

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

National Guard Bureau (NGB)



**American Federation of Government Employees (AFL-CIO)
LOCAL 1092**

Approved by the Department of Defense on November 25, 2020.

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PREAMBLE

This Collective Bargaining Agreement (CBA) is entered into by and between the National Guard Bureau (NGB) in the National Capital Region, hereinafter referred to as the Agency, and the American Federation of Government Employees (AFL-CIO) Local 1092, hereinafter referred to as the Union, collectively known as the Parties.

It is the intent and purpose of the Parties to this Agreement to promote and improve the efficient administration of the Federal service and the well-being of Employees; to establish an Agreement which provides Employees with an opportunity to participate, through representation, in the formulation and implementation of personnel policies, practices and procedures, and matters affecting the conditions of their employment, as appropriate; and to provide means for negotiations, consultations, discussions, and adjustment of matters of mutual interest.

Pursuant to the commitments stated above, the Parties have agreed upon the various Articles herein set forth.

ARTICLE 1

RECOGNITION AND UNIT DESCRIPTION

SECTION 1.1: As certified by Federal Labor Relations Authority (FLRA), case number WA-RP-06-0090, the Agency recognizes the Union as the exclusive representative of all Bargaining Unit Employees, described as:

a. Included: All Title 5 Air National Guard Employees of the National Capitol Region serviced by Selfridge Air National Guard Base, Michigan.

b. Excluded: All professional Employees; management officials; supervisors; Employees on nonrecurring temporary appointments not to exceed 90 days; and Employees described in 5 U.S.C. § 7112(b)(2),(3),(4),(6) and (7).

ARTICLE 2

PROVISIONS OF LAW AND REGULATIONS

SECTION 2.1: In the administration of all matters covered by this Agreement, the Parties and Employees, as described in the bargaining-unit Article 1, and hereinafter referred to as Employee(s), are governed by 5 USC § 71 also referred to as the Statute, existing and future laws, Executive Orders, and the regulations of appropriate authorities, including policies set forth in the Code of Federal Regulation (CFR); by published policies and regulations of the Department of Defense (DoD), Department of the Air Force (DAF), and National Guard Bureau (NGB) in existence at the time this Agreement are approved. If a government-wide, DoD, DAF, or NGB wide rule, regulation, policy, or instruction would come into conflict with the language of this agreement, during the life of the agreement, this agreement will govern unless the Parties negotiate over and reconcile the language.

ARTICLE 3

MANAGEMENT RIGHTS AND OBLIGATIONS

SECTION 3.1: Management officials of this Agency retain all rights defined in 5 U.S.C. § Chapter 71, Section 7106, including all government-wide rules, regulations, policies, and all applicable laws not otherwise limited by the terms and conditions of this Agreement.

SECTION 3.2: The Agency will not negotiate over the substance of any subjects set forth in section 7106(b)(1) of title 5 United States Code. This includes 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 work.

ARTICLE 4

MATTERS APPROPRIATE FOR NEGOTIATIONS

SECTION 4.1: The Agency recognizes its obligation under the statute to provide the Union with reasonable advanced notice of the Agency's intent to exercise its statutory rights in order to afford the Union adequate opportunity to request corresponding negotiations.

- a. The Union will have ten (10) calendar days from the receipt of the Agency's notification of a proposed initiative or change to submit written proposals to the Agency designated representative, or his/her designee. The Union will be deemed to have agreed to such initiative or change if it fails to submit such request within ten (10) calendar days.
- b. The Parties will make every effort to complete negotiations within thirty (30) calendar days after the Agency's receipt of Union's proposals.
- c. If an agreement has not been reached after the period identified in section 4.1(b) of this Article, or if immediate implementation of the initiative or change is required to carry out the requirements of the Agency, the Agency is free to implement the proposed initiative or change. Any necessary post implementation bargaining will continue until an agreement is reached or the Parties are at impasse.
- d. All timeframes in this article may be extended by mutual agreement of both Parties.
- e. Upon request, an extension of the timeframes in 4.1(a) will be granted if delays are caused by the Agency when responding to a request for information. The extension will be no more than the number of days delayed.

SECTION 4.2: When the Parties negotiate any changes in this Agreement, they shall execute a joint document which may amend the article(s) of this Agreement. The amendment shall be approved and executed in the same manner as the original Agreement in accordance with Statute, agency head review.

SECTION 4.3: All impasses in negotiations will be resolved in accordance with this Agreement, all applicable government-wide rules, regulations, policies, and laws.

ARTICLE 5

EMPLOYEE RIGHTS AND OBLIGATIONS

SECTION 5.1: Employees of the bargaining unit retain all rights defined in 5 U.S.C. § Chapter 71, Section 7102, including all applicable government-wide rules, regulations, policies, and laws, as well as any and all rights afforded within the terms and conditions of this Agreement. As provided by law an Employee has the right to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization.

SECTION 5.2: For any examination of an Employee by a representative of the Agency in connection with an investigation, if the Employee reasonably believes the examination may result in disciplinary action and the Employee requests representation, then the Union shall be given the opportunity to provide representation. Any Employee who is subject to an investigation and interviewed may request a copy of their written interview statement at the time it is completed and signed.

SECTION 5.3: Each Employee shall have the right to present matters of personal concern to the attention of appropriate officials of the Agency with or without assistance of the Union.

SECTION 5.4: It is understood the Employee will conduct themselves in a conscientious manner that will not adversely discredit the Air Force or the public service.

ARTICLE 6

UNION RIGHTS AND OBLIGATIONS

SECTION 6.1: The Union is the exclusive representative of Employees and therefore has the authority to act for and negotiate agreements applicable to Employees as provided by the Statute.

SECTION 6.2: The Union has the right to present its views to the Agency on matters of concern and to have such views considered in the formulation and implementation of personnel policies and practices which are at the discretion of the Agency.

SECTION 6.3: The Union accepts the responsibility to represent, in good faith, the interests of all Employees without discrimination and without regard to membership in the Union. The Union has a right to be represented at formal discussions between management and Employees or act as Employee representatives concerning grievances, changes to personnel policies and practices, or general conditions of employment.

SECTION 6.4: The Agency agrees to furnish the Union with a current list of Employees upon request but no more than quarterly. The list will include the name, title, series, grade, and duty location of each Employee.

SECTION 6.5: The Union agrees to furnish the Agency with a current list of names and positions of its officers and designated stewards. The list will include the name, title, and any area of jurisdiction the steward(s) have been assigned.

a. The list will identify one individual who is responsible for receiving and responding to Agency notifications and correspondence. Correspondence will be transmitted via electronic mail. Circumstances may arise where other means of correspondence transmittal are needed (postal mail or fax) but will only be utilized by mutual consent of the Parties.

b. The Union President or designee will provide an updated listing of Union officers/stewards any time a change in designation takes place or upon request of the Agency. The Agency will not recognize a Union officer or steward unless their name and

any area of jurisdiction assigned appear on a listing that has been furnished to the Agency by the Union.

ARTICLE 7

USE OF OFFICIAL TIME

SECTION 7.1: The Agency may grant Official Time, also known as Taxpayer-Funded Union Time (TFUT), to Employees who are elected Union Officials, appointed Union Stewards, or Unit Employees, if otherwise in a duty status, to perform tasks explicitly mentioned in this Agreement as long as the Union has not exceeded their Official Time limit as described in Article 7.4(a), and in accordance with 5 USC § 7131.

SECTION 7.2: The Agency and Union agree Official Time will not be authorized for functions clearly listed by applicable law, regulation or Executive Order. Examples of Official Time not authorized, for matters such as internal Union business, include but are not limited to: solicitation for membership; campaigning for, or participating in, Union elections; performance of administrative functions related to benefits offered by the Union; preparing proposals not solicited by the Agency; the Union's decision process or preparation required to file a grievance; the Union's decision process or preparation required to file and/or take a case to arbitration; the decision to file and preparation of an Unfair Labor Practice (ULP) charge; and collecting Union dues. Official Time is prohibited for any activity performed by an Employee relating to the internal business of the Union.

SECTION 7.3: Employees may request Official Time to prepare for a grievance, to confer with the Union regarding a grievance, or to present a grievance brought on the Employee's own behalf or to challenge an adverse action taken against them in retaliation for protected whistle blowing.

SECTION 7.4: The Agency and Union agree Official Time is to be used judiciously and limited to the amount of time the Agency and Union agree to be necessary and in the public interest as reflected in the Statute. Union officers and designated Union stewards that are Employees of NGB may request Official Time to perform statutory representational duties within the following limitations:

- a. The Union will receive no more than one (1) hour of Official Time, per covered position, per fiscal year. This time is all inclusive of Official Time used by elected Officials, Stewards, and Unit Employees for any and all purposes included in this Agreement. The Agency will provide a list of authorized positions in the bargaining unit which determines the cap for the fiscal year.
- b. Union officers, Union Stewards, and Employees must spend at least three-quarters of their paid time, each fiscal year, performing Agency business or attending necessary training.

c. Official Time will be restricted to one Union representative per case, unless mutually agreed by both Parties. Union officials will represent the bargaining unit as defined in Article 1.

d. Official Time for Union training will only be allowed in accordance with applicable government-wide laws and regulations. Any and all Official Time used for eligible training will count against the Union's annual Official Time limit as described in Article 7.4(a). Official Time for Union training must (1) serve both the interests of the Air Force and the Employees in their capacity as Union representatives, (2) the Employee's supervisor recommends approval of the training based on mission requirements during the period of the requested training; and (3) the request is submitted using the Request for Official Time, **Appendix A**.

Section 7.5: The following procedures shall apply to Officials, Stewards, and Unit Employees, who are requesting to leave their assigned work area on Official Time, as authorized under this Agreement:

a. An Employee requesting to leave his/her assigned work area to conduct authorized business, that Union representative must obtain written permission from his/her immediate supervisor using the Request for Official Time Form, **Appendix A**. Their request must be requested and approved in the electronic timekeeping system before it is taken. The Agency designated official will be copied on all requests for Official Time.

b. The completed request should provide sufficient information so the supervisor may render a decision as to whether the nature of the request is representational and whether the amount of time meets the statutory standard.

c. Subject to the provisions of this Article, if the workload conditions permit, the Employee shall be released. However, if workload considerations preclude approval, the supervisor or designee shall advise when release would be appropriate. The amount of time will be determined on a case-by-case basis and will take into consideration the scope and complexity of the specific function.

d. When the Union representative intends to meet with Employees in another work area, the representative shall coordinate such meeting with the first level supervisor of the Employees involved.

e. Upon return to the work area, the Employee shall inform the supervisor of his/her return. The supervisor and the Union representative will complete the Request for Official Time Form, **Appendix A**.

f. Any Employee who uses Official Time without the advance written authorization required by this section, or for purposes not specifically authorized by the supervisor, may be considered absent without leave and subject to appropriate disciplinary action.

ARTICLE 8

DUES WITHHOLDING

SECTION 8.1: Bargaining unit employees may authorize, on a voluntary basis, an allotment of pay for the payment of dues. The Union shall supply Standard Form (SF) 1187 (Request for Payroll Deduction for Labor Organization Dues) and be responsible for the distribution of the form to its members. The Union shall be responsible for completion of Section A of the SF 1187, including the certification of the current amount of the Union's regular dues to be deducted each bi-weekly pay period. The Union shall be responsible for educating its members on the program for allotments for payment of dues, its voluntary nature and the use, and availability of the required form. The Union will validate that an Employee is a Unit Employee before collecting and submitting the appropriate payroll deduction form.

SECTION 8.2: An Employee may request revocation of his/her dues allotment for deduction of an Employee's Union dues after 12 months of initiating the deduction. Employees may stop their dues withholdings upon request by submitting a properly completed and signed SF 1188 (Cancellation of Payroll Deduction for Labor Organization Dues) to the Local Union representative. The Local Union representative will forward the SF 1188 to the appropriate pay office for processing.

SECTION 8.3: An Employee ceases to be eligible for dues withholding, and authorization for dues withholding is automatically terminated by the Agency, when:

- a. The Union ceases to be the exclusive representative;
- b. The Employee ceases to be a member of the Unit;
- c. The Employee enters a non-pay status or otherwise receives insufficient pay for dues withholding; or
- d. The Union determined the Employee is no longer a member in good standing. The Union will notify the Agency upon determination.

SECTION 8.4: Errors due to the failure of a Party to deduct dues from members pay will be corrected by promptly adjusting the amount due to the Union for the Employee's pay. In the event of any erroneous overpayment, the Payroll Office must refund any erroneously deducted labor organization dues, without interest, to the Employee.

ARTICLE 9

LEAVE

SECTION 9.1: The Agency and Union agree to follow applicable leave laws, rules, and regulations. Supervisors must establish appropriate administrative procedures for requesting and approving leave and ensure Employees under their supervision are informed of such procedures. Employees must follow prescribed procedures in requesting and taking leave. Court leave, leave for voting, and leave for blood donations may be requested in accordance with applicable laws, rules, and regulations.

SECTION 9.2: Requests for leave not previously scheduled will normally be submitted at least ten (10) calendar days in advance, unless in emergency situation or other circumstance to be considered by the supervisor. The supervisor will notify Employees of approval or disapproval within a reasonable amount of time, normally ten (10) calendar days.

SECTION 9.3: The use of annual leave is a right of the Employee in that the Employee is either given an opportunity to use the annual leave, or to the extent permitted by law, is paid for it at the time of separation. The final determination on the scheduling and the amount of annual leave granted at any specific time is made by the supervisor authorized to approve leave. Supervisors will consider the needs of the Air Force as well as the needs and desires of the Employees when granting leave. Annual leave schedules will be established in January of each year to ensure all Employees are given an opportunity to schedule and use any leave available to them for the year.

SECTION 9.4: When there is evidence that an Employee is abusing the use of sick leave, the supervisor will discuss the problem with the Employee. The supervisor will give the Employee written notification if requiring the Employee to provide a medical certificate for all absences for which sick leave is requested. The requirement to provide a medical certificate, once imposed, will be reviewed at least every six (6) months to determine if it should be continued.

SECTION 9.5: Upon returning to work after an injury or illness, it is the Employee's responsibility to inform his/her supervisor of any medical condition (including use of medications) which may affect the Employee's ability to perform their assigned duties or would impact the health, safety, and security of others.

SECTION 9.6: Failure to obtain approval for use of leave as established by this Article may result in the Employee being charged absent without leave and subject to appropriate disciplinary action.

ARTICLE 10

HOURS OF WORK

SECTION 10.1: All changes to established shifts, work schedules, and tours of duty of bargaining unit employees will be made in accordance with applicable government-wide rules, regulations, policies, and laws.

SECTION 10.2: The basic workweek normally consists of five (5) consecutive, eight (8) hour days, Monday through Friday, excluding the prescribed duty free lunch period each day. Lunch periods will not be scheduled to delay the start of the workday or shorten the workday. Employees may not work during the established lunch period in order to shorten the workday.

SECTION 10.3: The Agency agrees to notify the Employee as soon as practicable before making changes to established work schedules of Employees. If a duty schedule change is temporary the supervisor will notify the Employee of the duration, if known. Supervisors should normally give one (1) pay period advance notice to Employees, except when the head of an agency determines that the agency would be seriously handicapped in carrying out its functions or that costs would be substantially increased.

SECTION 10.4: Alternate Work Schedule (AWS) will be administered in accordance with applicable government-wide rules, regulations, policies, and laws. The underlying principle of the use of AWS is to afford Employees flexibility in selecting their work schedules, to the extent that such does not result in any adverse impact upon the Agency's ability to effectively and efficiently accomplish its mission.

SECTION 10.5: Employee participation is optional. Employees requesting to work an AWS will submit a request to their supervisor in accordance with current Agency policy. The Defense Finance and Accounting Service requires appropriate documentation when an Employee temporarily deviates from their established work schedule.

ARTICLE 11

OVERTIME

SECTION 11.1: The Agency and Union agree to follow applicable overtime laws, rules, and regulations. The decision as to whether overtime is required and necessary to accomplish the Agency's mission is an acknowledged function of the Agency.

SECTION 11.2: The Agency agrees to notify those Employees who are needed to work overtime assignments as far in advance as is practicable. The Agency agrees to give consideration to relieving an Employee from a requirement to work overtime based upon receipt of a valid reason from the Employee.

SECTION 11.3: An Employee called into work outside of, and unconnected with his/her workday, shall be compensated for a minimum of two (2) hours.

SECTION 11.4: Employees who are subject (non-exempt) to the Fair Standards Labor Act (FSLA) may request compensatory time off instead of overtime pay. The Agency will not intimidate, coerce, or threaten Employees subject to FLSA to request compensatory time off in lieu of overtime

SECTION 11.5: The Agency may require that FLSA exempt Employees whose basic pay exceeds the maximum rate for GS-10 receive compensatory time for overtime worked instead of receiving overtime pay.

ARTICLE 12

HEALTH AND SAFETY

SECTION 12.1: The Agency and Union agree Employees should work in a safe and healthful environment in accordance with applicable laws and regulations. Employees are expected to be alert to unsafe practices, equipment and conditions in all areas that represent safety and health hazards and will report them to the Agency for the purpose of making such conditions or procedures safe. Employees are responsible for promptly reporting to the Agency any and all accidents in which they are involved or which they witness.

SECTION 12.2: The Agency agrees to furnish all special tools and protective clothing and equipment that Employees are required by the Agency to use or wear in the performance of their assigned duties as directed by appropriate regulations and directives. Employees are responsible for using, safeguarding, and properly caring for any such items issued to them; failure to do so may be grounds for disciplinary action against the Employee.

SECTION 12.3: An Employee who reasonably believes that an imminent danger exists in a given area or in the performance of an assigned task may refuse to enter the area or to perform the assigned task until such time as an inspection of the area can be made and management has determined that the job must be performed and/or that the danger has been practically eliminated. (Imminent danger is defined as "any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal procedures.")

SECTION 12.4: If an Occupational Health and Safety Act (OSHA) inspection is required the Union may be present during the inspection. If the Union representative is not present at the time set the inspection will proceed.

ARTICLE 13

DISCIPLINE AND ADVERSE ACTIONS

SECTION 13.1: The Agency and Union recognize that public interest requires the maintenance of proper Employee discipline and compliance with work rules. Disciplinary actions will be taken only for such cause as will promote the efficiency of the service.

SECTION 13.2: When the Agency conducts any examination of an Employee in the unit, the Employee being interviewed is entitled, upon request, to the presence of a Union representative if the Employee reasonably believes that the interview may result in disciplinary or adverse action. If a representative is requested, no further questioning will take place until the representative is present. However, unavailability of a Union representative will not cause the interview to be delayed more than 24 hours.

SECTION 13.3: If an Employee receives a notice of proposed disciplinary or adverse action and elects to be represented by a Union representative, he/she shall designate his/her representative in writing to the designated deciding official using **Appendix B**. The Employee may obtain advice and assistance from the Union.

SECTION 13.4: Employees will be advised, in writing, of any applicable appeal and grievance rights and procedures. The contact information of the Union will be included in decision letters.

ARTICLE 14

GRIEVANCE PROCEDURE

SECTION 14.1: The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable settlement of grievances for bargaining unit employees, the Union, or the Agency.

SECTION 14.2: The term "grievance" means any formal complaint:

- a. By any Employee concerning any matter relating to the employment of the Employee;
- b. By the Union concerning any matter relating to the employment of any Employee;
- c. By any Employee, the Union, or the Agency concerning:
 - (1) The effect or interpretation or claim of breach of this agreement; or
 - (2) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

SECTION 14.3: The following matters are excluded from this grievance procedure:

- a. Any claimed violation of subchapter III of chapter 73 of Title 5 of the United States Code. This includes any violation or disciplinary action relating to prohibited political activities or anything reasonably construed as a violation of the Hatch Act;
- b. Allegations of discrimination or commission of a prohibited personnel practice as defined in Title 5, US Code, section 2302(b)(1);
- c. Retirement, life insurance, or health insurance;
- d. Wage or salary rates or schedules established by appropriate authority;
- e. Management's decision on requests for Voluntary Separation Incentive Pay (VSIP) or Voluntary Early Retirement Authority (VERA);
- f. Decisions to employ a Reduction in Force;
- g. Any examination, certification, or appointment. This includes non-selection for a position vacancy from a list of referred candidates;
- h. A personnel action voluntarily requested by an Employee;
- i. The classification of any position which does not result in the reduction in grade or pay of an Employee;
- j. The content or interpretation of any regulation (e.g., DoD, DAF, or NGB), provision(s) of law, or regulations of appropriate authorities outside of the organization, regardless of whether such policies, laws, or regulations are quoted, cited, otherwise incorporated, or referenced in this agreement;
- k. Any warning notices, oral or written counselling, or letters of caution or requirement or expectation;
- l. Notices of proposed disciplinary or adverse action;
- m. Resignation, termination or removal of term or temporary Employees; termination of temporary promotions; termination of probationary or trial period Employees; or a decision not to extend any term or temporary Employee;
- n. A suspension or removal under 7532 of Title 5 of the United States Code (involving national security reasons);
- o. Unacceptable performance matters covered under Title 5, US Code, section 4303. Performance warnings, determination of performance standards and critical elements, counseling, appraisal ratings, or placement of an Employee on a Performance Improvement Plan (PIP); performance related denial of a within-grade increase;

- p. Non-adoption of a suggestion or disapproval of a quality salary increase, performance award or any other discretionary award;
- q. The decision by either Party to not extend the time limits of the grievance procedure;
- r. Complaints over which management has no obligation to consult with the union, any matter raised as an Unfair Labor Practice charge, and any matter not subject to the control of management;
- s. A specific action or remedy sought by the Union, or by an Employee in the Union, when the remedy sought is; beyond the authority of the Agency, or any matter subject to final administrative review outside the HQAF, or that requests disciplinary or other action affecting another Employee;
- t. Matters under review by the Inspector General or Auditor General;
- u. Equal Employment Opportunity complaints or allegations;
- v. Agency investigations into loss or damage to government appropriated and non-appropriated fund property to include findings of pecuniary liability for damage to government property as provided in AR 735-5, Property Accountability Policies;
- w. Revocation of eligibility for a security clearance and/or access to sensitivity material.

Informal Resolution

SECTION 14.4: Before filing a first step grievance, an Employee and/or their Union Representative has the option to attempt informal resolution with the immediate supervisor or individual acting in supervisory capacity. Issues/disputes will be raised within ten (10) calendar days following the act or occurrence or the date the Employee became aware of the act or occurrence. The Employee and/or the Union Representative must make written request for a meeting to address the issue/dispute, which need only be general in nature. The Employee must provide written designation of their representative, if any, to the immediate supervisor or individual acting in supervisory capacity. Both the Agency designee for labor relations and the Union President or designee must be notified in writing of the attempt at informal resolution and the subject for resolution must be related to personnel policies and practices and other matters affecting conditions of employment of Employees within the bargaining unit falling within the scope of the Agency's bargaining authority.

SECTION 14.5: The Parties will meet and the Agency will render a written decision within ten (10) calendar days from written request. Failure of the Agency to respond within ten (10) calendar days may be considered an unfavorable decision. Formal Grievance submission at Step 1 must be in writing, via the Grievance Procedure Form, **Appendix C**, by the Employee or their

appointed Union representative, within ten (10) calendar days of either the Agency's written notice of informal issue/dispute closure or failure of the Agency to respond.

Formal Grievance Procedure

SECTION 14.6: This procedure shall be the exclusive procedure available to the Agency, Union, and Employees for resolving grievances within its coverage. The Agency and Union agree to attempt to resolve grievances at the lowest possible level, immediate supervisor or individual acting in supervisor capacity as outline in Step 1. The Employee(s) and/or the Union Representative must complete and submit the complaint via the GP Form, **Appendix C**. Any written designation of the grievant's representative will be provided to the Agency official. An aggrieved Employee may request in writing, to include justification for their request, that the grievance be heard by a higher level Agency official or their designee above the immediate supervisor at Step 1. The higher level Agency official will approve/deny the request within three (3) calendar days, if denied they will provide the name of the Agency official who will hear the grievance Step 1.

SECTION 14.7: Employees have the option to use either the negotiated procedure or a statutory appeals procedure, but not both for the following areas: (1) employment discrimination complaints; (2) adverse actions (removal, reduction in grade or pay, suspension for more than 14 days, and furlough for 30 days or less, or reduction in force) (3) when the Employee raises an issue of prohibited personnel practice other than discrimination. Employees exercise their option when they file a timely notice of appeal under the appropriate appellate procedure or file a timely grievance in writing under this procedure. In employment discrimination complaint actions this election is made in accordance with procedures set forth in the Agency and EEOC regulations.

SECTION 14.8: If an Employee wishes to present a grievance on his/her own behalf, a representative of the Union will have the right to be present at any meeting with the Agency concerning the grievance. This right to grievance representation without Union representation does not extend to arbitration which may be invoked on the Employee's behalf only by the Union. Employees have the reserved right to request Union representation at any time during the grievance procedure. The designation of a Union representative must be in writing and the GP Form, **Appendix C**, may be used for this purpose.

SECTION 14.9: Failure of the grievant or the Union to proceed with a grievance within any of the time limits specified in this agreement shall render the grievance void or settled on the basis of the last decision given by the Agency, unless an extension of time limits has been agreed upon. Failure of the Agency to answer a grievance within the time limits prescribed in each step shall allow the grievant or the Union to proceed to the next higher step of the procedure, unless an extension of time limits has been agreed upon by the Parties. For cases where the immediate supervisor is the highest level Agency official the grievance will be submitted at Step 2. For the purposes of calculating time limits under these procedures, the day of an action or receipt of a document is not counted. If the time period to either file a grievance or respond to a grievance is a holiday, during a shutdown, or furlough, and the time limit will automatically be extended to the next business day. The time limits may be extended by mutual consent of the Parties at any step of the grievance proceedings using the form in GP Form in **Appendix C**.

SECTION 14.10: If an Employee or group of Employees desire representation under this Article, representation will be restricted to one Union representative, unless mutually agreed by both Parties. Any designation or change in designation of Employee representative must be in writing and the GP Form, **Appendix C**, may be used for this purpose.

SECTION 14.11: When the Union and the Agency agree that several Employees have filed identical grievances (where no individual variations are involved), the Union will select one case for processing under the grievance procedure. In processing one grievance for the group, the decision on the case selected will be binding on all other identical cases. Names of the Employees involved in this procedure will be made a part of the record of the case selected for processing; when a decision is made on the grievance, the Agency agrees to individually notify each Employee/representative.

SECTION 14.12: The following procedures apply in processing Employee grievances covered by this agreement:

a. Formal Procedure - Step 1.

(1) The grievant or their appointed Union representative will submit the grievance in writing, using the original GP Form, **Appendix C**, indicating Step 1 grievance and date, within ten (10) calendar days following; the act or occurrence or the date the Employee became aware of the act or occurrence, or if utilized the informal resolution process either the Agency's written notice of informal issue/dispute closure or failure of the Agency to respond as outlined in section 14.5.

(2) At the request of the aggrieved Employee or Union Representative the Step 1 deciding official shall meet with the aggrieved in an effort to obtain additional information to enable them to render a decision. The Agency has ten (10) calendar days after receipt of the grievance to issue a written decision.

b. Formal Procedure - Step 2.

(1) If the aggrieved is dissatisfied with the Step 1 decision, they may submit the grievance for elevation in writing to the higher level Agency official above the Step 1 deciding official within ten (10) calendar days of the date the Step 1 decision was received, provided the issue(s) presented are the same as those submitted at Step 1 and the grievant clearly states the reason why the Step 1 decision is unacceptable. The grievance may not raise an issue or request any remedy which was not raised in the Formal Step 1 grievance. Any additional relevant material must be forwarded to the designated Agency official.

(2) The Step 2 deciding official may meet with the aggrieved in an effort to obtain additional information to enable them to render a final decision. The Step 2 deciding official will issue a final written decision regarding the matter within ten (10) calendar days after receipt of the grievance, or within ten (10) calendar days of the meeting with the grievant, whichever is later.

SECTION 14.13: In the case of any grievance which the Union may have against the Agency or the Agency may have against the Union, such grievances shall be submitted in writing to the Agency designee or the Local 1092 President or designee. The Agency will notify the Union of who the Agency designee is upon request or upon any change in designation. The grievance must be filed within ten (10) calendar days after the date of the occurrence of the event giving rise to the grievance or the date the Party became aware of the occurrence. It shall contain: a statement setting forth the fact upon which the grievance is based; the specific Article and section of the agreement, law, rule, regulation or policy alleged to have been misapplied and/or misinterpreted; and, the correction sought. A meeting of the Parties will be held within ten (10) calendar days after receipt of the grievance with a written response by the appropriate Party within ten (10) calendar days after the meeting.

SECTION 14.14: If at any point in this grievance procedure the aggrieved Party decides the matter has been resolved to their satisfaction, the decision shall be final, and neither Party shall take further action concerning the grievance. The aggrieved Party must provide written notification of their decision to withdraw.

SECTION 14.15: A grievance will be cancelled without decision upon termination of the Employee's employment with the activity or upon the death of the Employee.

SECTION 14.16: Temporary Duty (TDY) travel will not be authorized for the formal process.

ARTICLE 15

MEDIATION

SECTION 15.1: If the Parties fail to settle any grievance processed under the negotiated grievance procedure, the Parties are encouraged to make a written request for mediation in an effort to reach resolution. A request for mediation must be submitted to the other Party within ten (10) calendar days of the final decision in the grievance review process, and will include a copy of the request for mediation submitted to the Federal Mediation and Conciliation Service (FMCS).

SECTION 15.2: The mediation process involves the use of a mediator who will attempt to help the Parties settle the issue in a mutually satisfactory way. Mediation is an informal fact-finding process. Rules of evidence and examination of witnesses will not be used. All participants will be encouraged to offer information freely, as no record of the proceedings will be made.

SECTION 15.3: If a mutually satisfactory settlement is not reached through this process, either Party may request the mediator to provide an opinion as to how the mediator thinks the grievance may be decided by an arbitrator.

SECTION 15.4: The use of a mediator will only be required as long as it is at no cost to the Parties. Mediation hearings shall be held during the regular day shift hours of the basic workweek (Monday through Friday) in facilities provided by the Agency or virtually.

ARTICLE 16

ARBITRATION

SECTION 16.1: If the Agency and the Union fail to settle any grievance under the negotiated grievance procedure, such grievance, upon written request by either Party, may be submitted to arbitration. Arbitration may only be invoked by the Agency or the Union within ten (10) calendar days from unsuccessful mediation or after issuance of the final decision of the grievance.

SECTION 16.2: Within ten (10) calendar days from the date of the request for arbitration, the Parties will meet (in person, teleconference, or video conference) to select an arbitrator that will hear and decide the case. If the Parties cannot agree on an arbitrator by the close of the meeting, they will jointly request from the Federal Mediation and Conciliation Service (FMCS) a list of seven (7) arbitrators and they will jointly pay for that service. The request to the FMCS will specify that the Parties request a list of seven (7) impartial persons from within the general geographical area of the NGB location and who have federal sector labor law experience.

SECTION 16.3: The Agency and Union shall meet (in person, by teleconference, or video conference) within ten (10) calendar days of receipt of the list of impartial arbitrators furnished by the FMCS. If they cannot mutually agree upon one of the listed arbitrators, then the Agency and Union will each strike one arbitrator's name from the list and shall then repeat this procedure. The remaining name shall be the duly selected arbitrator. The flip of the coin will determine who strikes a name first.

SECTION 16.4: The Agency and Union agree the arbitrator's fees and expenses shall be borne equally by both Parties. Upon selection of the arbitrator, the respective representatives for the Parties will jointly communicate with the arbitrator and each other in order to select a mutually agreeable date for the arbitration hearing.

SECTION 16.5: The Party invoking arbitration may withdraw the grievance at any time prior to the actual convening of a hearing or submission of the case to the arbitrator. In such case, any accrued arbitrator's and/or recorder's fees and expenses will be borne by the Party invoking arbitration. However, if the withdrawal of the grievance is based on the Agency and Union entering into a settlement agreement and agreeing to settle the grievance prior to a final award by the arbitrator, the arbitrator's fees and expenses will be borne equally by the Agency and the Union.

SECTION 16.6: The arbitration hearing or inquiry shall be held during the regular day shift work hours of the basic workweek. The arbitration hearing will be held at a mutually agreed upon location, virtually, or at an occupied NGB location capable of holding a hearing, as determined by the arbitrator. The grievant and any Employee witnesses necessary to the proceedings, who are otherwise in a duty status shall be excused from duty without loss of pay or charge to annual leave to participate as required in the arbitration hearing. Employees whose attendance at a hearing or inquiry conflicts with their scheduled tour of duty will be allowed to adjust their tour for the day(s) on which their presence is necessary at the hearing or inquiry.

Compensation will be limited to their regularly scheduled duty time, no premium pay or any form of compensatory time is authorized.

SECTION 16.7: The arbitrator's authority is strictly limited to deciding the issue(s) raised in the formal written grievance submitted in accordance with the provisions of negotiated grievance procedure. If the Parties fail to agree on a joint stipulation of the issue(s) to be arbitrated, each may submit the issue(s) proposed for consideration to the arbitrator. The arbitrator will then determine the issue(s) to be heard. The arbitrator shall not have the authority to change, modify, amend, delete, add to, or otherwise alter the provisions of this Agreement.

SECTION 16.8: The arbitrator shall have the authority to resolve any question of arbitrability and to interpret this agreement. The arbitrator shall have no authority to add to or otherwise modify the terms of this agreement or DAF policy.

SECTION 16.9: The arbitrator will render a decision as quickly as possible, but in any event, no later than thirty (30) calendar days after the conclusion of the hearings or submission of closing briefs, unless the Agency and Union otherwise agree.

SECTION 16.10: If a transcript is jointly requested, all costs will be shared equally. If a transcript is obtained and paid for by one Party and the other Party subsequently requests a copy, the requesting Party agrees to pay one-half of all costs prior to receiving the requested copy.

SECTION 16.11: The Agency and Union agree questions regarding the interpretation or application of arbitration awards shall be returned to the arbitrator for clarification if requested by either the Agency or the Union. Any dispute over the application of an arbitrator's award will be returned to the arbitrator for settlement, including remanded awards.

SECTION 16.12: The arbitrator's decision and award may not violate the provisions of law and/or governing regulations. The decision and order of the arbitrator will be final and binding except that either Party may file an exception to an award. The date which appears on the award shall be the date the award is mailed. Either Party must notify the other Party of their intent to file an exception within the timelines prescribed by the FLRA. Failure of either Party to give timely notice of its intentions will constitute the Party's acceptance of the arbitrator's award. A copy of either Party's exception to an arbitrator's award must be simultaneously filed with the other Party. The filing of an exception with the FLRA will serve to stay the imposition of any award until the FLRA decides or denies the appeal.

SECTION 16.13: All time limits in this arbitration procedure may be extended by mutual agreement. Agency or Union Audio recordings are prohibited.

ARTICLE 17

REDUCTION-IN-FORCE AND TRANSFER OF FUNCTION

SECTION 17.1: The Agency agrees Employees affected by RIF/TOF may be afforded all applicable statutory and regulatory rights and privileges, to include programs designed for the placement of excess Employees. The Agency agrees the following procedures will be used in the accomplishment of a Reduction-in-Force (RIF) or a Transfer of Function (TOF):

- a. The Union will receive notification in writing of a RIF/TOF as early as possible. In the event of a RIF, the Union will be notified at least ten (10) calendar days prior to issuance of notices to Employees as outlined in section 17.2. The Union agrees to not divulge the content of RIF until Employees have received their notice.
- b. The notification will include the reason(s) for the RIF/TOF, the approximate number, and the planned effective date of the action.

SECTION 17.2: The Agency will provide specific written notice at least sixty (60) calendar days to Employees affected by RIF. OPM may authorize a notice period of less than sixty (60) calendar days but at least thirty (30) calendar days before the effective date of release.

ARTICLE 18

DURATION OF AGREEMENT

SECTION 18.1: This Agreement will become effective upon Agency head approval and will remain in effect for three (3) years from the date of approval. If the Agreement is neither approved nor disapproved within thirty (30) calendar days from its execution, the Agreement will take effect and be binding subject to the provisions of applicable government-wide rules, regulations, policies, and laws.

SECTION 18.2: This agreement will be automatically renewed every three (3) years upon Agency head approval unless either the Agency or the Union provides the other Party written notice of intent to propose changes, either in its entirety or in part. Such notice must be submitted to the other Party not more than one hundred and twenty (120) or less than sixty (60) calendar days prior to the anniversary date. The notice will identify the Party's intention to reopen and amend, modify, or renegotiate this agreement in its entirety. In the event such notice is given, the Parties will begin negotiations not later than thirty (30) calendar days after the expiration date.

SECTION 18.3: During the duration of this agreement, either Party may notify the other in writing of its desire to amend or negotiate supplements to this agreement. Supplements normally will be limited to changes required by applicable laws and regulations of higher authority which affect bargaining unit employees, including Executive Orders, court decisions, agency regulations and decisions of the Federal Labor Relations Authority. Either Party may propose negotiations during the term of this agreement to reopen, amend, or modify this agreement but

such negotiations will only be conducted by mutual consent of the Parties. If there are Memorandum of Understanding (MOUs), Memorandum of Agreement (MOAs) negotiated subsequent to this agreement, each MOU or MOA will identify the date or event that will cause the subsequent MOU or MOA to expire, be consecutively numbered, be dated by calendar year, and submitted for Agency Head Review. Any new MOUs or MOAs will carry the same authority as this agreement. A subsequent MOU or MOA may not extend past the expiration date of this agreement.

SECTION 18.4: This agreement supersedes all prior agreements or past practices between the Parties and constitutes the entirety of the agreement between the Parties.

ARTICLE 19

DISTRIBUTION OF THE AGREEMENT

SECTION 19.1: The Agency agrees to furnish the Union and Employees with an electronic copy of the negotiated agreement. The Agency agrees to make the negotiated agreement available electronically to Employees on an Agency site. The Union will be responsible for further distribution.

SECTION 19.2: The Agency will provide new Employees the Union contact information, an electronic copy of the agreement, and be given the opportunity to ask questions.

ATTESTATION

This agreement has been executed between NGB and AFGE Local 1092 AFL-CIO.



11-6-20th
DATE

11/6/20
DATE

Appendix A Request for Official Time

Employees may not use Official Time without advance written authorization from their agency, except where obtaining prior approval is deemed impracticable under regulations. Any employee who uses Official Time without advance written agency authorization, or for purposes not specifically authorized by the agency, shall be considered absent without leave and subject to appropriate disciplinary action.

For continuing or ongoing requests, requests for authorization renewals will be required to be submitted not less than once per pay period. A separate advance authorization will be required for any use of Official Time in excess of previously authorized hours or for purposes for which such time was not previously authorized. Representatives/employees are responsible for accurately recording union time on their time and attendance for pay purposes. Supervisors are responsible for managing Official Time and accurately certifying time in accordance with DoD policy and Federal law.

Part 1: To be completed by the representative/employee requesting Official Time and submitted in advance to the supervisor/manager.

Name: Job Title:
Date: POC Phone:
Specific location of union time:

1. Purpose (Check Applicable):

- Term Negotiations (BA) § 7131(a)
- Mid-Term Negotiations (BB) § 7131(a)
- Dispute Resolution proceedings before FLRA during time employee would normally be in a Duty status (BK) § 7131(c)
- Employee initiated grievance. Preparing for or conferring with exclusive representative regarding a grievance or presenting a grievance brought on the employee's own behalf (BK) § 7131 (d)
- Appearing as a witness in any grievance proceeding (BD) § 7131 (d)
- Employee challenging an adverse personnel action taken against the employee in retaliation for engaging in federally protected whistleblower activity. (BD) § 7131 (d)
- Preparing for term or mid-term bargaining, formal meetings or representational activities authorized under (BD) § 7131(d)

NOTE: "B" codes are those codes associated with certain time and attendance systems that utilize those codes.

2. While providing enough detail to identify the tasks the representative/employee will undertake; what are the specific purposes for which such union time will be used:

3. How many Official Time hours are being requested?

Start Date:

Start Time:

Requesters Signature:

Part 2: To be completed by authorizing supervisor/manager:

- | | YES | NO |
|--|-----------------------------------|--------------------------------------|
| 1. Has representative/employee performed 75% of paid time (FY to date), performing agency business? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Is the amount of time considered for approval; reasonable, necessary, and in the public interest? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Official Time Request: | <input type="checkbox"/> Approved | <input type="checkbox"/> Disapproved |

3a. Explanation of Disapproval:

3b. Alternate date/time approved by supervisor/manager if operational needs do not allow representative/employee to use union time as requested:

Date: Time:

Supervisor Name: Supervisor Signature:

Time Departed: Time Returned:

Appendix B
Designation of Union Representative

Name: Date:

Phone: Office Symbol:

Designated Representative: Phone:

Representative e-mail:

Action being grieved:

The aforementioned representative has full authority to act on my behalf with respect to this matter and should be allowed to view any and all official or unofficial records pertinent to my employment in the Federal Service. This authority shall extend until such time as I, expressly and in writing, designate another individual to represent me in this matter or the issue has been resolved.

Employee Signature: Date

**Appendix C
Grievance Procedure Form**

Grievant Name: Job Title:
Grievant Phone: Unit:
Supervisor Name: Supervisor Phone:

1. This grievance is:

a. Formal Step 1 Date Grievance Filed:

b. Formal Step 2 Date Grievance Filed:

Date Incident Occurred:

2. Provisions of Agreement, Agency Regulations, Law, etc., violated, if any:

3. Statement of Grievance by Employee (Add continuation sheet(s), if necessary):

4. List Attached Supporting Documentation:

5. Relief Requested:

Please use additional sheets as necessary.

Grievant's Signature: Date:

Designated Representative: Phone:

Agreement to Extend Time Period for Grievance

Name of Requesting Party:

Grievance Step: Date request extension through:

Requesting Party Signature: Date:

Reason for requested extension:

Name of Agreeing Party:

Agree to extension: Yes No

Agreeing Party Signature: Date: