for a longer period than five (5) years ([5 C.F.R 335.102 \(f\)](#)) when it finds the needs of the service require it;
 - c. A temporary promotion may not be used for the purpose of training or evaluating an employee in a higher graded position;
 - d. A temporary promotion may be made permanent without further competition, provided the temporary promotion was originally made under competitive procedures and the fact that it might lead to a permanent promotion was made known to all potential candidates.
- 3. Selection for details for more than 120 days to a higher graded position or to a position with known promotion potential;
 - 4. Selection for training which is given primarily to prepare an employee for advancement and is required for promotion;
 - 5. Reassignment or demotion to a position with more promotion potential than the position last held, except as permitted by Reduction-In-Force regulations and Agency placement procedures for employees entitled to grade and pay retention;
 - 6. Transfer to a higher-grade position or to a position with more promotion potential than a previously held position held on a permanent basis in the competitive service; and
 - 7. Reinstatement to a permanent or temporary position at a higher grade with more promotion potential than a position previously held on a permanent basis in the competitive service.
- B. The competitive procedures of this program do not apply to the following actions:
- 1. Subsequent promotions leading to the full performance level after an employee was selected from an OPM Certificate of Eligibles or under competitive promotion procedures for an assignment at a grade lower than the full performance level of the position being filled. The promotion potential must be made a matter of record prior to selection or must be documented in a career ladder.
 - 2. An accretion of duties and responsibilities results in the position being reclassified at a higher grade, and all the following provisions are met:
 - a. The employee continues to perform the same basic functions of the former position and the duties of the former position are administratively absorbed into the new position;
 - b. The new position has no further promotion potential;
 - c. The employee is the only employee in the organizational unit (for example, a Headquarters Program Office, a Regional Office, a District Office, etc.) eligible for the higher-level duties;
 - d. The addition of the duties and responsibilities does not adversely affect another encumbered position;
 - e. A statement is prepared explaining how the additional duties and responsibilities of the proposed position evolved;
 - f. The employee meets all other requirements, such as time-in-grade and qualifications; and

- g. The position does not change from nonsupervisory to supervisory.
3. When a Pathways student or employee employed under the Disabled Veteran, Veterans Readjustment Appointment, Handicapped or similar special employment program is promoted following noncompetitive conversion pursuant to specific OPM regulations.
 4. A position change from a career ladder position having known promotion potential to a position in a different career ladder having no higher potential.
 5. A detail for 120 days or less to a higher graded position or to a position with known promotion potential. In computing the 120 days, all temporary service under details to higher-graded positions, temporary promotions and term promotions during the 12 months preceding the proposed action is included.
 6. A temporary promotion of 120 days or less. In computing the 120 days, all temporary service under details to higher-grade positions, temporary promotions and term promotions during the 12 months preceding the proposed action is included. The employee will be informed in writing that the promotion is temporary and that he/she may be returned to his/her former position without adverse action procedures.
 7. A promotion resulting from the upgrading of a position without significant change in the duties and responsibilities due to the issuance of a new classification standard or the correction of a classification error.
 8. A promotion or reassignment made to correct a failure of an employee to receive proper consideration within SBA in a prior promotion or placement action. An employee is entitled to only one such consideration for each improper consideration.
 9. Re-promotion to a grade or position from which an employee was demoted or previously held on a permanent basis, provided the demotion or separation from that grade was not due to deficiencies in performance or "for cause."
 10. Reassignment or change to a lower grade to a position that does not provide specialized experience, as defined in the OPM Qualification Standards, that the employee does not already have and is required for subsequent promotion to a designated higher graded position or to a position having no known promotional potential may be taken on a noncompetitive basis. Management retains the discretion to reassign or change to lower grade positions noncompetitively unless the action results in specialized experience the employee does not have or is to a position with known promotion potential.
 11. A position change permitted by reduction-in-force procedures.
 12. Any position change that is made by direction of a proper authority (i.e., arbitrators, judges, Federal Labor Relations Authority, Merit Systems Protection Board or other appropriate authorities).
 13. Promotion or reassignment of an excepted service employee to another position which could be filled under the same appointment authority.

Section 4. **Definitions.**

- A. **Area of Consideration** is not a geographical definition only, but describes broadly the criteria used to identify and describe the individuals from whom the Agency will accept applications to compete for a position. It may be a broad or a limited group of individuals.
- B. **Qualified Candidates** are those applicants who meet minimum established assessment tool score and eligibility requirements for the position.
- C. **Well-Qualified Candidates** are those Qualified Candidates whose scores on the assessment tool also exceed any higher well-qualified cut-off point established by the staffing specialist and hiring office.
- D. **Best-Qualified Candidates** are those who rate the highest among the Well-Qualified Candidates.
- E. **Demotion** is the change of an employee to a lower-graded position.
- F. **Detail** is the temporary assignment of an employee to a position or combination of duties which are different from those permanently assigned.
- G. **Knowledge, Skills and Abilities (KSAs)** – Knowledge is a body of information applied directly to the performance of a task; Skill is proficiency in performing an act; and Ability is competence to perform an observable behavior or a behavior that results in an observable product.
- H. **Position Change** is a promotion, demotion, or reassignment made during an employee's continuous service with SBA.
- I. **Promotion** is the change of an employee to a higher-graded position.
- J. **Reassignment** is the change of an employee from one position to another at the same grade without promotion or demotion.
- K. **Selecting Official** is the individual with knowledge of the position who is delegated the authority to make the management decision regarding who is selected for placement in a position.
- L. **Selective Factors** are minimum knowledge, skills and abilities essential for satisfactory performance on the job, directly related to the duties and responsibilities identified in the position description, and which represent an addition to the basic qualifications for a position.
- M. **Career Ladder** is a progression of positions in an occupational series, ranging from the lowest grade level at which an employee can be hired as a trainee, up to the journeyman level, also known as the full performance level.
- N. **Automatic Staffing System (ASS)** - A software-based system that partially automates the recruitment, assessment, referral, and notification processes in order to assist the Office of Human Resources Solutions staffing position.

Section 5. **Employee Information.**

The following information about a specific non-selection is available to the employee who applied upon their request:

- A. Whether the employee met the minimum qualifications for the position, including the selective factors, if any;

- B. Whether the employee was one of those in the group from which selection was made;
- C. Who was selected for the position;
- D. Any other information which does not violate the privacy of an individual;
- E. Whether or not the employee was on the best qualified certificate;
- F. If the employee's score was changed, the reason why;
- G. The cut off score for the Best-Qualified List;
- H. Upon request, and without disclosing private information of applicants, the selecting official will provide a verbal statement of the reason(s) the employee was not selected and regarding what areas, if any, the employee may wish to consider and potentially improve to increase the employee's chances for future selection.

Section 6. Priority Placement Consideration.

When a position becomes vacant, certain employees must be given priority placement consideration before any other efforts are made to fill the position under the competitive procedures of this Article. Such employees must apply for the position and will indicate in writing to the contact person shown on the Vacancy Announcement that they are exercising a priority placement consideration, except that persons on the Reemployment Priority Certificate will be notified in writing and afforded the opportunity to file an application to be reinstated.

A. Re-promotion Consideration.

Employees who are demoted within SBA without personal cause and not at their own request from a position at the same grade or a higher grade than the position to be filled, and who are qualified for the position, are entitled to receive re-promotion consideration, within the areas described in Section 6(e)(1), below, while they are on grade retention. If a re-promotion offer to the grade from which demoted is declined, the employee's right to repromotion consideration is terminated. Employees who are being provided re-promotion consideration will be referred by the servicing Personnel Office to the selecting official who will determine whether to select from the certificate of priority applicants before considering non-priority applicants.

B. Priority Consideration.

Employees will be notified in writing by the Office of Human Resources Solution (OHRS) of entitlement to each priority consideration. Such notice will advise employees that if a vacancy is announced and posted and the employee wishes to exercise their priority consideration, they should apply for the vacancy and submit a written request to the designated Agency personnel official that they wish to exercise their priority consideration for the vacancy. Employees who were not given proper consideration with SBA in a previous promotion or placement action are entitled to one (1) priority consideration for an essentially similar position in the same commuting area as the position for which proper consideration was not received. Such employees are entitled to one (1) priority consideration, within three (3) years following the date of the improper consideration, for each improper consideration action. Employees who are being provided priority consideration will be referred to the selecting official by the servicing personnel office,

who will determine whether to select from the certificate of priority candidates before considering non-priority applicants. The selecting official will make a determination on the request prior to evaluating other applicants and may return the certificate of priority candidates back to the servicing personnel office with no selection. The fact that the employee chooses to exercise a priority consideration does not preclude that employee from also filing an application through the regular posting process.

C. Persons on the Reemployment Priority list (RPL).

D. Persons Subject to RIF.

Priority placement consideration will be given to employees who are on pay retention because of a reduction-in-force and who do not meet the requirements for grade retention. Consideration for re-promotion shall be for three (3) years from the date of the downgrading action or until an offer or re-promotion to the grade from which demoted is declined, whichever occurs first.

E. Procedures for Referral.

1. Employees entitled to re-promotion consideration will be referred for any positions for which they qualify within the following minimum areas of consideration:
 - a. GS-14 and above – any position, Agency-wide.
 - b. GS-8 through GS-13
 - i. For Headquarters positions: the Headquarters plus all SBA offices located in the Washington, DC metropolitan area;
 - ii. For field and Headquarters duty station positions: the region in which the position is located.
 - c. GS-7 and below – any position within the local commuting area.
2. As requested on the application, employees entitled to priority consideration under Section 6 of this Article will be referred for any position similar to that for which they failed to receive proper consideration and which is in the same area of consideration as the position for which they failed to receive proper consideration.
3. The servicing personnel office will refer the names, in alphabetical order, to the selecting official. The application, along with the most recent performance appraisal of record, will be included with the certificate. The selecting official will interview the candidate in accordance with Section 11 of this Article, below, or record their reasons for not doing so, in which case a copy will be provided to the Union. They will then select one of the candidates or decline to select, with reasons in writing in the event of non-selection.
4. If no selection has been made, these employees will be given further consideration. They will be referred on a Competitive or Non-Competitive Eligibles Certificate for the position if they are among the Well or Best Qualified. All appropriate steps will be taken to alert the

selecting official of management's commitment to make positive placement efforts where re-promotion eligible are referred.

Section 7. Area of Consideration.

The Employer recognizes that the skills and talents of bargaining unit employees are such that many are qualified to fill Agency vacancies. Therefore, the Employer agrees to advertise its vacancies to bargaining unit employees in accordance with the following procedures when the Employer fills the bargaining unit position under the provisions of this Article.

A. Minimum Area.

The minimum SBA areas of consideration for competitive promotional or placement opportunities:

1. GS-14 and above – any position, Agency-wide.
2. GS-8 through GS-13
 - a. for Headquarters positions: the Headquarters plus all SBA offices located in the Washington, DC metropolitan area;
 - b. for field and Headquarters duty station positions: the region in which the position is located.
3. GS-7 and below – any position within the local commuting area.
4. When filling a higher-graded position which has been created by reengineering the duties of one or more lower graded position(s), the area of consideration may be restricted to the incumbents of the lower graded position(s). No approval is required for this restricted area of consideration.

B. Exception to the Minimum Area of Consideration

Where full time employee (FTE) ceiling restrictions exist at the time a Vacancy is opened, and where an organizational unit (for example, a Headquarters Program Office, a Regional Office, a District Office, etc.) needs to fill a Vacancy from within the ranks of existing employees within that organizational unit, the area of consideration may be limited to those employees in the affected organizational unit. Council 228 President will receive information about any FTE ceiling restrictions applicable to filling a Vacancy governed by this section.

C. Extensions of the Area of Consideration

When an application of the ordinary area of consideration as outlined in this Article does not provide at least three (3) Qualified candidates, based on application of OPM's Qualification Standards, the area of consideration may be expanded and additional recruitment activities may be implemented. The basis for decisions made under these procedures will be documented in the merit promotion case file. Council 228 President will receive information about any extensions of the area of consideration applicable to filling a vacancy governed by this Section.

Section 8. **Vacancy Announcements.**

In deciding among the sources which can be used to fill positions, managers are encouraged to consider benefits to be derived from announcing positions at the lowest possible grade level.

A. **General.**

The principal method which SBA uses to locate candidates for vacancies under the Merit Promotion and Placement Program is the Vacancy Announcement.

B. **Contents.**

Vacancy Announcements shall include at a minimum the following information:

1. Announcement number, opening and closing dates, and office address;
2. Title, series, location, and grade of the position, target grade or known promotion potential;
3. Area of consideration;
4. A statement of whether or not the position is in the bargaining unit;
5. Geographic and Organizational Location;
6. Description of the duties of the position;
7. A summary of all qualification requirements, as prescribed or approved by OPM, plus selective factors considered essential for successful performance;
8. Application documents required to be submitted;
9. Description of how the applicant will be evaluated;
10. Time in Grade requirements must be met by the closing date of the announcement, if applicable;
11. Instructions on how to apply;
12. Name and telephone number of the personnel specialist or other individual to contact for information relating to the announcement or with any problems accessing the announcement, including TDD telephone number for hearing impaired applicants. The personnel specialist or other individual to contact for information will be available throughout the opening period;
13. An EEO nondiscrimination statement;
14. Whether the position is a career ladder position when advertised below the full performance level;
15. If applicable, a statement that it is anticipated that more than one position will be filled by this announcement;
16. Telework Statement: Consistent with work requirements and current SBA policy and all applicable provisions of the collective bargaining agreement with AFGE, the SBA offers employees opportunities to perform work at an alternative location (i.e., home).

17. Permanent or temporary nature, and duration, if temporary;
18. A statement whether or not relocation expenses will be paid in accordance with Federal Travel Regulations and other applicable laws and Government-wide rules and regulations;
19. If applicable, the following information should be included in the vacancy announcement: provisions of training agreements used; or special requirements such as security clearances, managerial/supervisory probationary periods, age requirements or mobility agreements;
20. If the position is to be filled on a temporary basis, the expected duration of the assignment must be included in the vacancy announcement. A statement that temporary promotions may be extended or become permanent should be included routinely on vacancy announcements for temporary assignments;
21. Salary range.

C. Cancellation/Extension/Amendments.

Vacancy Announcements may be cancelled/extended/amended at any time. The cancellation/extension/amendment of a Vacancy Announcement will be posted in the SBA Daily or equivalent and SBA intranet page, and the announcement includes the reason why the vacancy was cancelled/extended/amended. If a Vacancy Announcement has been posted and is later found to contain substantial error, the announcement will be amended if the selecting official still intends to fill the position under the competitive process. The amendment should cite the change(s) and indicate whether the original applicant(s) need to re-file in order to be considered.

D. Time of Posting.

The following minimum times are prescribed:

1. Vacancy Announcements advertising bargaining unit positions shall be open a minimum of ten (10) full work days, except when the minimum area of consideration is the local commuting area, the announcement may be open for not less than eight (8) full work days.
2. At the request of management, longer open periods may be used, and will be posted in the SBA Daily or equivalent and SBA intranet page. Documentation of such requests will be maintained in the vacancy package.

E. Open Continuous Announcements.

When there is a recurring need to fill a specific type of position, an Open Continuous Vacancy Announcement may be established. Open Continuous Vacancy Announcements will be posted in the same manner as Vacancy Announcements. Open Continuous Vacancy Announcements shall be opened for one (1) year or less.

F. Absence During Posting Period.

Employees within the area of consideration, who are absent during the entire posting period for legitimate reason(s), will be considered for all vacancies to which they would have applied during their absence. Legitimate reasons include such things as:

1. Approved Leave,
2. Details Outside the Agency,
3. Training Courses,
4. Official Business outside the office, and
5. Military Service.

Employees who were on approved leave, on detail outside the Agency, at training courses, on official business outside the office, or on military service, for periods not to exceed three (3) weeks may, upon their return, review position vacancies announced and closed during their absence, and file application(s) for such vacancies in which they are interested. Such late applications must be submitted within three (3) workdays after return to duty and must be accompanied by a statement prepared and signed by the employee and also signed by the supervisor explaining the dates and reasons for the employee's absence. Employees filing delayed applications under this provision will be considered only for those vacancies for which a best-qualified certificate has not yet been prepared and submitted to the selecting official.

G. Annual Reporting—Vacancies Filled.

To the extent feasible under current systems and databases, before July 31st of each year, the Agency will provide Council 228 President a report for the prior twelve (12) months on the number of vacancies by grade, series, and location filled (a) with bargaining unit employees, and (b) persons other than bargaining unit employees, from within or outside the Agency.

Section 9. Acceptance and Consideration of Applications.

- A. Applicants who wish to be considered for a posted vacancy must apply as required by the announcement. The appropriate application forms and any other documentation requested must be submitted in accordance with the timeframe specified in the announcement.
- B. If an employee accepts a promotion or reassignment resulting from an individual Vacancy Announcement or an Open Continuous Vacancy Announcement and a reporting date has been set, any application which the employee may have filed for other announcements will not be considered unless:
 1. The employee has accepted a reassignment and the other vacancy would provide for or lead to a promotion;
 2. The other position is a career ladder or trainee progression leading to further promotion;
 3. The employee has accepted a temporary promotion or reassignment and the other position is permanent or temporary with a later expiration date; or
 4. The other position is in a different geographic location.
- C. Employees will be allowed to use SBA's equipment to complete automated applications, prepare their application and complete related forms under this Article during non-duty time.
- D. Any candidate who applies in response to a specific Vacancy Announcement will be considered for that vacancy only.

- E. Acknowledgement of receipt for an application will be sent via an email to applicants.

Section 10. Rating and Ranking Candidates.

- A. The Agency may utilize an automated staffing system to accept applications and rate and rank candidates. The Union shall be notified in advance under [Article 4](#) of any substantive changes in the process by which candidates are rated and ranked utilizing an automated staffing system.
- B. When there are ten (10) or fewer Well-Qualified Candidates for an announced position, all will be referred to the Selecting Official.
- C. When there are eleven (11) or more Well-Qualified Candidates for a position, the servicing personnel specialist will refer the highest rated ten (10) candidates (who are by definition the Best Qualified Candidates in that pool of candidates) to the Selecting Official. If more than one (1) candidate has the same rating at the number ten (10) position, each candidate with the same score will be referred.
- D. Applicants who do not meet all of the basic qualification requirements as of the closing date of the announcement will be ineligible to compete.

Section 11. Interviewing and Selection.

The Selecting Official should make a selection from the certificate(s) within fifteen (15) calendar days after receipt. Thereafter, the status of the selection must be provided to an applicant who requests it.

A. Interviews by the Selecting Official.

Except as provided more fully below, the Selecting Official may make a selection without conducting interviews. The Agency recognizes the benefits of preserving its institutional knowledge. Accordingly, the Agency has determined that it will offer an interview to each current SBA employee on the certificate(s) forwarded to the Selecting Official. OHRS will identify, on the forwarded certificate(s) for each vacancy, all current SBA employees, and such employees will be notified of their opportunity for an interview with the Selecting Official prior to their decision. If one SBA candidate referred on a certificate for a bargaining unit position is interviewed, all SBA candidates on that certificate must be interviewed, if available. If a face-to-face interview cannot be arranged, a telephone interview will be held. If a telephone interview should be conducted, the candidate must be given at least two (2) work days' notice of the interview. If the candidate on the certificate cannot be located for an interview or is unavailable for an interview within a reasonable time, this fact must be documented on the certificate with explanation. The servicing personnel office will determine if the documentation is sufficient.

B. Decision by the Selecting Official.

After review of the application documents and any interviews, the Selecting Official shall:

1. Select one of the candidates; or

2. Return the certificate without selection. If the reason for non-selection is anything other than a selection was made from a delegated examining certificate or a non-competitive appointment, a written justification as to the reason(s) why must be documented for the staffing file.
3. Return the certificate without a selection, postponing the filling of the vacancy, and recording the reasons for such action.
4. If a selection is made, the Selecting Official shall inform no one except the approving or reviewing official and the personnel official of the selection prior to the official notification of selection. The personnel office shall make the official notification of the selection after the selection process is reviewed for correctness, and after appropriate security and other information checks are received as appropriate.
5. The Selecting Official should try to complete action on the best qualified certificate within fifteen (15) calendar days after receipt. Thereafter, the status of the selection must be provided to an applicant who requests it. No selection for the initial vacancies can be made from a certificate after 120 calendar days from the date the certificate was issued to the selecting official.
6. The selecting official may request an extension of the time limit for the initial selections if circumstances beyond their control preclude making the selections in a timely manner; e.g., temporary freeze on promotions. Such requests must be submitted by the selecting official for the approval by the OHRS. Approved extensions must be documented in the vacancy package. Upon request, the extension approval will be provided to Council 228 President.

Section 12. Release of Selected Candidates.

- A. When the selection is final, the servicing personnel specialist will arrange release and entrance-on-duty dates for the selected individual. An employee selected under the promotion plan will normally be released from their present position at the end of the pay period closest to fifteen (15) calendar days after the date of the selection. Only under unusual circumstances, when it is clearly evident that this period is not long enough to complete an essential assignment, the release date may be extended an additional pay period.
- B. If an SBA employee is to receive a within-grade increase within two (2) pay periods after the pay period in which the selection was made, and the within-grade increase would place the employee at a higher rate after the promotion is made, the promotion shall be deferred until after the within-grade increase is received, if the employee and the Employer both consent to the deferment. Further extensions may be granted on a case by case basis if the employee and the Employer both consent to such further extension.

Section 13. Informing Employees.

- A. Employees will be notified in a timely manner of their status in regard to the outcomes of the vacancy (i.e., whether the applicant was qualified or not; whether the applicant was selected or not selected, etc.).
- B. Employees may obtain information regarding their consideration under posted vacancies only from the personnel office which posted the job. The following information will be provided to employees:
 - 1. Whether the employee was eligible and qualified for the position;
 - 2. The assessment score of the employee;
 - 3. The cut off score for the certificate(s) and whether they were included on it;
 - 4. The name(s) of the selectee(s); and
 - 5. Any other requested information that does not violate the privacy of any individual.

Section 14. Promotion and Placement Records.

- A. Each SF-52, "Request for Personnel Action," in respect to a bargaining unit position, shall be documented to show:
 - 1. Whether the promotion or placement was made under competitive procedures or as an exception to competitive promotion procedures; if it was processed as an exception to competitive procedures, the appropriate basis for the exception.
 - 2. The merit promotion case file number if the personnel action was processed competitively; and
 - 3. The employee's Official Personnel Folder must show that, at the time of the promotion or placement, they met qualification standards and other legal and regulatory requirements.
- B. Each SBA personnel office shall maintain copies of all promotion and placement plans, and locally issued guidelines, covering all bargaining unit positions to which promotions and placements have been or are being made, as covered by this Article. Such plans and guidelines may be implemented only in accordance with this Agreement.
- C. A merit promotion case file shall be kept, for a period of two (2) years, of each promotion and placement action, unless there is a dispute pending, in which case the file will be kept until the conclusion of the dispute. At a minimum, the file must include the information specified in the applicable OPM regulation and this Agreement.

Section 15. Career Development.

- A. The Agency will determine when to offer career development programs to prepare employees for potential future jobs or assignments. Such program offers will depend on the availability of funds and the needs of the Agency. The Agency will publicize (for example, through the SBA Daily and the SBA Intranet) all career development programs that it decides to offer to BUEs. When career development programs are announced, the announcement will contain adequate information so that all employees have a full opportunity to apply according to the terms of the program.

- B. Career Development may include opportunities for temporary developmental assignments, to increase knowledge of SBA programs and work processes.
- C. Neither party waives its rights under [5 U.S.C. 71](#) regarding the implementation of career development programs.

Section 16. Career Ladder Positions.

- A. Career Ladder Positions help employees develop to successfully perform higher-level duties through training and incremental assignment of more complex work. The responsibilities at each level of the Career Ladder Position will be conveyed to employees at the time of appointment.
- B. Career Leader Positions may have a developmental plan outlining the criteria an employee must meet in order to be promoted to the next level of the career ladder. A copy of the plan will be given to each employee upon entry into the Career Ladder Position and when they are promoted to a new level of the career ladder. The employee will also be advised of their earliest date of promotion eligibility. In addition the employee will be provided with a copy of any revised career ladder plan within 30 days of such revision.

Section 17. Career Ladder Advancement.

- A. The employer fully recognizes the importance of career ladder advancement and supports bargaining unit employees in reaching the full performance level of career ladders. Refer to [Article 28](#) in this Agreement in regards to career ladder advancement and performance. Subject to the provisions in [Article 28](#), the following guidance regarding Career Ladder advancement is provided.
- B. At the time the employee reaches their earliest date of promotion eligibility, the Employer will decide whether or not to promote the employee.
 - 1. If an employee is eligible for promotion, the Employer will certify the promotion which will be effective at the beginning of the first pay period after the requirements are met.
 - 2. Any time the supervisor recognizes an employee's need for assistance in meeting the performance expectations necessary to progress to the next grade, the supervisor will develop a plan to assist the employee. The plan should include all applicable training as well as any other appropriate support. If an employee fails to meet the promotion criteria after the appropriate assistance, the Employer may provide the employee with additional time to meet the promotion criteria.
 - 3. In the event that the employee met the promotion criteria but the appropriate management official failed to initiate the promotion timely, the promotion will be retroactive to the beginning of the first pay period after the pay period in which the requirements were met.
 - a. If an employee is rated as Level 3 "Meets Expectations" and has been in grade for one (1) year, the Employer will certify the promotion which will be effective at the beginning of the first pay period after the action.
 - b. If an employee is not meeting the criteria for promotion, the employee will be given a written notice at least sixty (60) calendar days prior to earliest date of promotion eligibility. The written notice will state what the employee needs to do to meet the promotional criteria.

- i. If the employee is making progress, the supervisor will ensure that the employee has the opportunity to acquire pertinent skills and knowledge and to demonstrate that the employee meets promotion requirements as soon as possible.
 - ii. If the employee is experiencing problems, the provisions in Paragraph B.2. of this Section are applicable.
- C. At any time a supervisor and/or employee recognizes an employee's need for assistance in meeting the career ladder advancement criteria, the supervisor and employee will develop a plan tailored to assisting the employee in meeting the criteria. The plan should include all applicable training, as well as any other appropriate support. At the request of the employee, the Union may provide assistance.

Section 18. Promotions and Recruitment.

- A. Employees serving in Career Ladder Positions or under formal training agreements shall be considered to have demonstrated an ability to perform higher level work as required for career promotion, provided that:
 - 1. They are rated at least "Meets Expectation" (Level 3) in all elements of their assigned position during the rating period; and
 - 2. They meet the time in grade requirements.

ARTICLE 31

DETAILS

Section 1. **General.**

A. **Definition.**

A detail is the temporary assignment of an employee to a different position or a different set of duties for a specified period, with the employee returning to their regular duties at the end of the detail, since the employee continues to be the incumbent of the position from which detailed. However, an employee is not considered to be on a detail assignment when they are serving in an acting capacity.

B. **Authority.**

All details shall be made in accordance with appropriate rules and regulations and this Agreement. Management shall control the duration of details and assure that details do not compromise the open competitive principle of the merit system or the principle of job evaluation.

C. **Timeframe.**

Details must be limited to an initial period of not more than one hundred twenty (120) days, with extensions of not more than one hundred twenty (120) day increments, up to a maximum total of one (1) year. Detail assignments may be made to positions at either the same, higher or lower grade levels, or to a set of unclassified duties, such as project or team assignments. Extensions beyond these limitations will require prior approval from the office of Human Resources Solutions (OHRS).

Section 2. **Documentation.**

All details, regardless of length, will be documented. Details that last less than thirty (30) calendar days may be documented via e-mail when the assignment begins from the responsible supervisor to the employee, stating the assignment being made and the expected duration. This documentation will include a copy of the position description if it exists, or a description of the duties which the employee is detailed to accomplish. If the detail lasts longer than this stated duration, another e-mail message will be sent to the employee with the new expected duration. Details that last thirty (30) calendar days or longer will be documented by completing a SF-52 Form, which will be maintained in the employee's Official Personnel Folder. Copies of the SF-52, including the position description or descriptions of duties, will be provided to the employee.

Section 3.

A. **Appropriate Use of Detail.**

Details shall be used to meet temporary needs of the Agency's work programs. This includes, but is not limited to:

1. Meeting unusual workload demands, such as support for SBA's recovery efforts following a natural disaster;
2. Special projects or studies;
3. Change in mission or organization; and
4. Employee absences and training.

B. Procedures.

When the Agency has a need to detail an employee to a position, management shall consider employees qualified to perform the full scope of the work who has indicated an interest in being detailed to the position. Where Management determines that a detail may be best accomplished by utilizing volunteers, it shall announce the detail by memorandum or email and consider all employees who express an interest. To the extent practical, Management may consider rotating all interested employees into the detail. The Agency will not use details as a way to give an employee an advantage over another.

Section 4. Higher Graded Details.

- A. A detail to a higher graded position, or to a position with known promotion potential, exceeding one hundred twenty (120) days shall be made under competitive placement procedures. All eligible candidates may be afforded an opportunity to be detailed into a higher graded position. If there are several interested candidates, the Agency will use the employee's service computation date (SCD) as the determining factor as to who will be detailed first.
- B. An employee who is detailed to a higher-graded position for more than thirty (30) calendar days will be given a temporary promotion to that higher grade effective the 31st day. If time-in-grade restrictions preclude the promotion to that grade, the employee will be promoted to the highest grade allowable under regulation.

Section 5. Lower Grade Details.

The detail of an employee to a lower grade position shall in no way adversely affect an employee's salary, classification or job standing.

Section 6. Leave.

Leave that has been requested and approved prior to the detail will be transferred with the employee, except in the case of a mission critical need of the Agency. If the leave is cancelled by Management, Management must provide written documentation stating that the formerly approved leave request has been cancelled as well as stating the reason for the cancellation.

Section 7. Accommodations.

If an employee with a qualified disability is detailed, appropriate accommodations will be provided in the new position, in accordance with applicable laws and regulations.

Section 8. **Workers Compensation.**

An employee, who has been injured on the job, may be detailed in accordance with Office of Workers' Compensation Programs (OWCP) procedures.

Section 9. **Administration.**

An employee who is detailed will be made aware in writing of who will be his or her supervisor, and if the employee will have more than one supervisor during the detail, which supervisor will perform each supervisory function, including the following:

- A. Requesting personnel actions;
- B. Assigning performance ratings;
- C. Making work assignments; and, as provided for in [Article 28](#) of this Agreement;
- D. Monitoring job conduct and performance;
- E. Giving the employee a new PBCP (when applicable); and
- F. Conducting quarterly performance review.

ARTICLE 32 TRANSFER OF FUNCTION

Section 1. **Definition.**

A Transfer of Function (TOF) means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area ([5 C.F.R. 351.203](#)). In a transfer of function, the function must cease in the losing competitive area and continue in an identical form in the gaining competitive area ([5 C.F.R. 351.301\(b\)](#)).

Section 2. **Notice to the Union.**

When the Agency determines that a TOF is necessary, the Agency will inform the Union no less than forty-five (45) days prior to the anticipated effective date, giving the reason for the action, the approximate numbers, types, and geographic location of the positions to be affected, and the approximate date of the action. At that time, the Union may initiate bargaining in accordance with [Article 4](#) of this Agreement.

Section 3. **Selection of Positions to Transfer.**

The Agency will identify which positions will transfer with the function in accordance with Office of Personnel Management regulations as provided in [Article 2](#) of this Agreement.

Section 4. **Notice of Employees.**

Employees whose positions have been designated as transferring with the function will be notified in writing. The notice will state that the employee is being offered the opportunity to volunteer for transfer with their position to a new competitive area. The notice will further state:

- A. The name and location of the new competitive area;
- B. The complete address of the new work site;
- C. The applicable salary, including locality pay, of the employee's position at the new work site; and name of the employee's supervisor;
- D. A statement that the employee is free to decide whether to accept the offer of the opportunity to volunteer for transfer with their position;
- E. A statement that should the employee be selected to transfer with their position, the Agency will pay moving expenses and pay for house hunting trips in accordance with statute and Government-wide regulation and this Agreement;
- F. A statement that it is possible that not all volunteers will be able to transfer with their position;

- G. A statement that should the employee choose not to transfer with their position, or if the employee is not selected to transfer despite having volunteered, the employee may be separated from their current position using adverse action procedures; and
- H. The deadline for responding to the offer of transfer; providing that this date will be no less than thirty (30) days from the date of receipt of the notice.

Section 5. Expansion of Volunteers.

If there are not enough qualified volunteers in the work units among those affected employees, the Agency will solicit qualified volunteers from the work units in the rest of the current competitive area.

Section 6. Selection of Employees for Transfer.

If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, to the maximum extent possible, preference will be given to the volunteers with the highest retention standing who are qualified and available to fill the position. In the event there are not enough volunteers for the transfer, employees with the lowest retention standing will be selected for involuntary transfer. If there are fewer volunteers than needed, then after taking all those employees who did volunteer, employees with the lowest retention standing will be selected for the involuntary transfer.

Section 7. Limitation on Filling Vacancies.

The Agency shall not, to the maximum extent possible, fill any vacant position in the bargaining unit through outside hiring or through promotion as long as there are employees facing separation in the TOF who are both well qualified and available to fill that position. Adverse action notices will not be issued pending an Agency review of the open vacancy announcements.

ARTICLE 33 REORGANIZATION AND REASSIGNMENT

Section 1. **Definitions.**

- A. A reorganization is defined as the planned elimination, addition, or redistribution of functions or duties in an organization. [5 C.F.R. 351.203](#)
- B. A reassignment is the change of an employee, from one position to another, without promotion or change to a lower grade. A reassignment includes: (1) movement to a position in a new occupational series, or to another position in the same series; (2) assignment to a position that has been redescribed due to the introduction of a new or revised classification or job grading standard; (3) assignment to a position that has been re-described as a result of a position review; and (4) movement to a different position at the same grade with a change in salary that is the result of different local prevailing wage rates or a different locality payment.

Section 2. **Statement of Principle.**

Nothing in this Article shall diminish the rights of employees which are specifically provided by law.

Section 3. **Procedures for Reorganization.**

- A. When a reorganization is the cause of a personnel action involving separation, furlough for more than thirty (30) calendar days, or change to lower grade, Reduction-In-Force procedures as described in [Article 34](#) of this Agreement must be followed.
- B. When there is a reorganization which causes the actions described in Section 3(a) above, the Agency will notify the Union in accordance with the procedures contained in [Article 4](#) of this Agreement.
- C. Successor Positions. When a position in an organizational structure is abolished in a location as a result of reorganization and the same position is established in a new organizational structure, the incumbent of the old position will be assigned at the same grade to a newly established identical position, subject to all appropriate Reduction-In-Force procedures and regulations. At that employee's request, the Agency may assign them to another available position for which they are qualified.

Section 4. **Procedures for Reassignment.**

- A. For reassignment within the commuting area, an employee shall receive notification of reassignment at least fifteen (15) calendar days prior to the effective date of the reassignment. This notice shall include:
 - 1. A position description for the new position;
 - 2. The name of the supervisor and the Division to which reassigned; and
 - 3. Electronic notification of the SF-50 (Notification of Personnel Action) as soon as it is generated.

- B. When the Agency determines a need for directed reassignments outside the commuting area not caused by reorganization as described in Section 3(a), above the Agency will first solicit volunteers from among qualified employees. If there are more volunteers than needed, the Agency will reassign the most senior employee(s) based upon Government-wide service computation date (SCD). If there are fewer volunteers than needed, then after taking all those employees who did volunteer, the Agency will reassign the least senior employee(s) based on Government-wide SCD. If there are fewer volunteers than needed, the Agency will reassign the least senior employee(s) based on Government-wide SCD. The procedure of requesting volunteers does not apply if the Agency and the employee to be reassigned agree to the reassignment.
- C. Employees who receive a directed reassignment outside the commuting area will be provided written notice and given sixty (60) calendar days to respond to the notice. This notice will include:
1. The reason for the reassignment;
 2. The effective date;
 3. The name of the supervisor and the Division to which reassigned;
 4. Location of the duty station, including street address;
 5. Job title, series, grade and rate of pay;
 6. Position description;
 7. That relocation expenses will be paid by the Agency in accordance with 41 C.F.R. 302;
 8. The timeframe for responding to the reassignment;
 9. Employee's SCD; and
 10. Statement indicating that failure to accept the directed reassignment may result in a proposal for removal from Federal service.
- D. Employees may request, in writing, to be reassigned inside or outside the commuting area. It will be the responsibility of the employee to locate a position to which they would like to be reassigned. The employee may request assistance from the Office of Human Resources Solutions. Requests for reassignment will be made to the current supervisor and the supervisor of the position that the employee seeks. The current supervisor will respond in writing to the employee within fifteen (15) calendar days. If the supervisor declines to accept the request, the response will include the reason(s) why.

Section 5. **Leave.**

Leave that has been requested and approved prior to the reassignment notification will be transferred with the employee and communicated to the employee's new supervisor. Any cancellation of annual leave or leave without pay must be in accordance with [Article 17, Section 4](#) of this Agreement. Sick leave, once approved by the Agency, will not be canceled and will not be transferred to the employee's new position.

ARTICLE 34

REDUCTION-IN-FORCE (RIF)

Section 1. **Definition.**

A Reduction-In-Force (RIF) occurs when the Agency releases an employee from their competitive level by separation, demotion, furlough for more than thirty (30) days, or reassignment requiring displacement; when lack of work or funds, reorganization, reclassification due to change in duties, or the need to make a place for a person exercising reemployment or restoration rights requires the Agency release the employee. RIF procedures do not apply to the return of an employee to their regular position following a temporary promotion or to the release of a reemployed annuitant. RIF procedures do not include reclassification of a position, other than as provided in [5 C.F.R. 351](#), resulting in a downgrade even though RIF procedures may be used in those situations.

Section 2. **Statement of Principle.**

When the Employer becomes aware of the necessity to conduct a RIF, it will attempt to minimize the adverse effect on bargaining unit employees through appropriate means such as reassignment, attrition, and positive placement efforts.

Section 3. **Notification.**

The Parties to this Agreement are cognizant of the requirements found in [5 C.F.R. 351](#) respecting notice to employees in a RIF. The affected employee is entitled to not less than thirty (30) full days' notice, as defined in the 5 C.F.R. 351, and normally not more than ninety (90) days, but longer notice of up to one hundred eighty (180) days may be utilized in unusual cases. The Parties hereto share the common purposes of minimizing adverse impact upon bargaining unit employees affected by any RIF and of accommodating the administrative needs of the Agency. The parties therefore agree that consistent with 5 C.F.R. 351, the Employer will use every good faith effort to notify the Regional Vice President and all affected bargaining unit employees of any impending RIF at the earliest possible date, and normally, the period of notice will be at least thirty (30) calendar days but not more than ninety (90) calendar days prior to the effective date.

Section 4. **Documentation.**

Following notification of a RIF, the Employer shall furnish to the Union, upon request, any relevant and available documents or information concerning the RIF, subject to any Privacy Act limitations. The Parties acknowledge that such documents and information include, but are not limited to, all those which are a matter of required official record, but do not include internal management communications.

Section 5. **Effective Date.**

The Employer shall provide a specific written notice to each bargaining unit employee affected by the RIF. The notice shall state specifically what action is being taken, the effective date of the action, the

employee's service computation date, and the competitive level and competitive area. It shall state why any lower standing employee is retained in their competitive level. An extra copy of this notice will be given to the employee should they desire to have Union representation.

Section 6. Offer to Position.

The Employer shall use every good faith effort to make a best offer of employment to each bargaining unit employee adversely affected through implementation of the RIF procedures. The offer, if made, shall be of a position as close as possible to, but not higher than, the current grade of the affected employee, and the position shall be within the employee's competitive area. Employees adversely affected by a RIF may timely request, in writing, assignment to a position at the same or lower grade with any grade or pay retention to which they may be entitled. Any such request shall be answered in writing within ten (10) calendar days.

Section 7. Response to Offer.

Bargaining unit employees shall respond to a best offer of employment to another position, in writing, within fifteen (15) calendar days of receipt of a written offer. Failure to respond within fifteen (15) calendar days shall be considered a rejection of the offer.

Section 8. Competitive Levels and Retention Registers.

The Employer shall establish competitive levels and retention registers in accordance with applicable laws and regulations. The Union and the employee shall have the right to review competitive levels and retention registers as may be applicable to the employee or to the bargaining unit. The appropriate personnel office shall maintain all lists, records, and information pertaining to a RIF for at least one (1) year following the effective date of the RIF.

Section 9. Separation.

The Employer shall endeavor to find employment in other Federal agencies within the commuting area for the employees who are separated through RIF. Employees for whom no positions are found may be counseled by a representative of the Employer on the benefits to which they may be entitled, including information concerning early retirement with discontinued service annuity, where applicable. Reemployment priority lists shall be established for employees who cannot be retained.

Section 10. Waiver of Qualifications.

In accordance with applicable regulations, when the Employer is unable to offer an assignment, the Employer agrees to waive qualifications of employees who will be separated due to RIF, for position which do not contain selective placement factors, provided the Employer determines the employee is able to perform the work in the comparable position without undue interruption to the mission of the Employer and the employee meets the minimum education requirements.

Section 11. **Information to Employees.**

The Employer shall provide complete information needed by employees to fully understand the RIF and how and why they are affected. The Employer shall provide equitable treatment for all employees and make every effort to retain status employees during a RIF.

Section 12. **Retirement.**

Prior to and during the RIF, all retirements will be strictly voluntary. There will be no coercion, direct or indirect, intended to influence the employee's decision, but the Employer will freely advise the employee of any prospective retirement rights.

Section 13. **Competitive Area.**

With the following exceptions, all SBA positions in the same commuting area (as defined in 5 C.F.R. 351), both field and Central Office, shall constitute separate competitive areas.

- A. For bargaining unit employees of a Post of Duty (POD) regardless of number of employees, and bargaining unit employees of a Branch with less than twenty-five (25) employees, the POD or Branch will be included in the competitive area of the geographically nearest Regional or District Office in the Same Region to which the employee is assigned immediately prior to the RIF.
- B. In recognition that positions in the Office of Inspector General are not in the bargaining unit, they shall constitute a separate competitive area, by commuting area, for RIF purposes.

Section 14. **Displacement.**

The Employer will not fill a vacant bargaining unit position within the organizational unit in which the RIF is taking place until it has considered all reasonable alternatives to reduce the adverse effects on bargaining unit employees who are to be displaced as a result of the RIF. In considering these alternatives, the Employer will review the possibility and feasibility of redesigning a vacant position.

Section 15. **Relocation.**

In connection with a RIF and where applicable, the Employer agrees to grant official time and pay relocation expenses as provided by appropriate regulation.

ARTICLE 35
PERMANENT CHANGE OF DUTY STATION

Section 1.

A permanent change of duty station (PCDS) is the transfer of an individual from one location to another location beyond commuting range by competitive selection, voluntary reassignment, or directed reassignment.

Section 2. Limitation.

Discipline or reprisals are not valid bases for taking a PCDS action.

Section 3. Reimbursement.

The Agency in accordance with applicable laws and regulations shall pay per diem, and other allowable expenses incurred in a PCDS that is a result of a directed reassignment.

Section 4.

In the case of a competitive selection or voluntary reassignment, employees will normally be given thirty (30) days to report. They will receive written information, including:

- A. The effective date of the assignment;
- B. The name of the supervisor and the Division to which assigned;
- C. Location of the duty station, including street address;
- D. Job title, series, grade and rate of pay;
- E. Position description; and
- F. Information on what time will be available for house hunting trips, and a point of contact for information on applicable relocation expenses that the Agency will provide in accordance with statute, Government-wide regulation and this Agreement.

ARTICLE 36 OFFICIAL TRAVEL

Section 1. **Official Travel.**

The nature of the mission of the Agency is such that on occasion it will be necessary for bargaining unit employees to perform travel away from their official duty station (ODS).

Section 2. **Scheduling Travel.**

A. Travel During Work Hours

To the maximum extent practicable, the Agency will schedule and arrange for the travel of bargaining unit employees to occur during normal working hours within the employee's regularly scheduled work hours (i.e., 4/10, 5/4/9, 8-hour, etc.). However, if circumstances require the employee's presence on a specific day, too early to permit travel that day, the employee should perform the travel on the preceding day, leaving home or the Alternative Duty Station (ADS) at a reasonable time. Exceptions will be made when multi-day travel is necessary (e.g., traveling to American Samoa). Extensions to official travel may be granted subject to leave requirements and at the employee's expense. Employees authorized to travel outside their normal duty hours will be compensated in accordance with all applicable law, rules and regulations.

B. Compensation for Time Spent in Travel

1. Definition

For purposes of this Article, the terms "official duty station" and "official worksite" are both defined to mean an area (radius) within the boundaries of the city, town, or other established area to which the employee normally reports to work. The radius is determined to be fifty (50) miles from the ODS or worksite in any direction.

2. Time Spent in Travel for FLSA non-Exempt Employees

Time spent in travel will be considered hours of work, and thus compensable if:

- a. The employee is required to travel during regular working hours;
- b. The employee is required to drive a vehicle or perform other work while traveling;
- c. The employee is required to travel as a passenger on a one-day assignment away from the ODS; or
- d. The employee is required to travel as a passenger on an overnight assignment away from the ODS during hours on nonworking days that correspond to the employee's regular working hours.

3. Time Spent in Travel for FLSA Exempt Employees

Time spent on official travel during non-working hours (i.e., hours outside the scheduled tour of duty for leave purposes) is not considered hours of work for overtime purposes under Section 3 of this Article. Compensation for official travel during non-working hours is provided only through compensatory time off for travel. If travel occurs during regularly scheduled

overtime, such travel may be deemed compensable hours of work if any condition set forth in [5 C.F.R. 550.112 \(g\)\(2\)](#) is satisfied.

4. Compensatory Time for Travel

The Agency shall credit an employee, on an hour-for-hour basis, with compensatory time off for time in a travel status if:

- a. The employee is required to travel away from the official worksite; and
- b. The travel time is not otherwise compensable hours of work.

5. Except as provided in Sub Section 8, below, travel time in conjunction with a permanent change of station of a temporary change of station is not creditable.

6. Time in a travel status includes:

- a. The time an employee actually spends traveling between the ODS and a temporary duty station;
- b. The time an employee actually spends traveling between two temporary duty stations;
- c. The usual waiting time that precedes or interrupts such travel;
- d. Time spent traveling outside the ODS, provided that such travel is outside regular work hours;
- e. Time spent traveling between the employee's home and the temporary duty station, minus the time spent in normal home to work or work to home travel; and
- f. Time spent traveling outside regular work hours between a work station and a transportation terminal.

7. Time spent at a temporary duty station between arrival and departure is not time in a travel status. Bona fide meal periods during actual travel time or waiting time are not creditable as time in a travel status. A delay between actual periods of continuous travel that includes overnight lodging during which the employee is free to rest, sleep, or otherwise use the time for their own purposes, is not creditable as time in a travel status. Time spent traveling between home and a transportation terminal (e.g., airport, train station) within the limits of the ODS outside regular working hours is not creditable as time in travel status.

8. If an employee is required to travel directly between their home and a temporary worksite outside the limits of the employee's official worksite, the travel time is creditable as time in a travel status. However, the time that the employee normally would spend in home-to-work or work-to-home travel is deducted from that amount. The travel time outside regular working hours directly to or from a temporary worksite or transportation terminal (e.g., airport or train station) outside their ODS is creditable as time in a travel status. However, if the travel occurs on a day that the employee is regularly scheduled to work, the time the employee would have spent in normal home-to-work or work-to-home commuting must be deducted.

9. Only travel from home to the temporary duty station on the first day and travel from the temporary duty station to home on the last day must be considered as creditable in the case of an employee who is on a multiple-day travel assignment and who chooses not to use temporary lodging at the temporary duty station, but to return home at night or on a

weekend. Travel to and from home on other days is not creditable travel time unless the authorized management official determines that credit should be given based on the net savings to the Agency from reduced lodging costs, considering the value of lost labor time attributable to compensatory time off. For cost comparison purposes, the dollar value of an hour of compensatory time off for travel equals the employee's hourly adjusted rate of pay.

10. In the case of an employee who is offered one mode of transportation, and who is permitted to use an alternative mode of transportation, or who travels at a time or by a route other than that selected by the Agency, the Agency must determine the estimated amount of time in a travel status the employee would have had if the employee had used the mode of transportation offered by the Agency or traveled at the time or by the route selected by the Agency.
11. Employees must file requests for credit of compensatory time off for travel within ten (10) workdays after returning to the ODS, or within ten (10) workdays of returning from the temporary duty station or approved leave which immediately follows the temporary duty during which the compensatory time off for travel was earned, by submitting a travel itinerary, or any other documentation acceptable to the employee's supervisor, in support of the request. If not submitted within this time, the Agency may deny the request for credit of compensatory time off, unless the employee can show good cause for the delay. The Agency will authorize credit in increments of one-quarter of an hour and will track and manage compensatory time off for travel separately from other forms of compensatory time off.
12. An employee must use accrued compensatory time off for travel by the end of the 26th pay period after the pay period during which it was credited. If an employee fails to use the compensatory time off within twenty-six (26) pay periods after it was credited, they will forfeit such compensatory time off. Compensatory time off for travel will also be forfeited upon voluntary transfer to another agency; upon movement to a non-covered position; or upon separation from the Federal Government. Under no circumstances may an employee receive payment for unused compensatory time for travel.
13. The Agency may extend the time limit for using such compensatory time off for travel for up to an additional twenty-six (26) pay periods if the employee was unable to use the compensatory time due to an exigency of the service beyond the employee's control. The Agency retains complete discretion in expanding this time period, and it is not subject to review under the grievance or arbitration procedure.

C. Interim Return Home

If a temporary duty assignment requires a traveler to be away for more than fourteen (14) calendar days, the Agency may, upon request of the employee, authorize the traveler to return to their ODS, or place of residence.

Section 3. **Travel Authorization.**

Official travel, whether Temporary Duty (TDY) or Local, must be authorized in advance of travel using the Electronic Travel System. For travel related issues, the employee should contact the Denver Finance Center (DFC) Help Desk. Local authorizations are typically prepared on a monthly or quarterly basis, but can be prepared on a trip-by-trip basis.

Section 4. **Paying for Travel.**

A. **Government Travel Card.**

Employees who are required to travel more than two (2) times a year may be issued a government travel card (note: GSA has granted a waiver to travel card use for employees who travel less than five (5) times in a year). Instructions on how to apply for a Government issued travel card as well as other travel resources can be found at [this link to travel resources](#).

B. **Creditworthiness.**

Pursuant to Public Law 108-447, Section 639, the Agency is required to evaluate the creditworthiness of an employee before issuing that employee a government travel card.

C. **Alternatives.**

When an employee cannot obtain a standard government travel card because of a lack of credit history or because they are found to have an unsatisfactory credit history, the employee's travel will be paid using suitable alternative payment mechanisms available to the Agency. Alternative mechanisms may include use of the Centrally Billed Account (CBA).

D. **Cash Advances.**

An employee may use their government issued travel card to obtain a limited cash advance from an Automated Teller machine (ATM) for incidental expenses that cannot be charged on the card. Cash advances are subject to the following limitations: 1) The maximum amount allowed for ATM advances is the MI&E portion of per diem (excluding lodging), plus ground transportation; 2) The travel card has an ATM limit set at \$200 in a single day, and \$1,000 per month Continental US (\$1,500 outside Continental US); 3) ATM advances in excess of the MI&E and ground transportation (as described above) must be authorized in advance with written justification. The approved justification must be submitted with the travel voucher and such authorizations for excess to their approving official. The Agency will ensure that employees who travel are informed of how to contact the DFC Help Desk for Assistance.

E. **Laundry Allowance.**

Employees on a minimum of five (5) consecutive days (four (4) consecutive nights) temporary duty may claim laundry and/or dry cleaning expenses not to exceed \$5 each week for the first 14 days in travel status, and \$15 each successive week as long as there is no break in travel. If there is a break in travel, even for a weekend, the time period starts all over again.

F. **Telephone Communications.**

If the employee does not have available a government cell phone, or access to FTS lines during travel they may be reimbursed up to \$10 for phone calls if in travel status over 5 days. Employees will use the most economical means available, in order to minimize the cost to the Government.

Employees will exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.

Section 5. Travel Voucher Processing.

A. Timely TDY Claim Regulation.

Upon Completion of TDY travel, an employee not in a continuous travel status will submit a voucher through the electronic travel system, to their authorizing official, reflecting an accounting of all authorized expenses within five (5) workdays after completion of travel ([FTR 301-52.7\(a\)](#)).

B. Local Travel Filing.

Upon completion of local travel an employee will complete a Claim for Reimbursement for Expenditures on Official Business Form (currently Form SF 1164). Local travel vouchers must be submitted no later than 3 months from the date of the earliest item on the form.

C. Prompt Payment.

The Agency must reimburse the employee within thirty (30) calendar days after the employee submits a proper travel voucher to their approving official. If the Agency does not pay the travel voucher within the thirty (30) calendar day timeframe after a proper travel voucher has been submitted to the approving official, the employee will be paid a late fee as calculated by [FTR 301-71.210-214](#).

Section 6. Billing, Salary Deduction, and Direct Pay.

Employees are personally responsible for making payments to their individual government travel card in a timely fashion in accordance with their signed agreement with the issuer of the card.

A. Billing Disputes.

When the employee disputes a charge on the government travel card; the employee is responsible for promptly contacting the government travel card company to resolve the dispute.

B. Salary Deduction.

The Agency may collect undisputed, delinquent government travel card amounts via direct deduction from an employee's payroll disbursement on behalf of the government travel card vendor ([OMB Circular A-123, Appendix B](#)).

1. Prior to salary deduction, the employee will be provided written notice of the type and amount of the claim, the intention to collect the claim by deduction from the employee's disposable pay, and an explanation of the employee's rights as a debtor.
2. The employee will be provided the opportunity to inspect a copy of the records related to the claim and will be given an opportunity to make a written agreement with the government

travel card vendor to repay the delinquent amount. The employee will receive adequate duty time for all the above activities.

C. Direct Pay.

According to [OMB Circular A-123, Appendix B](#), an employee's travel voucher reimbursement is divided between an amount sent directly to the government travel card vendor, and the balance of the reimbursement sent electronically to the employee's bank account.

1. At a minimum, when the SBA DFC processes an employee's travel voucher, the amount sent to the travel card vendor will be the total of the employee's common carrier (Airplane/Railway ticket), fees, taxes, hotel, rental car charge, and ATM advances.
2. If an employee desires an amount greater than the total of these items to be paid directly to the Travel Card Vendor, the employee will adjust the electronic voucher accordingly.
3. If an employee has already paid their travel card balance before receiving reimbursement, or for some other reason a Direct Pay would result in an erroneous (duplicate) payment to the government travel card vendor, the employee must modify the electronic voucher.

D. Payment Notifications.

The employee will receive email notifications of reimbursement one for the amount of the payment made directly to the government travel card vendor, and a second email for the amount of the reimbursement sent to the employee's personal bank account. The travel authorization number, identifying the submitted voucher, will be included in both of these e-mails. It is the employee's responsibility to verify these amounts to ensure that the total due amount is paid to the government travel card vendor in a timely manner to prevent delinquency.

Section 7. Delinquent Travel Card Accounts.

- A. Since the Government is very intent to monitor and minimize travel card delinquency, the Agency uses a number of control procedures:
 1. If the employee's government travel card becomes 31+ days delinquent, the employee will receive notification as a reminder of their responsibilities and the serious implications of government travel card delinquency. Employees should increase their Direct Pay amounts to eliminate the delinquent balance.
 2. If the employee's government travel card becomes 61+ days delinquent, DFC notifies the employee and their appropriate office director or Management Board member regarding the delinquency. The employee's government travel card is automatically suspended by the travel card vendor. The employee may be subject to disciplinary action at this time. The total amount of outstanding reimbursement vouchers will be paid directly to the government travel card vendor until the balance is brought to zero. If an employee's card is suspended and the employee needs to travel, they will need an exemption from mandatory use of the government travel card. The DFC will provide guidance to employees on the procedure for obtaining this exemption.

3. If the employee's government travel card becomes 91+ days delinquent, the government travel card vendor will cancel the employee's account. Based on the government travel card vendor policy, an account which has been cancelled due to delinquency will not be reactivated. The government travel card vendor will initiate travel debt collection procedures in accordance with [41 C.F.R. 301-54.100](#). The amount deducted from the employee's pay may be up to 15 percent of disposable pay each pay period until the entire travel debt is paid in full. The government travel card vendor reports derogatory credit information to the employee's personal credit report. Future travel costs may be carried through the employee's personal funds until they can receive reimbursement. The employee is required to get an exemption to the mandatory card use rule.
4. If the employee's government travel card becomes 121+ days delinquent, a fee is assessed to the account every month by the credit card company until the account is current.
5. If the employee's government travel card becomes 211 days delinquent, the card vendor submits the delinquent debt to a collection agency.
6. These procedures are subject to changes by the government travel card vendor outside of Agency control.
 - a. Should the employee's account become 61+ days delinquent after submitting a proper travel voucher and not being timely reimbursed by the Agency, the Agency will notify the government travel card vendor that a payment will be forthcoming and the delinquency is through no fault of the employee.
 - b. It is the responsibility of the employee to pay their credit card in a timely manner.

Section 8. Exemption from Mandatory Government Travel Card Use.

If the employee is requesting an exemption, the employee must prepare a memorandum addressing the following:

- A. Location and dates of travel;
- B. Reasons for the exemption request;
- C. If the reason for the exemption is cancellation of the individual's government travel card, the supervisor must explain why the employee should be allowed to travel;
- D. A signature and recommendation for approval from the supervisor; and
- E. The employee must submit the exemption request through the supervisor, with their recommendation, to the Chief Financial Officer. Each trip requires an exemption and should be submitted with the travel voucher. These requests will be handled in an expeditious manner.

Section 9. Benefits.

Employees will be allowed to retain any frequent flyer miles and hotel points acquired during official travel and any other benefit gained in accordance with the law.

Section 10. **Taxicab Use in Cases of Necessity.**

The Agency may authorize/approve the usual taxi cab fare plus tip for travel between the employee's office and home when the employee performs official business at their ODS and the following circumstances exist:

- A. The employee is dependent on public transportation for officially ordered work outside regular working hours; and
- B. The travel between the employee's office and home is during hours of infrequently scheduled public transportation or darkness (FTR 301-10.420 (d)).
- C. This Section will also apply for taxi cab rides from a scheduled event to home, under the same circumstances.
- D. Taxi cab use covers events that employees have been approved to attend on behalf of the Government.

ARTICLE 37 DISCIPLINARY ACTION

Section 1. **Definition.**

- A. For the purposes of this Article, disciplinary action is defined as a Letter of Reprimand or a suspension from employment of fourteen (14) days or less.
- B. No bargaining unit employee will be the subject of a disciplinary action except for just and sufficient cause. Disciplinary action shall be appropriate to the offense. Upon request, an employee may have a Union Representative present when disciplinary action is administered.

Section 2. **Uses and Representation.**

- A. Disciplinary actions for performance deficiencies may only be taken after performance standards have been communicated to the employee in accordance with [Article 28](#) of this Agreement.
- B. An employee may have Union representation with respect to possible discipline in accordance with [Article 8](#) of this Agreement.
- C. In all cases of disciplinary action taken against any bargaining unit employee the Regional Vice President or designee shall be notified of the action taken at the same time that the employee is notified as promptly thereafter as possible, provided that the employee has indicated either orally or in writing that they have Union representation.

Section 3. **Timeliness.**

Disciplinary or adverse actions will be initiated in an expeditious manner given the nature and circumstances of each incident. If the incident is subject to investigation by the Office of Inspector General or an outside source, the Agency will move forward with any disciplinary or adverse action as expeditiously as is reasonable under the circumstances after being notified it is free to pursue such action.

Section 4. **Specificity.**

A letter of Reprimand shall be clearly identified as such on its face. It shall clearly and specifically state the reason(s) supporting it, including, where possible, specific times or dates of the incidents or causes referred to. Where the Employer desires future corrective action or behavior on the part of the employee receiving the letter, it shall set forth as clearly and specifically as possible what this desired future action or behavior should be. The employee shall have the right, pursuant to [Article 10, Section 2](#), to put on record any reasonable statement in response, except with respect to responding to any final decision by a third party. The parties hereto acknowledge that a letter of requirements, letter of admonishment or warning is not considered to be a disciplinary action; such letter may be issued by the Employer as a means of counseling or informing an employee of legitimate expectations of the Employer.

Section 5. **Records.**

- A. Letters of Reprimand will be placed in the Official Personnel Folder (OPF), on the temporary side, for a period of not more than one (1) year. An employee may request removal of the letter of Reprimand from the OPF at any time. In cases where the employee has not repeated the cause or has taken the corrective measures previously identified by the Employer, this request shall normally be granted.
- B. Suspensions will be made a part of the OPF through the issuance of a Standard Form (SF) 50, which gives effect to the suspension. SF-50s are a permanent part of an employee's OPF, except where the record is purged.
- C. In the event an action of discipline is determined by any authority pursuant to any appropriate process to be unwarranted or improper, in whole or in part, the record will be corrected or purged consistent with the determination.

Section 6. **Suspensions.**

- A. When the Employer proposes a suspension of an employee for fourteen (14) days or less, the employee shall be given written notice of the proposed suspension which shall:
 - 1. Contain the specific reasons/charge for the proposed suspension;
 - 2. Inform the employee of the right to Union representation;
 - 3. Provide at least fourteen (14) calendar days in which the employee may answer the proposal orally and/or in writing;
 - 4. Contain the name of the official to whom an answer may be directed; and
 - 5. Inform the employee that any request for an extension of time in which to reply must be made to the deciding official prior to the expiration of the specified notice period.
- B. The deciding official must not be the proposing official. A decision by the deciding official must be made as soon as practicable following the reply or the expiration of the notice period. The deciding official will consider the written and/or oral response of the employee in his/her decision to suspend or not suspend the employee.
- C. The effective date of a suspension under this Article will not be less than fourteen (14) calendar days from the date of the decision letter. Grievances over suspensions must be filed within twenty-one (21) calendar days from the date of receipt by the employee of the letter of decision. Employees may exercise the right contained in [Article 10, Section 2](#), to put on record any reasonable statement in response.

ARTICLE 38 ADVERSE ACTION

Section 1. **Definition and Procedures.**

- A. An adverse action, for the purpose of this Article, is a removal, suspension for more than fourteen (14) calendar days, reduction in grade or pay, or furlough for thirty (30) days or less.
- B. No bargaining unit employee will be subject to an adverse action except for just and sufficient cause.
- C. An employee may have Union representation with respect to possible adverse action in accordance with [Article 8, Employee Rights and Responsibilities](#).
- D. In all cases of an adverse action taken against any bargaining unit employee, the appropriate Regional Vice President or designee shall be notified of the action taken at the same time the employee is notified, or as promptly thereafter as possible, provided that the employee has indicated either orally or in writing that the Union shall be notified.

Section 2. **Notice.**

- A. In all cases of proposed adverse action, the employee will be given written notice with a copy to the designated Union Representative which will state any and all reasons for the proposed actions specifically and in detail, at least thirty (30) calendar days in advance of the action, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed or unless the Agency acts under other appropriate Government-wide law or regulation. The Agency agrees that the employee shall be given the opportunity to use up to four (4) hours of official time to review the evidence on which the notice is based and that is being relied on to support the proposed action. Additional official time may be granted on a case-by-case basis. Upon request, one copy of any document(s) in the evidence file will be provided to the employee and his/her designated representative.
- B. An employee against whom an adverse action has been proposed shall be allowed at least fifteen (15) calendar days to respond orally or in writing and to furnish affidavits and other documentary evidence in support of the answer prior to a decision being rendered.

Section 3. **Records.**

- A. The Agency will furnish all information and material relied upon to support any proposed adverse action in accordance with law, [Article 6, General Provisions, Section 5](#), or [Article 10, Official Personnel Records, Section 4](#).

Section 4. **Stays of Adverse Actions.**

- A. In any case involving the proposed removal of a bargaining unit employee for reasons of unsatisfactory performance, the affected employee may, within ten (10) calendar days of receipt of the decision upholding the proposal, request in writing that the action be stayed for up to one hundred twenty (120) calendar days pending the resolution of a grievance or arbitration of the matter, if such remedies would otherwise be available.

The request shall be submitted in writing to the official who rendered the decision. It shall state with particularity the reasons in support thereof. The Employer shall give full and fair consideration to any such request, and shall notify the employee in writing of the approval or denial. The matter shall be within the full discretion of the deciding official.

- B. Factors which may be taken into consideration, but which need not to be controlling, may include: (1) active efforts by the employee with reasonable prospects of finding other employment; (2) new evidence not previously presented to the Employer; (3) efforts by the employee to complete any steps necessary to retire within the period of the stay, if they are otherwise eligible for retirement; and (4) any other factors deemed by the deciding official to be relevant and appropriate.
- C. Moreover, in any case involving the removal of a bargaining unit employee for reasons of unsatisfactory performance or an adverse action (See Section 1. A., above), the grievance process may be waived and the Union may proceed immediately to arbitration. This right recognizes that the adverse action process has already involved steps similar to those contained in the grievance process. The practical time savings and benefit in avoiding repetitious processes are deemed to be of interest mutually to the employee, the Employer, and the Union.

ARTICLE 39 GRIEVANCE PROCEDURE

Section 1. Purpose.

The purpose of this Article is to provide an effective and efficient process that is fair, equitable, and consistent to timely resolve disputes in the workplace.

Section 2. Definitions.

A grievance is defined as any complaint by an employee or by the Union concerning any matter relating to the employment of the employee; any complaint by an employee, the Union, or the Employer concerning the effect or interpretation, or a claim of breach, of this Agreement; or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 3. Scope of Procedures.

- A. The Procedures set forth herein shall be the sole and exclusive procedures available to employees within the unit of recognition and to the Parties to this Agreement for resolution of grievances, except as otherwise specifically hereinafter provided. The Parties hereto agree that every effort will be made to settle grievances at the lowest possible level.
- B. This grievance procedure does not apply to any grievances concerning:
 - 1. Any claimed violation of [Subchapter III of Chapter 73 of Title 5 U.S.C.](#), relating to prohibited political activities;
 - 2. Retirement, life insurance, or health insurance;
 - 3. A suspension or removal under [Section 7532 of Title 5 U.S.C.](#), concerning National Security;
 - 4. Any examination, certification, or appointment, including separation during probationary period; or
 - 5. The classification of any position which does not result in the reduction in grade or pay of an employee.
- C. An employee shall be deemed to have exercised their option under this provision to raise the matter under either a statutory procedure or applicable appellate procedure at such time as the employee timely initiates a formal action.
 - 1. An aggrieved employee affected by a prohibited personnel practice under [Section 2302\(b\)\(1\) of Title 5 U.S.C. \(discrimination\)](#), may raise the matter under a statutory procedure or this procedure, but not both.
 - 2. An aggrieved employee affected by matters covered under [5 U.S.C. 4303](#) and [5 U.S.C. Section 7512](#) (Performance and Adverse actions), may raise the matter under the appropriate appellate procedures or this procedure, but not both.

- D. Expedited Grievance Procedure for Negative WGI Determinations and Performance Appraisals.
1. When a performance appraisal is being grieved, the employee has the right to file a grievance with the management official making the reconsideration determination or the decision on the performance appraisal in accordance with the provisions herein. If the provisions herein are used, any grievance over a performance appraisal rating shall be submitted on the form in [Appendix B](#) of the Master Agreement within fifteen (15) calendar days of receipt by the employee of the performance appraisal. The management official receiving the grievance shall respond to the grievance, in writing, within fifteen (15) calendar days of receipt of the grievance. The decision of the official with whom the grievance is filed shall be the final agency decision on the matter.
 2. When a negative within-grade increase determination is sustained by a decision rendered in response to a request for reconsideration, the employee shall be informed in writing of the reason for the decision. Should the employee and/or his representative elect to grieve the reconsideration decision, the grievance must be submitted on the form in [Appendix B](#) of this agreement within fifteen (15) calendar days of receipt of the decision. The authorized management official shall provide a within response within fifteen (15) calendar days of receipt of the grievance. The grievance decision shall be the final Agency decision.
 3. Should the Union wish to invoke arbitration over a final Agency decision in accordance with Section 3(d)(1) above, it shall do so in accordance with [Article 40, Section 14, Expedited Arbitration](#), of the Master Agreement between SBA and AFGE.

Section 4. **Representation.**

An employee may be represented by AFGE or may present a grievance on the employee's own behalf, provided the Union is given the opportunity to be present during the processing of the grievance and at the adjustment of the grievance. The right to be present at any grievance-related discussions is separate from the Union's right to be present at any formal discussion. The designated Union official shall promptly receive copies of written decisions on grievances within the time frame contained herein.

Section 5. **Grievance Content**

- A. All grievances filed under these procedures shall be submitted on the approved grievance form contained herein as Appendix B. This form can be changed or altered at any time by mutual consent of the Labor Relations Officer and the Council 228 President. The grievance form shall provide enough information including the specific issue(s) giving rise to the grievance, names, dates and locations of the occurrence, and the nature and substance of the any alleged contract violations. The grievance form shall provide enough information to determine the nature of the dissatisfaction and the requested remedy.
- B. If the information contained in the grievance is not sufficient in order for a decision to be rendered, it will be returned within three (3) working days to the grievant without action, identifying the information the Agency believes is missing. This section of the MLA will be referenced as the reason for the return of the grievance. When the Employer notifies the grievant that the grievance is not complete, the grievant may, within three (3) working days revise the

grievance in an attempt to cure the problem. Upon revision or after three days without revision, the grievance will be processed at the level at which the issue was raised and proceed as a normal grievance. The grievant will be allowed only one (1) revision attempt. The Employer reserves the right to challenge grievability, arbitrability, and/or the validity of the revised grievance at arbitration.

Section 6. Time Limits.

- A. Unless mutually agreed upon, all time limits contained in this procedure shall be strictly observed. In the event the expiration date falls on a non-workday, the expiration date will be the next workday.
 - 1. Failure by the Bargaining Unit Employee (BUE) to adhere to the time limitations for filing a grievance at any step of the procedure shall result in cancellation of the grievance.
 - 2. Failure by the Appropriate Management Official (AMO) to adhere to the time limitations for responding to a grievance, as identified in Step One shall result in the grievance being elevated immediately to the Step Two.
 - 3. If a Step Two decision is not rendered within 14 Calendar days, the Union has the right to invoke arbitration under the provisions of [Article 40](#).
- B. When the grievant and/or Union Representative are in travel status on official business, and/or approved leave, time extensions will be granted by the Employer on the basis directly proportional to the travel and/or approved leave involved so that the actual productive time available at the grievant's assigned permanent site will be the same as specified in the step procedures below. This same provision shall apply to extend the time available to involved Agency officials who are on official travel and/or approved leave during the time they would otherwise have at their permanent locations to comply with the steps enumerated below. The parties agree that each shall provide written notification to the other in the event that such extensions are necessary, and such notification shall specify the time when the additional time begins to run and when it ends.

Section 7. Grievability.

In both Parties consent in writing, issues of grievability shall be subject to arbitration as a threshold issue. This section shall be governed by the following procedures: The Parties will submit their position on the issue of grievability via a written brief or verbally via teleconference as directed by the arbitrator for review and decision. It is only after the issue of grievability has been decided by an arbitrator, and he/she renders a final written decision in favor of grievability, may the merits of the grievance be heard. The written decision must be rendered by the arbitrator within five (5) calendar days of presentation of the threshold issues concerning grievability.

Section 8. **Employee Grievances.**

INFORMAL STAGE

- A. The Parties recognize the value of informally resolving employee grievances at the lowest possible level. The Informal Stage is at the election of the employee and is not part of the Formal Stage. Should the employee select to exercise this option, the employee shall adhere to the procedures outlined below.
 - 1. Within twenty-one (21) calendar days of the action being grieved or from the date when the employee(s) first learned of the action, the employee shall discuss with the management official who took the action they wish to grieve, the substance of the grievance and the resolution which is sought.
 - 2. Where such a meeting is held, the employee and manager should document the discussion, and all parties to the discussion shall sign and date such documentation.
 - 3. The employee may request Union representation at this stage.

FORMAL STAGE

- A. Step One. If the informal stage was elected by the employee and the grievance was not otherwise resolved through that process, the employee shall file, within twenty-one (21) calendar days, a written grievance (via email, facsimile or postmarked) with the lowest level management official who has the authority to grant the relief requested. This person is the Appropriate Management Official (AMO). If the Informal Stage is not elected by the employee, the employee shall have twenty-one (21) calendar days of the action being grieved or from the date when the employee(s) first learned of the action, to file a written grievance (via email, facsimile or postmarked) with the Appropriate Management Official (AMO). The AMO receiving the grievance shall conduct such investigations as necessary, including interviewing witnesses, the aggrieved, or any other person having knowledge of the pertinent facts relating to the grievance. The AMO shall render a written decision to the employee(s) or the employee's representative, if one has been designated, within fourteen (14) calendar days from receipt of the grievance. The decision will include the name and title of the individual to which the grievance may be directed if it is not resolved at this step.
- B. Step Two. If the grievance is not resolved at Step One of this procedure, the written grievance may be submitted to the final reviewing official or designee. The final reviewing official for an employee grievance shall be the Management Official at the career Senior Executive Service level or designee above the AMO at the Step One level. The grievance must be submitted in writing (by email, facsimile, or postmarked) within fourteen (14) calendar days from the date of receipt of the decision at Step One.
- C. If at any step, the grievant has filed a grievance with a management official who lacks the authority to grant the relief requested, the grievance shall be forwarded within two (2) work days by that management official to the appropriate management official who has the authority to grant the relief requested. In this event, the management official with appropriate authority will be given fourteen (14) calendar days from receipt of the grievance to respond to the employee or representative as if this management official had received the grievance in the first instance.

Section 9. **Union Grievance.**

The Union may initiate a grievance in accordance with the following procedures:

A. **Step One.**

1. If the grievance involves one region, the following procedures shall be used. The Regional Vice President or designee, shall discuss the matter informally with the AMO within twenty-one (21) calendar days of the event giving rise to the grievance or within twenty-one (21) calendar days of the date the Union first learned of the event causing the grievance. The deciding official shall render a written decision within fourteen (14) calendar days from the date of the informal discussion. The decision will provide the name and title of the management if the grievance is elevated to the next level.
2. When a grievance involves more than one region, the President, Council 228 or designee, shall discuss the matter with the appropriate management board official, with the authority to grant the relief sought within twenty-one (21) calendar days of the event giving rise to the grievance or within twenty-one (21) calendar days of the date the Union first learned of the event causing the grievance. The management official shall render a written decision within fourteen (14) calendar days from the date of the informal discussion. The decision will provide the name and title of the management official if the grievance is elevated to the next level.

B. **Step Two.**

If the grievance is unresolved at Step One, the Union may file a written grievance on the form at [Appendix B](#) (by Email, facsimile, or postmarked, to the designated management board official identified in the Step One decision within fourteen (14) calendar days of the decision at Step One. The appropriate management official, or designee, shall render a written decision within twenty-one (21) calendar days from receipt of the grievance. The decision at this step shall be the Agency's final decision on the grievance.

Section 10. **Employer Grievances.**

The Employer may initiate a grievance as follows:

A. **Step One.**

A Management Official or their designee(s), shall first informally discuss the matter with the appropriate Regional Vice President or designee for the appropriate unit segment, or in the case of an Agency-wide grievance, with the President of the Council, or designee. The grievance shall be filed within twenty-one (21) calendar days from the date of the discussion.

B. **Step Two.**

If the grievance is unresolved at Step One, a Management Official or their designee(s) may file the grievance, in writing (by Email, facsimile, or postmarked), with the appropriate Regional Vice President or designee for the appropriate unit segment, or in the case of an Agency-wide grievance, with the President of the Council, or designee. The grievance shall be filed within

fourteen (14) calendar days from the date of the decision at Step One. The Union Representative, or designee, receiving the grievance shall render a decision, in writing, within twenty-one (21) calendar days from receipt of the grievance. The decision shall be the final Union decision on the grievance.

Section 11. Grievance Mediation.

Parties to a grievance are encouraged to use mediation at the earliest point possible during the formal stage of the grievance procedure, but before invocation of arbitration. The Parties can agree to submit a particular grievance to mediation using the Federal Mediation and Conciliation Service (FMCS), the Federal Shared Neutral Program or other certified mediation service. Mediation by FMCS is requested by contacting the FMCS Alternative Dispute Resolution Division, by phone or email. Mediation will be attempted if agreed upon by the grievant, Union Representative, and the Agency. Accordingly, as of the date of a written agreement to attempt mediation, the time limits are suspended until three (3) work days after mediation is concluded, either by settlement, or a decision by the parties that mediation has not succeeded. To promote the effectiveness of mediation, it is agreed that no offers of compromise or admissions against interests, which were made during the mediation will be used in a subsequent phase of the grievance process, including arbitration.

Section 12. Mediator's Costs.

Mediator's costs, if any, shall be borne equally by the parties subject to grievance mediation. If any party does not want to incur costs associated with mediation, it may back out of the agreed to mediation and reinstate the grievance procedure at any time upon written notice to the other party. Either Party may withdraw from mediation at any time during the process. In this case, applicable time limits are suspended until three (3) workdays after receipt of written notification of the Party's decision to withdraw. It is agreed that submission to mediation is without prejudice to continuing through the grievance procedure, up to and including arbitration.

ARTICLE 40 ARBITRATION

Section 1. **Applicability.**

Any grievance processed under the grievance procedure herein may be referred to arbitration by the Agency or the Union upon written notice to the other. Such notice shall be made within thirty (30) calendar days of the receipt of the final decision on the grievance. Unless mutually agreed upon, all time limits contained in this procedure shall be strictly observed.

Section 2. **Invoking Arbitration.**

The parties shall jointly request a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS). The cost of the panel of arbitrators shall be borne equally. Within fourteen (14) calendar days of invoking arbitration, the invoking party shall execute and forward the applicable FMCS form used to request the panel of arbitrators, along with their portion of the required fee to the opposing party. Within fourteen (14) calendar days, the opposing party shall forward it to the FMCS, along with their portion of the required fee, and copy the invoking party. The request shall normally be made on the FMCS Form R-43 (Request for Arbitration Panel), which can be found at [Appendix J](#).

Section 3. **Selection of Arbitrator.**

Within fourteen (14) calendar days from the receipt of the panel of arbitrators from FMCS, the parties shall meet to select an arbitrator. The parties shall each strike one (1) name from the panel alternatively, then repeat this procedure until there is only one remaining arbitrator. The remaining arbitrator shall then be selected. The party to strike the first name from the list shall be chosen by a flip of a coin. Either party may empower the FMCS to make a direct designation of an arbitrator to hear the case in the event of undue delay.

Section 4. **Arbitrator Cost.**

The arbitrator's fees and expenses shall be borne equally by the parties to the arbitration. The cost of transcripts shall be borne by the party requesting the transcript, and a copy will be provided to the other party free of charge.

Section 5. **Scheduling and Hearing of Arbitration.**

Upon selected of the arbitrator, the respective representatives for the parties shall jointly communicate with the arbitrator and each other within fourteen (14) calendar days in order to select a mutually agreeable date for the arbitration hearing. The date of the arbitration hearing will be within sixty (60) calendar days when possible and agreeable with the arbitrator. Arbitration hearings will be held at any site mutually agreed to by the parties. Rescheduling of the hearing will be made by the arbitrator. Postponement of the arbitration hearing will be made by mutual written consent of the parties.

Section 6. Duty Time.

The grievant, their representative, and all employees who are called as witnesses in third party proceedings involving the Agency, will be excused from duty without loss of pay or charge to leave.

Section 7. Stipulations.

At least seven (7) calendar days prior to the hearing date, the parties shall communicate with each other in an effort to develop joint stipulations for the arbitrator. If the parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate submission at the hearing and the arbitrator shall determine the issue or issues to be heard.

Section 8. Authority of Arbitrator.

The arbitrator shall have no authority to add to or modify any provision of this Agreement. The arbitrator shall be requested to render a decision and remedy within thirty (30) calendar days of the conclusion of the hearing.

Section 9. Witnesses.

At least seven (7) calendar days before the opening of the hearing, the parties will exchange lists of witnesses. Temporary shift changes will be granted, if necessary, for an employee witness to be present at the hearing on official time. If the parties cannot agree on the proposed witness(s), it shall be the sole discretion of the arbitrator to determine who may testify. The Agency will notify and release (on official business) Agency employees serving as witnesses. Witness travel expenses and per diem shall be paid consistent with [Article 12, Section 3](#) of this Agreement.

Section 10. Arbitrability.

Only the arbitrator has the authority to decide threshold issues, (i.e., timeliness, technical/procedural violations and venue issues, et al) regarding the arbitrability of the case. The arbitrator shall make a decision on the threshold issues raised prior to hearing the merits of the case.

Section 11. Clarification of Award.

In the event of a question regarding the meaning of an arbitrator's award, either party may request clarification from the arbitrator. Both parties shall be provided copies of the clarification.

Section 12. Attorney Fees.

The arbitrator has full authority to award attorney fees in accordance with the provisions of the Civil Service Reform Act of 1978.

Section 13. **Review.**

A decision of an arbitrator shall be final and binding on the parties, except that either party may seek appropriate review of any arbitration decision.

Section 14. **Expedited Arbitration.**

The invoking party may request arbitration in accordance with the procedures below.

- A. The invoking party shall request expedited arbitration in writing at the time of the initial arbitration notice per Section 1 of this Article.
- B. Each party shall be limited to a maximum of three (3) hours to present its case, including opening statements, examination of witnesses, cross examination, presentation of exhibits, arguments and closing statements. By mutual consent of the parties, the time limits may be extended to a maximum of four (4) hours for each party.
- C. The Arbitrator will be requested to render a bench decision immediately following the hearing, which must be provided in writing and delivered to the parties within twenty-four (24) hours from the closing of the hearing. The decision shall not exceed one page in length.
- D. Transcripts of the hearing may be made. The cost of transcripts shall be borne by the party requesting the transcript, and a copy will be provided to the other party free of charge. Transcripts hereunder or elsewhere in [Article 40](#) shall be used for arbitration award appeals only. The parties agree that any other transcript citation or usage is strictly prohibited.
- E. The hearing shall be closed to all persons except the grievant, the grievant's representative, the relevant Agency officials, the arbitrator, a court reporter if applicable, and any mutually agreed upon observers.

Section 15. **Offer, Accord, and Satisfaction.**

The Agency may offer a full accord and satisfaction of the demand made by the grievant as allowed by law in order to stop the proceedings.

Section 16. **Settlement.**

The parties are strongly encouraged to resolve grievances through settlement, whenever possible.

ARTICLE 41
PAYROLL ALLOTMENTS FOR WITHHOLDING OF DUES

Section 1. Eligibility.

An employee who is a member of the bargaining unit may authorize an allotment, on a [Form SF-1187, Request for Payroll Deductions for Labor Organization Dues](#), to cover the regular and periodic dues for membership in the American Federation of Government Employees (AFGE) provided:

- A. The employee has voluntarily completed a request for such allotment;
- B. The employee is employed in an office for which the bargaining unit has exclusive recognition;
- C. The allotment shall be made at no cost to the exclusive representative. In those cases, where the Agency and the Union disagree regarding the eligibility of an employee for dues withholding, both Parties acknowledge that such representation disputes are in the jurisdiction of the Federal Labor Relations Authority (FLRA). If the Union files a Clarification of unit petition or an Unfair Labor Practice charge, and the FLRA determines that a position in dispute is within the bargaining unit, the Union will be made whole for any dues withholding that the Agency failed to withhold. Normally, the remittance will be processed within two (2) pay periods.

Section 2. Procedures.

- A. A representative of the Union shall complete the required certification on the authorization form and forward the form via FAX, e-mail/computer fax to the Servicing Human Resources Office (SHRO) of the Agency. The Union certifying official shall ensure that the employee is a member in good standing and employed within the appropriate office for which the Union has jurisdiction. The Agency will withhold allotted dues from bi-weekly payrolls. Dues deductions shall normally begin the first complete pay period after receipt of a properly signed and certified [SF-1187](#) in the SHRO, provided the form is received at least five (5) days before the beginning of the pay period.
- B. If the Agency does not comply with 2(a) above, the Agency shall provide written notice including the reason for the delay, to the Council 228 President, the relevant Regional Vice President or designee, and the impacted employee within the pay period following the pay period when dues withholding should have begun pursuant to section 2(a). At the request of the National Local/Council President, the Agency will make the Union whole for any lost dues at a result of untimely dues withholding. This section shall not limit the Union's or the employee's remedies in the event of the Agency's failure to process dues withholdings in a timely manner.
- C. The amount to be withheld shall be the bi-weekly rate determined by the Union. If there should be any change in the dues amount of structure, a blanket authorization, executed by the National Local/Council President or other appropriate official shall be accepted by the Agency.
- D. The National Local/Council President will provide a list detailing the dues structure on a current basis to the SHRO to aid in transferring the dues withholding for the bargaining unit employee from one duty station to another.
- E. The Union will be allowed to make blanket payroll dues changes that will affect the level of dues in all locals. This will normally happen at the beginning of the calendar year. The request for dues

changes will become effective the first complete pay period following fifteen (15) days after receipt by the SHRO.

- F. When a bargaining unit employee who is on dues withholding moves from one duty station in the bargaining unit to another, the employee will continue on dues withholding at the prior rate until the transfer is processed by the SHRO.

Section 3. **Remittances.**

- A. Remittances shall be made each pay period to the AFGE National Office. Remittances shall be accompanied by an AFGE provided computer tape, one for each pay period, showing: the names of member employees from whose pay dues were withheld; the amount withheld; and the employee's Social Security number. The Agency shall furnish tapes for each group of employees in accordance with current groupings.
- B. Each computer tape will also include the name of each employee member who previously made an allotment for whom no deduction was made. Such entry shall have an appropriate explanatory entry as to why no deduction was made.

Section 4. **Termination.**

The SHRO will terminate dues withholding allotment n any of the following circumstances:

- A. When the employee ceases to be a member in good standing of the Union, and the SHRO is so notified by the Union in writing;
- B. When the Union loses its exclusive recognition;
- C. When an employee is no longer in the bargaining unit or employed in an office for which AFGE is the exclusive representative;
- D. When an employee files a written revocation of authorization, SF-1188, Cancellation of Payroll Deductions for Labor Organization Dues, with the SHRO during the fifteen (15) calendar day pay period ending on the anniversary of the completion of the authorization of the allotment, SF-1187; such revocation will be effective not earlier than twelve (12) months after the employee's allotment was begun. The SHRO will be responsible for maintaining copies of all SF-1187s submitted by the Union. Management will provide the Union with copies of the SF-1187 and SF-1188s upon request.
- E. The SHRO will notify the Council 228 President and the Regional Vice President or designee covering the employee in question in the event of (c) or (d) above and provide a report or a copy of the processed SF-1188 in the event of (d) above.

Section 5. **Dues Withholding From Back Pay Awards.**

The Agency will deduct Union dues from an employee's back pay award where an employee: (1) had an allotment for dues withholding in effect at the time of the action giving rise to the back pay; (2) provides written authorization to the Agency requesting that their Union membership be reinstated retroactively to the date it was terminated; and (3) states the amount to be remitted to the Union from the award.

ARTICLE 42 DEVELOPMENT AND TRAINING

Section 1. **General.**

It is mutually agreed that in-house and off-the-job education and training opportunities consistent with job-related goals should be afforded to SBA employees. It is agreed that to the maximum extent possible, management shall provide such opportunities consistent with available resources. Each employee shall have the opportunity to develop a personal plan for career development. Such a plan may include goals which are consistent with the existing and projected needs of the Agency and the employee. As one means of providing developmental experiences, employees may request a detail to learn new skills.

Section 2. **Responsibilities of Employees.**

The Employer and the Union recognize that each employee is responsible for applying reasonable efforts and initiative in increasing their potential through self-development and training. Employees are, therefore, encouraged to take advantage of training and educational opportunities that could enhance their efficiency on the job and provide skills needed for advancement. To those ends, the Employer shall give every consideration to approving requests for training.

Section 3. **Procedures.**

The supervisor and employee shall annually discuss the training needs of individual bargaining unit employees, consistent with the needs of the Agency and the developmental potential aspirations of the individual employee. To assist in this effort, the Agency agrees to provide lists and catalogs on available Agency training. The Employer recognizes its responsibility to adequately train assigned employees when new programs or major revisions to existing programs require it. Where deficiencies are noted in employee's performance which the supervisor believes can be overcome through training, such training will be recommended, and if approved, the Agency will assume the cost of such training, travel and per diem. Where training cannot be approved, the employee will be notified and provided the reasons for disapproval. This notice will be provided as soon as possible. Nomination and selection of employees to participate in training and career development programs and courses shall be made in a fair, impartial and non-discriminatory manner. When employees timely apply for training courses or are required by the Employer to attend such courses, they will be provided with the maximum notice possible of their selection or non-selection. If requested in writing, the reason for non-selection will be given to the employee in writing.

Section 4. **Leave of Absence.**

A leave of absence up to one (1) year may be granted to bargaining unit employees toward their professional development where they can show it would be job-related and in line with the Agency's mission. A subsequent one (1) year leave of absence may be requested and granted.

Section 5. **Special Training.**

The Employer will provide each employee with adequate explanations of training concerning the Privacy Act and the Freedom of Information Act, where required.

Section 6. **Training for New Duties.**

When bargaining unit employees are reassigned to positions having different duties from those previously performed, and the new duties can reasonably be expected to require on-the-job or other training in order for employees to perform satisfactorily, it shall be the Employer's responsibility to ensure that affected employees are afforded an opportunity for the appropriate training. To this end, the supervisor will discuss the training needs with the employee. Employees will receive the appropriate training or be accorded the opportunity as soon as reasonably possible after the reassignment. It shall be the employee's responsibility to attend and participate, in good faith, in the training and to inform the supervisor of any perceived training deficiencies and/or future training needs. A record of such training will be put in the employee's Official Personnel File, if appropriate. Appraisal of employee's performance in such new duties as are addressed in this Section shall be fair and equitable and in accordance with the procedures set forth in [Article 28, Performance Appraisal](#), and in accordance with such procedures as may be adopted in the future pursuant to that article.

Section 7. **Master Agreement Training.**

- A. The Parties to this Agreement recognize that appropriate training on its content will be provided to bargaining unit office employees, Union officials, supervisors and managers. The training will begin within ninety (90) calendar days after the contract is signed. The responsibility for developing and implementing the training will rest with the Office of Human Resources Solutions (OHRS). The President of Council 228 or designee will participate in the development, implementation, and delivery of the training. The training will be conducted via live stream, if available, and/or webinars. The Agency agrees to grant the Union negotiators up to forty (40) hours of official time each during the first year of the Agreement to conduct training seminars.
- B. The schedule, format, and amount of time available to each employee to complete the training will be determined by the parties in the process of developing the training.

Section 8. **Union Sponsored Training.**

During the three-year term of the Agreement, two thousand and four hundred hours of official time shall be allowed for the Union to assign to its representatives for union-sponsored training, and one hundred twenty (120) hours to each officer of the NCSBAL or designee who shall be a representative of the officer's local union for participation in Union-sponsored training on labor-management relations subjects. Such time shall occur during hours when the user would otherwise be on a normal duty status. Individuals who hold both Local and Council officer are only eligible for forty (40) hours in any given year. If the contract extends beyond a three-year term, an equivalent annual allotment of 800 hours of official time shall be allowed for the Union to assign its representatives and forty (40) hours to each officer of the NCSBAL to attend Union-sponsored training as identified above.

- A. Union Representatives will request official time to attend such training in accordance with the procedures in [Article 12, Union Representation](#).
- B. The Agency is not required to pay travel and per diem expenses for Union Representatives to attend Union-sponsored training.

ARTICLE 43

CONTRACTING OUT

Section 1. **Procedures.**

- A. The Employer will inform the appropriate Council President or designee when it exercises its discretion to contract out work, which, as performed by the contractor, could be reasonably expected to impact adversely upon conditions of employment of bargaining unit employees. Examples of such adverse impact include, but are not limited to, Reductions-In-Force, downgrades, or reassignments. When Management has decided to contract out such work, it will, upon specific request related to a specific contract or contracts, provide to the Council President or designee such information pertaining to the contract and the decision as is available and as is disclosable under the Freedom of Information Act. Nothing in this Section shall be construed to require Management at any time to make feasibility or cost studies or any other studies or analyses in connection with the decision to contract out any Agency work.
- B. In the event that the Agency decides to have a cost study performed to resolve questions pertaining to contracting out of such work, as is described in Section 1 a., above, the Council President or designee shall be notified and provided a copy of any such completed study if it would be otherwise obtainable under the Freedom of Information Act.

Section 2. **Negotiability.**

When a determination has been made that the contracting out of such work has or is expected to have an impact, the appropriate Union official may request negotiations on the impact of the determination, and negotiations will be held in accordance with [Article 4](#) of this Agreement.

Section 3. **Limitations.**

In no case, will bargaining unit employees be supervised, in fact or in practical effect, by contractor personnel in violation of or inconsistent with applicable Civil Service rules or regulations.

ARTICLE 44
UNFAIR LABOR PRACTICES

Section 1.

The Parties hereto agree that each shall make every reasonable effort to prevent the occurrence of any Unfair Labor Practice under [5 U.S.C. 7116](#) and to attempt to resolve any Unfair Labor Practice, if possible, prior to filing a charge with the Federal Labor Relations Authority (FLRA). Nothing herein shall in any way limit the rights each Party has in accordance with [5 U.S.C. 7118](#), and any relevant regulations issued by the FLRA.

ARTICLE 45

WORK ENVIRONMENT

Section 1. Principles and Responsibilities.

The Employer and the Union recognize the need and desirability to maintain appropriate dress, work environment, office security, and to improve upon those standards, where possible. It is the reasonability of the employee and Employer to jointly observe conditions of appropriate dress, internal security and professionalism toward the performance of the Agency's mission and the needs of the small business community.

Section 2. Equipment.

The Agency will provide, where possible, equipment, business tools, and supplies (e.g. laptops, cellular telephones, business cards, presentable briefcases, etc.) to meet the needs of the employees who generally meet with the public and non-government organizations.

To the extent possible, new equipment, machinery, and furniture, when purchased by the Agency, will be ergonomically compatible with the individual.

The Regional Vice President or designee will consult and be involved in the development of facility policies that address the selection and purchase of equipment, machinery, and furniture.

Section 3. Work Space Environment.

The Employer and the Union recognize that the working environment may be a factor that can affect job performance. Where unpleasant, distracting or other types of office conditions exist, contributing to employee discomfort and/or inefficiency, the Employer and the Union agree to use their best efforts to provide a safe, suitable and adequate work environment for all employees.

Whenever Management decides to alter/renovate the physical work site of the employees represented by the Union, the Regional Vice President or designee will be notified in advance in accordance with [Article 4](#) of this Agreement.

Section 4. Apparel.

The nature of the work performed at SBA requires that employees exercise good judgement, common sense, and professionalism with respect to their dress. Employees attending meetings or making presentations, both inside and outside SBA, with customers, officials and/or resource partners are required to dress appropriately. Inappropriate attire will be handled on a case-by-case basis at the Regional level between the employee, the Union Representative, and Management.

ARTICLE 46
RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

Section 1. Definitions.

For the purpose of this Agreement:

- A. “Research Program” means a planned study of the manner in which public management policies and systems are operating, the effect of those policies and systems, the possibilities for change, and comparisons among policies and systems;
- B. “Demonstration Project” means a project conducted by the Office of personnel Management (OPM) or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management.

Section 2. Limitations.

In the event that the Employer is requested to participate in an OPM sponsored research program or demonstration project under Chapter 47 of the Civil Service Reform Act (CSRA), the Employer will:

- A. Not approve any project involving bargaining unit employees if (1) the project would violate this Agreement, unless the Union has agreed to permitting their inclusion, pursuant to [5 U.S.C. 4703 \(f\)\(1\); or \(2\)](#) until there has been consultation or negotiation as appropriate with the Union if the project is not covered by this Agreement, pursuant to 5 U.S.C 4703 (f)(2); and
- B. Abide by [5 U.S.C. 4703\(e\)](#) if OPM or the Employer determines that the project creates a substantial hardship on or is not in the best interests of the public, the Federal Government employees.

ARTICLE 47

USE OF GSA VEHICLES

Section 1. Principles.

It is recognized that vehicles, other than common carriers, are necessary to conduct official business. These vehicles are provided by General Services Administration (GSA), by GSA-authorized lease or rental, subsequently referred to as “leased”, or by the employee using their private vehicle, and how the vehicle is used is governed by law and Government regulations. The provisions of the following Sections shall apply to the extent they are not inconsistent with law and applicable regulations.

Section 2. Procedures.

- A. If a GSA vehicle or leased vehicle is not available, the employee may use their vehicle and be reimbursed at the highest rate established by GSA. If a GSA or leased vehicle is available, but the employee prefers to use their private vehicle, they will be reimbursed at a lower rate as established by GSA.
- B. If an employee determines that the assigned GSA or leased vehicle is apparently unsafe or undependable for the planned travel and their supervisor agrees, the employee’s private vehicle will be authorized at the higher rate.
- C. If the climate controls (heat or air conditioning) on the GSA or leased vehicle are defective, the employee may request to use their personal vehicle at the higher rate. If circumstances warrant, the supervisor may approve this request.
- D. While many employees are willing to use their vehicles in carrying out official business, individual circumstances could preclude the use. An employee cannot be required to use his/her personal vehicle on official business.
- E. Use of a GSA or leased vehicle to and from the employee’s residence may be necessary from time to time and shall be requested and approved or disapproved on a case-by-case basis in accordance with the appropriate regulations.

Section 3. Safety.

The employee-operator shall: (1) report immediately to GSA or the leasing company any GSA or leased vehicle which is found to be unsafe or which fails to operate properly, and shall obtain instructions on repair or replacement; and (2) the employee-operator shall report the situation as soon as possible to their supervisor, and shall obtain any additional appropriate instructions.

Section 4. **GSA Vehicle.**

An employee in travel status using a GSA or leased vehicle is permitted to purchase meals or other items necessary to health, welfare or sustenance in accordance with Government regulations. In addition, consistent with regulations, the employee is authorized to transport passengers when their presence contributes to the performance of official Government business. If it is determined that use of a marked GSA vehicle would pose a threat to an employee's safety or property or to the vehicle itself, the Employer may: obtain an unmarked GSA car; obtain a leased car; permit use of the employee's private vehicle at the higher authorized rate.

ARTICLE 48 MISCELLANEOUS

Section 1. **Parking.**

Where available, parking may be provided to bargaining unit employees in accordance with General Services Administration (GSA) regulations and law.

Section 2. **Publications.**

The Union may submit articles of mutual interest to the Parties for publication in internal Agency media. Material shall be submitted to the appropriate editor sufficiently in advance of the publication deadline to permit normal review and editorial tasks to be accomplished. Material from the Union may be accepted, revised, or rejected just the same as material from any Agency source.

Section 3. **Eating Facilities.**

The Employer recognizes that convenient facilities for consuming carry-in food and beverages may not be readily available at each office of the Agency. Accordingly, the Parties at any particular locations may agree upon procedures for the use of space for the purpose of eating carry-in food, provided that the use of such space is in conformance with regulations of the GSA and does not interfere with the Agency's mission. The users of any such space shall ensure that the space is kept neat, clean, and sanitary, so as to deter rodents and insects. Vending machines may be placed at convenient locations in the space occupied by the Agency in accordance with appropriate regulations and policies governing such devices. Implementation of this Section shall be in accordance with Article 49 of this Agreement.

Section 4. **Copies of Agreement.**

Notwithstanding any other provisions of this Agreement relating to the Employer's responsibility to furnish a copy to each bargaining unit employee, the Employer agrees to provide to the President of Council 228, two hundred (200) additional copies and a like number of all National supplemental agreements and modifications. The Employer shall furnish these copies to the Union as soon as practicable after completion of the printing tasks. It shall be the responsibility of the Union to furnish from its own resources any needs in excess of the three hundred copies.

Section 5. **Professional Associations.**

The Agency agrees to pay for membership dues in professional associations whenever an employee is directed to join such an organization in connection with the performance of his/her official duties. Such membership must be in the name of the Agency. The Agency also agrees to pay the expenses of employees selected by an appropriate level of the Agency in advance for attendance at professional meetings, to the extent such expenses are allowed by Government-wide regulations.

Section 6. **Bicycle Racks.**

The Union and the Agency recognize the need for energy conservation. To this end, the Union and the Employer shall encourage employees to use car pools, public transportation, and alternate modes of travel, such as bicycles and mopeds. When a number of employees at any work site use bicycles or mopeds as their means of transportation, the Agency will request the appropriate authority to provide racks to accommodate the bicycles or mopeds.

Section 7. **Day Care.**

Any participation or support of day care by SBA will be consistent with applicable law.

Section 8. **Travel Assignments.**

The Employers shall make and administer travel and other job assignments, including voluntary attendance at conferences and seminars, fairly and objectively in accordance with its judgment as to the program, mission, and management needs of the Agency or any organizational component thereof. All such assignments shall bear a bona fide relationship to the official duties and/or professional development of the employees so assigned.

ARTICLE 49 SUPPLEMENTATION

Section 1.

Notwithstanding the provisions of [Article 4](#) of this Agreement, it is understood that the Parties may engage in bargaining for Regional supplemental agreements, in regard to the following subjects:

- A. Flexitour;
- B. Bulletin boards;
- C. Establishment of Regional Partnership Councils;
- D. Privacy of Leave and Earnings Statements;
- E. Eating facilities; and
- F. These and any other subjects not specifically addressed by or in conflict with this Agreement, in accordance with [Article 4](#) and the procedures set out immediately below.

Section 2. **Local Supplements.**

- A. Local agreements existing at and/or prior to the date of this Agreement may be renegotiated as provided in such Regional agreements.
- B. At locations which have no contractual provision for renegotiation or which are admitted to the Bargaining unit after the effective date of this Agreement, Regional supplemental agreements may be requested by the Regional Vice President within one hundred and eighty (180) days of the effective date of this Agreement or certification, as appropriate.

Section 3.

Local agreements in effect at the date of execution of this Agreement shall remain in effect to the extent that they do not conflict with any provisions negotiated in this Agreement.

Section 4.

It is understood that this Agreement is a Master Agreement and that supplemental agreements shall not paraphrase or repeat matters contained in the Master Agreement, and shall not modify, delete, or otherwise nullify any provision, policy, or procedure in this Master Agreement. Supplemental agreement provisions conflicting with the Master Agreement shall be construed as unenforceable, and supplemental agreements shall only be binding on the parties at the Regional level where negotiated.

ARTICLE 50 DURATION AND TERMINATION

Section 1.

- A. Term. This Agreement shall take effect upon execution by both Parties and approval in accordance with [5 U.S.C. 7114\(c\)](#), and shall remain in effect for three (3) years. Thereafter, it will remain in effect for one (1) year periods unless either party serves the other party with written notice, not more than sixty (60) calendar days nor less than thirty (30) calendar days prior to the expiration date, of its desire to amend, modify or renegotiate this Agreement.
- B. Either Party may serve the other Party with written notice, not more than sixty (60) calendar days nor less than thirty (30) calendar days prior to the start of the 18th full month that this Agreement has been in effect, of its desire to modify or renegotiate up to three (3) existing or new Articles. If this provision is exercised, negotiations will be commenced within thirty (30) calendar days after such notice or as may be otherwise mutually agreed upon by the Parties.
- C. On the signature page, hereof, the Parties have set forth the specific start date and end date of the period during which a Party may give notice under Section 1b above.

Section 2. **Supplements.**

Any National supplements or amendments to this Agreement that are entered into by the parties shall become a part of this Agreement.

Section 3. **Renegotiation.**

The parties agree that the conditions set forth herein shall remain in effect during the renegotiation of this Agreement.

This agreement entered into this 11th day of January 2017, in Washington, DC.

Chief Negotiator for the Agency	Chief Negotiator for the Union

Team Members for the Agency	Team Members for the Union

Contributors to the Agency Negotiation Team	Contributors to the Union Negotiation Team

This agreement is approved and effective this 11th day of January, in Washington D.C.

Effective Date Explanation:

With an effective date of January 11, 2017, the first full month is February 2017. The 18th full month is July 2018. Therefore, notice of desire to modify or reopen up to three (3) existing or new articles must be served during the period starting May 2, 2018, and ending June 1, 2018.

For the Agency	For the Union
,Administrator U.S. Small Business Administration	National President American Federation of Government Employees, AFL-CIO

APPENDIX A.
U.S. Small Business Administration and American Federation of Government Employees
Consolidated Unit Description

Included:

All non-supervisory General Schedule employees, professional employees, and wage grade employees of the Central Office, Small Business Administration [22-06746 (UC)]

All employees of the Small Business Administration employed in Region I, including the Regional Office and district offices.

All employees, except professional employees, of the Small Business Administration employed in the New York Regional Office and the New York City District Office.

All employees, except professional employees, of the Small Business Administration employed in the Syracuse, New York District Office; Elmira, New York Branch Office; Buffalo, New York Branch Office; Rochester and Albany, New York Post of Duty stations;

All employees of the Small Business Administration employed in the Newark, New Jersey District Office (New Jersey District Office);

All employees of the Small Business Administration employed in the Hato Rey, Puerto Rico District Office (Puerto Rico & USVI District Office).

All employees, except professional employees, of the Small Business Administration employed in the Philadelphia (Bala Cynwyd), Pennsylvania Regional Office and the Philadelphia, Pennsylvania District Office.

All employees, except professional employees, of the Small Business Administration employed in the Pittsburgh, Pennsylvania District Office.

All employees, except professional employees, of the Small Business Administration employed in the Washington, DC District Office;

All employees of the Small Business Administration employed in the Richmond, Virginia District Office;

All employees, except professional employees, of the Small Business Administration employed in the Clarksburg, West Virginia District Office (West Virginia District Office) and the Charleston, West Virginia Branch Office;

All employees, except professional employees, of the Small Business Administration employed in the Miami, Florida District Office (Southern Florida District Office) and the Tampa, Florida Post of Duty station;

All employees, except professional employees, of the Small Business Administration employed in the Chicago, Illinois Regional Office and the Chicago, Illinois District Office (Illinois District Office);

The AFGE National Local 228 is coterminous with AFGE Council 228. The positions held by the officers of the council and National Local are one in the same. There is no legal effect on the Union's ability to determine its internal structure. The intent of the changes (in all cases where "local" was replaced), is not to contract or expand the scope of the original language.

All employees, except professional employees, of the Small Business Administration employed by the Madison District Office and the Milwaukee Branch Office (Wisconsin District Office);

All employees, except professional employees, of the Small Business Administration employed in the Columbus, Ohio District Office;

All employees, except professional employees, of the Small Business Administration employed in the Springfield, Illinois Branch Office;

All employees of the Small Business Administration employed in the Dallas, Texas Regional Office and the Dallas, Texas District Office;

All employees, except professional employees, of the Small Business Administration employed in the New Orleans, Louisiana District Office (Louisiana District Office);

All employees, except professional employees, of the Small Business Administration employed in the Albuquerque, New Mexico District Office (New Mexico District Office);

All employees, except professional employees, of the Small Business Administration employed in the Little Rock, Arkansas District Office (Arkansas District Office);

All employees, except professional employees, of the Small Business Administration employed in the Lubbock, Texas District Office;

All employees, except professional employees, of the Small Business Administration employed in the Denver, Colorado Regional Office;

All employees, except professional employees, of the Small Business Administration employed in the Salt Lake City, Utah District Office (Utah District Office);

All employees except professional employees, of the Small Business Administration employed in the Fargo, North Dakota District Office (North Dakota District Office);

All employees, except professional employees, of the Small Business Administration employed in the Helena, Montana District Office (Montana District Office);

All employees of the Small Business Administration employed in the San Francisco, California Regional Office; San Francisco, California District Office; Fresno, California District Office; Fresno Commercial Loan Service Center; and the Las Vegas, Nevada District Office (Nevada District Office);

All employees of the Small Business Administration employed in the Los Angeles, California District Office;

All employees, except professional employees, of the Small Business Administration employed in the San Diego, California District Office;

All employees, except professional employees, of the Small Business Administration employed in the Phoenix, Arizona District Office (Arizona District Office);

The AFGE National Local 228 is coterminous with AFGE Council 228. The positions held by the officers of the council and National Local are one in the same. There is no legal effect on the Union's ability to determine its internal structure. The intent of the changes (in all cases where "local" was replaced), is not to contract or expand the scope of the original language.

All employees, except professional employees, of the Small Business Administration employed in the Seattle, Washington Regional Office and the Seattle, Washington District Office;

All non-professional GS employees of the Small Business Administration Jackson, Mississippi District Office (Mississippi District Office).

All professional and non-professional employees of the Small Business Administration District Office, Louisville, Kentucky (Kentucky District Office).

All non-professional employees of the Small Business Administration, Regional and District Offices in Atlanta, Georgia (Georgia District Office).

All GS employees of the Small Business Administration employed in the Minneapolis, Minnesota District Office (Minnesota District Office).

All employees, except professional employees, of the Small Business Administration employed in the Gulfport, Mississippi Branch Office (previously Biloxi Branch Office).

All non-professional employees of the Small Business Administration District Office Charlotte, North Carolina District Office (North Carolina District Office).

All professional employees of the Small Business Administration employed in the Indianapolis, Indiana District Office (Indiana District Office) (CH-R0-20003). All non-professional employees of the Small Business Administration employed in the Indianapolis, Indiana District Office (Indiana District Office).

All non-professional employees employed by the Harlingen Small Business Administration, Harlingen, Texas, including employees employed at the Corpus Christi Branch.

All nonsupervisory and nonprofessional employees in the Oklahoma City District Office of the U.S. Small Business Administration, Oklahoma City, OK (Oklahoma District Office).

All professional and nonprofessional employees of the Small Business Administration District Office, Cleveland, Ohio.

All Professional and nonprofessional employees of the Small Business Administration, Santa Ana District Office, Santa Ana, California, including the Loan Servicing and Liquidation Office, and the Western Litigation Office.

All professional and non-professional employees of the Small Business Administration employed by the Columbia, South Carolina District Office.

All non-professional employees of the Small Business Administration District Office, Nashville, Tennessee.

All employees except professional employees, of the Small Business Administration employed in the Commercial Loan Center, Little Rock, Arkansas

All non-professional employees of the U.S. Small Business Administration employed in the Kansas City District Office, Kansas City, MO and in the Springfield, MO Branch Office. (DE- RP-14-0025)

All nonprofessional employees of the U.S. Small Business Administration, Michigan District Office, Detroit, Michigan (CH-RP-13-0026)

All non-professional employees of the U.S. Small Business Administration, Birmingham Disaster Loan Servicing Center, Birmingham, Alabama (AT-RP-14-0019)

All professional and non-professional employees of the U.S. Small Business Administration, El Paso Disaster Loan Servicing Center, El Paso, TX (DA-RP-14-0012)

All professional and non-professional employees of the U.S. Small Business Administration, National Guaranty Purchase Center, Herndon, Virginia (BN-RP-15-0011)

All non-professional employees of the Small Business Administration, Wichita, Kansas. (DE-RP-16-0017)

Excluded:

All management officials, supervisors, employees engaged in Federal personnel work in other than a purely clerical capacity, professional employees as indicated above, confidential employees, employees primarily engaged in investigation or audit functions related to the work of individuals employed by the Agency.

APPENDIX B.
SBA/AFGE Grievance Form

To access this form, please follow the hyperlink provided below.

If you need assistance with the form below please contact a Union Representative or *redacted*, Chief of OHRS National Labor Relations, or email HR4U@sba.gov.

[SBA/AGFE Grievance Form, SBA Form 2468](#)

APPENDIX C.

Representational Time Form

To access this form, please follow the hyperlink provided below.

If you need assistance with the form below please contact a Union Representative; *redacted*, Chief of OHRS National Labor Relations; or email HR4U@sba.gov.

[Representational Time, SBA Form 1448](#)

APPENDIX D. National Partnership Agreement

National Labor Partnership Agreement Between U.S. Small Business Administration and American Federation of Government Employees Council 228

In accordance with Executive Order 12871, the U.S. Small Business Administration (SBA or management) and the American Federation of Government Employees (AFGE), Council 228 (Union), exclusive representative of employees of SBA (hereinafter referred to as parties), have voluntarily formed a Labor Management Partnership Council (Council).

The mission of the SBA/AFGE Partnership Council is to promote and implement the joint involvement of management and union in effectively accomplishing the mission of the Agency.

The council will be based on:

- Mutual respect and trust.
- Commitment to sharing information by all available means at all levels.
- Use of Interest-based approach to consensus decision-making.

A. COMMUNICATION

The Council will foster relationship building and open communication.

B. EDUCATION

The Council is committed to developing joint training and educational opportunities to meet the needs of the Council and all employees.

C. FUNCTIONS

The council shall:

- Share information with all employees throughout SBA.
- Use an interest-based approach to deal with issues of agency-wide impact, e.g. agency resources, organizational changes, quality of worklife, etc.
- Promote and practice pre-decisional involvement.
- Recognize, publicize, and promote successes within the Agency.

- Facilitate joint problem resolution and recommend appropriate action to top management.
- Promote joint accountability at all levels within the Agency.

The parties agree to work jointly as full partners through Alternative Dispute Resolution (ADE), task forces, work groups, action groups, teams, etc., to identify opportunities, develop and implement solutions that foster the delivery of the highest quality of service to the Agency's customers.

In order to have full participation by both parties, the parties agree to openly share information prior to the commencement of the work of these groups, so as to provide the parties with an opportunity for involvement at the pre-decisional stages regarding personnel policies, practices and conditions of employment issues. This shall include matters relating to the National Performance Review.

The parties agree to share findings/recommendations of any existing work groups at the next Labor-Management Cooperation Committee meeting.

~~The parties agree to negotiate over the subjects set forth in 5 U.S.C. 7106(b)(1), and instruct subordinate officials to do the same, as required by Executive Order 12871.~~

Both parties agree to create a process (standing committee/ADR) to address outstanding grievances, ULPs, or other disputes within a reasonable period of time, e.g. sixty (60) days after the signing of this agreement. If the parties are successful, the outstanding ULPs and grievances related to the Reorganization will be considered to be resolved.

Management agrees to grant official time as necessary to make appropriate logistical arrangements for individuals designated to perform projects of the Council.

D. STRUCTURE

The Council will consist of a maximum of eighteen (18) members equally appointed by both parties.

With the consent of the Council, additional union and management representatives will participate.

The Council will be jointly chaired by a Union and Agency representative.

Staff support will be provided by the Agency to the Council as needed.

The Council may establish committees, task forces or other working groups to effectuate the purpose of the Council.

E. COUNCIL MEETINGS

The Council meetings will be administered in the following manner:

- Leadership of the meetings will alternate between the parties.
- The full Council shall meet at least semi-annually on a day and time to be determined by the parties. Subgroups and committees and/or task forces of the Council shall meet in person or by conference call.
- The Agency will pay travel, training and per diem costs of all Council members. Travel and per diem will be provided for additional participants, as agreed upon.
- Final agenda should be prepared and issued to members at least five (5) working days prior to the scheduled meeting.
- The Council may establish rules or procedures deemed necessary to carry out the mission of this Council.

This agreement is a living document that embodies the general goals of the Council. By mutual consent, Union and Management may modify this document to reflect changing conditions within the Agency.

Date: July 11, 1996
For the Agency: /s/ *redacted*, Administrator, U.S. Small Business Administrator /s/
For the Union: *redacted*, National President, AFGE AFL-CIO

APPENDIX E.
MOU Regarding Official Time for Representation Activities

**Memorandum of Understanding Between U.S. Small Business Administration and
American Federation of Government Employees**

[Article 12 Section 7](#) defines official time for representation activities. However, the exception to this interpretation applies to the following two positions:

1. President of AFGE Council 228 is a 100% Official Time position
2. The Regional Vice President of Region 3 Mid-Atlantic Region is a 100% Official Time position.

When a union official on permanent 100% official time takes leave of one day or longer, that official may designate another elected or appointed Union Representative to use the 100% official time during the leave.

In the event the same union official representative holds more than one office that receives 100% official time, that official may designate another elected or appointed union official to use the additional 100% official time. The delegating union official may withdraw the delegation and then delegate the time to another Union Representative.

Once a delegation described above is made, that official time may not be delegated further, in whole or in part, to a third Union Representative. The delegation will end when the positions designated for 100% official time are no longer held by the same individual. The delegating union official shall notify management in writing of the delegation of official time reasonably in advance. Delegation of official time in this section does not include any delegation of authority.

Employees in the above position are subject to the same Time and Attendance (T&A) and Leave rules and requirements as other Agency employees and shall be covered by this Agreement. Should any specific T&A arrangements need to be made for either of the above positions, such arrangements will be worked out between the parties.

APPENDIX F.
Request to Work Overtime Form

To access this form, please follow the hyperlink provided below.

If you need assistance with the timekeeping forms below please contact your timekeeper for assistance or email HR4U@sba.gov.

[Request to Work Overtime, SBA 454](#)

APPENDIX G.

Family Leave Programs

Employees have a wide variety of leave-related benefits available to them to help balance their work and family obligations. The OPM fact sheets below provides information on various leave and work scheduling programs available to employees for family care purposes:

[OPM Fact Sheets on Leave and Families](#)

[OPM Fact Sheet – Definition Related to Family Member and Immediate Relative for Purposes of Sick Leave, Funeral Leave, Voluntary Leave Transfer, Voluntary Leave Bank, and Emergency Leave Transfer](#)

On June 14, 2010, the U.S. Office of Personnel Management issued final regulations to modify its definitions of family member and immediate relative, and add related definitions (75 FR 33491), in response to Section 1 of the [President's June 17, 2009, Memorandum for the Heads of Executive Departments and Agencies on Federal Benefits and Non-Discrimination](#). The purpose of these changes is to promote consistent application of policy across the Federal Government and to help the Federal Government compete with the private sector to recruit and retain the best and the brightest employees.

These new and revised definitions modify the regulations at [5 CFR part 630, subparts B, H, I, J and K](#), related to the use of sick leave, funeral leave, voluntary leave transfer, voluntary leave bank, and emergency leave transfer and expand the categories of individuals for whom an employee may use these types of leave.

*Please note: Information subject to change at the discretion of OPM.

APPENDIX H.

Telework Agreement Forms

To access these forms, please follow the hyperlinks provided below.

If you need assistance with the telework forms below please contact the Telework Coordinator in OHRS, currently *redacted* or email HR4U@sba.gov.

[Telework Agreement, SBA Form 2190](#)

[Self-Certification Safety Checklist for Teleworking, SBA Form 2193](#)

[Privacy Act Authorization, SBA Form 2192](#)

[Telecommuting Ad Hoc Assignment Sheet, SBA Form 2218](#)

APPENDIX I.
Suggestion Awards Table

Table 1: Awards Scale for Tangible Benefits

First Year Savings in (\$)	Amount of Award
\$500-\$2000	10% of tangible savings.
\$2,001-\$20,000	\$200 for the first \$2,000 of net savings, plus 5% of the amount over \$2,000
\$20,001-\$50,000	\$1,100 for the first \$20,000 of savings, plus 2.5% of the amount over \$20,000
\$50,001-\$200,000	\$1,850 for the first \$50,000 of savings plus 1% pf the amount over \$50,000
\$200,001+	\$3,350 for the first \$200,000, plus 0.1% of the amount over \$200,000. (Note: Cannot exceed \$10,000 without OPM approval.)

Table 2: Awards Scale for Intangible Benefits

Benefit Value	Limited	Extended	Agency-Wide	Government- Wide
Moderate	\$50-\$100	\$100-\$200	\$200-\$400	\$400-\$800
Substantial	\$100-\$200	\$200-\$400	\$400-\$800	\$800-\$2,000
High	\$200-\$400	\$400-\$800	\$800-\$2,000	\$2,000-\$5,000
Exceptional	\$400-\$800	\$800-\$2,000	\$2,000-\$5,000	\$5,000-\$10,000

APPENDIX J.
Request for Arbitration Panel Form

To access this form, please follow the hyperlink provided below.

If you need assistance with the form below please contact a Union Representative; *redacted*, Chief of OHRS National Labor Relations; or email HR4U@sba.gov.

[Request for Arbitration Panel, FMCS Form R-43](#)

APPENDIX K.
Request for Payroll Deductions Form

To access this form, please follow the hyperlink provided below.

If you need assistance with the form below please contact a Union Representative; *redacted*, Chief of OHRS National Labor Relations; or email HR4U@sba.gov.

[Request for Payroll Deductions for Labor Organization Dues, SF 1187](#)

APPENDIX L.
MOU Regarding ARTICLE 39, Grievance Procedures

**Memorandum of Understanding Between AFGE Council 228 and
the Small Business Administration**

PARTIES AGREE TO THE FOLLOWING:

- A. The Agency will develop a grievance tracking and reporting system for the purpose of ensuring that grievances are dealt with in an appropriate manner. This system will track all grievances and will generate a biweekly report (every other week). The report will identify the office location, the step and the age (in days) of grievance filed. The report will be provided to the following: OHCM, OFO, RA's, ADA's, and the Union (CFO and OGC when appropriate).
- B. The AMO's failure to respond timely to grievances at any level shall be considered in their performance rating, Personal Business Commitment Plan (PBCP).
- C. All managers will be required to complete up to four (4) hours of training on grievance procedure.

The implementation of items A&B (above) will be effective within sixty (60) calendar days of signing of this MOU. The implementation of item C will be effective within ninety (90) calendar days of the signing of the new Master Agreement.

/s/ redacted, President

AFGE Council 228

/s/ redacted, Chief Negotiator

SBA

Date of Signatures:

07-25-2003

APPENDIX M.
MOU Between AFGE and SBA

Memorandum of Understanding Between AFGE and SBA

- I. The Council President and the Labor Relations Representative will work together to track outstanding grievances and ULPS.
- II. A review element will be added to the QSR that includes “Best Practices” and labor relations issues including resolution of outstanding grievances and ULPS. This section will be provided to Council 228 President.
- III. All supervisors and managers will have performance elements that relate to labor management issues.

/s/ redacted, President

SBA

/s/ redacted, Chief Negotiator

AFGE

Date of Signatures:

12-12-2002

APPENDIX N.
MOU Regarding Use of the Workplace Conflict Resolution Center

**Memorandum of Understanding Between AFGE Council 228 and
the Small Business Administration**

The U.S. Small Business Administration (Agency) and the American Federation of Government Employees, Council 228 (Union) enter into this memorandum of understanding (MOU) concerning the use of the SBA Workplace Conflict Resolution Center. The Parties enter into this agreement freely, voluntarily, and in the spirit of partnership, that set forth the following procedures:

1. Any time before entering into the formal negotiated grievance process, as noted under [Article 39](#) of the Master Labor Agreement (MLA), an employee may use the services of the Workplace Conflict Resolution Center (The Center) on a voluntary basis.
2. The Agency and/or Council 228 may refer workplace disputes or interpersonal conflicts to The Center during the pre-grievance stage, or the informal stage of the grievance procedure, as outlined in [Article 39](#) of the Master Labor Agreement (MLA), to help improve communication and address conflicts at the lowest level possible. The Center's services will not be offered once a bargaining unit employee has filed a formal grievance. The Center relies on the employee to disclose whether he/she has entered the formal grievance process.
3. Employees who contact The Center will be notified, verbally, and in writing, that the process is voluntary and informal. Employees will be provided with the Agency's "Avenues of Redress" chart, so they are aware of the avenues of redress available to them as well as corresponding timelines. Employees do not waive any of their rights by working with The Center.
4. If the services rendered by The Center are not completed prior to the deadline to file a grievance at the appropriate formal stage, an employee may request an extension of no more than 5 business days to file a formal grievance. The request shall be made to the management official at the next higher level with whom the employee is engaging in The Center's process. The timeliness to file a formal grievance will not be tolled by utilizing the services of The Center.
5. Any mutually agreed upon resolution reached during a facilitated discussion or group facilitation will be entered into by the Parties in good faith and will not be legally binding. If the Parties elect to enter into a binding agreement, they shall follow the Agency's established process by working with the Office of Human Resources Solutions (OHRS).

OHRS will initiate the clearance process with the Office of the General Counsel and all affected offices, including the Union, to finalize the agreement. The Center has no role in creating or enforcing a legally binding agreement and will not review, concur, or weigh -in formally or informally on any agreement.

6. The Center's services include conflict coaching, group facilitation, and facilitated discussions. These services will be delivered by a third-party "neutral", which is defined the Administrative Dispute Resolution Act (ADRA) of 1996, as "an individual who, with respect to an issue in

The AFGE National Local 228 is coterminous with AFGE Council 228. The positions held by the officers of the council and National Local are one in the same. There is no legal effect on the Union's ability to determine its internal structure. The intent of the changes (in all cases where "local" was replaced), is not to contract or expand the scope of the original language.

controversy, functions specifically to aid the Parties in resolving the controversy.” ADRA requires that “the neutral shall have no official, financial or personal conflict of interest with respect to the issues of controversy, unless such interest is fully disclosed in writing to all Parties and all Parties agree that the neutral may serve.” The neutral serves at the will of the Parties, and the Parties may request a different neutral at any point.

7. Communication that occurs as a part of The Center’s services is protected by the confidentiality provisions of ADRA 1996, which establishes that a neutral shall not voluntarily disclose, or through discovery or compulsory process be required, to disclose any dispute resolution communication or any communication provided in confidence to the neutral except if all Parties and the neutral consent in writing or in rare exceptions as outlined in 5 U.S.C. 571 et. seq. (e.g. to prevent harm to public health or safety.) ADRA also requires Parties not to voluntarily disclose or through discovery or compulsory process be required to disclose any dispute resolution communication except as outlined in 5 U.S.C. 571 et. seq. To further protect the confidentiality of The Center’s clients, employee’s usage will not be disclosed, as prescribed in the Agency’s policy (SOP 37 14).
8. Upon request, an employee may have a representative present when using The Center’s services. A representative becomes a party to the dispute resolution proceeding, as defined by ADRA, and is bound by the same confidentiality provisions as the Parties in conflict (see #7 above).
9. The duration of this agreement shall not exceed December 31st, 2026.

For the Agency:	/s/ <i>redacted</i> , SBA Chief Negotiator
For the Union:	/s/ <i>redacted</i> , AFGE Council 228 Chief Negotiator
Date Signed by Parties:	12-5-2016

APPENDIX O.
MOU Regarding Space Management Design Standards

**Memorandum of Understanding between The American Federation of
Government Employees (AFGE) Council 228
and the U.S. Small Business Administration (SBA)**

This Agreement is entered into effective as of the date signed below by and between the U.S. Small Business Administration hereinafter the Agency or SBA and the American Federation of Government Employees, Council 228 hereinafter the Council or AFGE, together known as the Parties.

The Parties enter into this agreement voluntarily, in the spirit of partnership, employing pre-decisional involvement (PDI), with a shared interest in achieving the requirements set forth in the National Strategy for Efficient Use of Real Property, 2015-2020 and OMB Management Procedures Memorandum No. 2015-01, Implementation of OMB Memorandum M-12-12 Section 3: Reduce the Footprint, dated March 25, 2015. The following memorializes the agreements reached by the Parties.

1. The Parties will comply with the provision of the Master Labor Agreement (MLA) and this MOU in all negotiations involving office space for bargaining unit employees to include but not limited to the following:
 - a. New/renovated construction design
 - b. Consolidation
 - c. New leases
2. When designing a change in space, the Parties agree that bargaining unit employees will be provided with space that aligns with mission requirements, functional objectives and conducive to interactions with internal/external organizations and resource partners (e.g. receptionists, collaboration areas, etc.). This may include an open space concept design. We further agree to a panel height up to a maximum of 64 inches and workstation which may range from 42 square feet up to a maximum of 64 square feet. Additionally, attorneys shall be provided with an office with a locking door up to a maximum of 120 square feet.
3. The Parties recognize telework as one of many workplace flexibilities available to eligible federal employees. Accordingly, when designing a change in space, the Parties agree that employees who are approved on a fixed telework agreement for 6 days or more per pay period shall use hoteling station when reporting to the official duty station. Each hoteling station will include all necessary equipment and lockable storage to allow the employee to perform their duties, including but not limited to a laptop or desktop computer, monitor, a stationary phone, PIV card readers, and appropriate remote access (i.e. AT&T, etc.). Any employee assigned to a hoteling station shall be provided with an individual locking storage space.

4. Subject to Article 23 - Telework, if Management decides to terminate or reduce an employee's Telework Agreement, management will provide the employee with space which may be comparable to the office space in the employee's work area at official duty station, in accordance with this agreement.
5. Consistent with Article 4, changes in office space, not explicitly covered in this MOU, shall remain subject to negotiations at the appropriate level.
6. This MOU becomes effective on the date the last signature is affixed to this agreement.

For the Agency: /s/ *redacted*, SBA Operating Officer
For the Union: /s/ *redacted*, President AFGE Council/Local 228
Date Signed by Parties: 10-5-2017