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# Collective Bargaining Agreement

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U.S. Census Bureau (Bureau) and  
American Federation of Government  
Employees (AFGE) Council 241 National  
Collective Bargaining Agreement (CBA)



*Continuing Partnership Together*

**People first and mission always! Employees are our focus and collaboration is part of our mission.  
This contract became effective on August 8, 2016.**

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## Preamble

WHEREAS the American Federation of Government Employees (AFGE), Council 241, AFL-CIO (Union), and the U.S. Census Bureau (Agency), also referred to as the Parties, recognize that the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions that affect them, safeguards the public interest, contributes to the effective conduct of public business, facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

WHEREAS the Parties recognize that the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government; and

WHEREAS the Parties recognize that a mutual commitment to cooperation promotes both the efficiency of the Agency's operations and the well-being of its employees; and

WHEREAS the Parties agree that the dignity of employees will be respected in the implementation and application of this Agreement, as well as related personnel policies and practices;

THEREFORE, the Parties hereby agree to the Articles set forth in this Agreement.

## Definitions

1. "Days," unless the context clearly indicates otherwise, means calendar and not working days.
2. "Employee" means a bargaining-unit employee covered by this Agreement and included in an appropriate bargaining unit as determined by the Federal Labor Relations Authority.
3. "Business Day" means Monday through Friday during normal business hours.
4. "Workday" means a scheduled workday.
5. National Processing Center (NPC) refers to the Census Bureau location in Jeffersonville, IN, including the Hagerstown Contact Center (HCC), Jeffersonville Contact Center (JCC), and the Tucson Contact Center (TCC).
6. Hagerstown Contact Center (HCC) refers to the NPC Census Bureau location in Hagerstown, MD; this may also be referred to as the Hagerstown Telephone Center.
7. Headquarters (HQ) refers to the Census Bureau location in Suitland, MD, including the Bowie Computer Center (BCC).
8. Jeffersonville refers to the Census Bureau location in Jeffersonville, IN.
9. Tucson Contact Center (TCC) refers to the NPC Census Bureau location in Tucson, AZ, this may also be referred to as the Tucson Telephone Center.
10. "Labor organization" means an organization composed of, in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose dealing with the Agency concerning grievances and conditions of employment, but does not include:
  - A. An organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;
  - B. An organization which advocates the overthrow of the constitutional form of government of the United States;
  - C. An organization sponsored by an Agency; or
  - D. An organization which participates in the conduct of a strike against the Government or any Agency thereof, or imposes a duty or obligation to conduct, assist, or participate in such a strike.
11. "Management official" means an individual employed by the Agency in a position the duties responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the Agency.
12. "Supervisor" means an individual employed by the Agency having authority in the interest of the Agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.
13. The "General schedule (GS)" classification and pay system covers the majority of civilian white-collar federal employees in professional, technical, administrative, and clerical positions. The GS Classification standards, qualifications, pay structure, and related human resources (HR) policies are administered by the U.S. Office of Personnel Management (OPM) on a Government-wide basis. Each Agency classifies its GS positions, and appoints and pays its GS employees filling those positions following statutory and OPM guidelines.
14. "Federal Wage System (FWS)" is a uniform pay-setting system that covers federal-appropriated fund and nonappropriated-fund blue-collar employees who are

paid by the hour. The system's goal is to make sure that federal trade, craft, and laboring employees within a local wage area who perform the same duties receive the same rate of pay. The FWS includes 132 appropriated-fund and 118 nonappropriated-fund local wage areas. Successful labor-management partnership is the hallmark of the FWS, with labor organizations involved in all phases of administering the pay system.

Excluded: All temporary and intermittent employees with a reasonable expectation of continued employment less than one hundred eighty (180) days, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

#### 4. Hagerstown Contact Center

Included: All nonprofessional employees of the DOC, U.S. Census Bureau, Hagerstown Telephone Center, Hagerstown, MD, except for those specifically excluded below;

Excluded: Management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

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## ARTICLE 1. EXCLUSIVE RECOGNITION AND COVERAGE

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### Section 1.1

Pursuant to 5 U.S.C. 7114(a)(4), the U.S. Census Bureau, DOC (Agency) enters into this Agreement with the AFGE, AFL-CIO (Union), the exclusive representative of the bargaining unit as certified by the Federal Labor Relations Authority (FLRA) in Case Number WA-RP-09-0044 (64 FLRA No. 64). Collectively, the Union and the Agency will be referred to as the Parties. In the language of the contract, employees assigned to the bargaining unit will be collectively referred to as employees.

### Section 1.2

The Agency hereby recognizes that the Union is the exclusive representative of all employees included in the bargaining units as defined in Section 1.3.

### Section 1.3

This is a Multilocation Agreement applicable to the following areas:

#### 1. Headquarters

Included: All employees of the Department of Commerce (DOC), U.S. Census Bureau, HQ, in the Washington, DC, Metropolitan area, except for those specifically excluded below;

Excluded: All temporary employees of ninety (90) days or less where there is no expectation of continued employment, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

#### 2. National Processing Center

Included: All WG and GS employees of the Department of Commerce, U.S. Census Bureau, NPC, Jeffersonville, IN, except for those specifically excluded below;

Excluded: All professional employees, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

#### 3. Tucson Contact Center

Included: All nonprofessional employees of the DOC, U.S. Census Bureau, Tucson Telephone Center, Tucson, AZ, except for those specifically excluded below;

### Section 1.4 Change in Bargaining Unit Status

If the Agency determines that a position previously included in the bargaining unit should be excluded from the existing bargaining unit, the local Union President or designee shall first be notified before the Agency takes action. Upon receipt of the notice, the Union may meet with the Agency within five (5) working days to attempt to resolve the matter.

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## ARTICLE 2. EFFECTIVE DATE AND DURATION

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### Section 2.1 Effective Date

An agreement between any Agency and an exclusive representative shall be subject to approval by the head of the Agency.

The head of the Agency shall approve the agreement within thirty (30) days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the Agency has granted an exception to the provision).

If the head of the Agency does not approve or disapprove the agreement within the thirty- (30-) day period, the agreement shall take effect and shall be binding on the Agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule, or regulation.

### Section 2.2 Renegotiation

#### Section 2.2.1

This Agreement shall remain in full force and effect for five (5) years from the date of its signing and shall renew itself automatically each year on its anniversary date. However, either party must give written notice to the other, no more than one hundred twenty (120) days, but not less than ninety (90) days prior to the expiration date of this Agreement if it desires to terminate or renegotiate this

Agreement. This current Agreement will remain in effect until a new Agreement becomes effective.

#### *Section 2.2.2*

The Parties will meet for the purpose of negotiating the ground rules within sixty (60) days of the moving party's notice to renegotiate. Proposals for ground rules for the renegotiation of the Agreement will be exchanged at that time.

### **Section 2.3 Reopener**

Either party may propose negotiations during the term of this Agreement to reopen, amend, or modify this Agreement, but such negotiations may be conducted only by mutual consent of the Parties. Such notices to renegotiate must be accompanied by the specific provisions the party wishes to renegotiate.

If the Parties mutually agree to commence negotiations, proposals will be limited to the article or section agreed to be reopened. The Parties will meet for the purpose of negotiating the amendments or modifications within thirty (30) days. Such negotiations will be conducted in good faith through appropriate representatives as required by law and this Agreement.

### **Section 2.4 Amendments and Modifications**

Unless otherwise agreed by the Parties, this Agreement may only be amended, modified, or renegotiated in accordance with the provisions of this Agreement and law.

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## **ARTICLE 3. GOVERNING LAWS, REGULATIONS, AND PAST PRACTICES**

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### **Section 3.1 Purpose**

This Article sets forth the effect of laws, regulations, and past practices on this Agreement.

### **Section 3.2 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. 7100 et seq., and by subsequently prescribed government-wide rules and regulations.

The Agency shall not enforce any rule or regulation (other than a rule or regulation implementing 5 U.S.C. 2302 of this title) that is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed, as stated in 5 U.S.C. 7116(a)(7).

### **Section 3.3 Relationship to Agency Regulations**

Where existing provisions of Agency regulations are in conflict with this Agreement, the provisions of the Agreement shall govern unless otherwise stated in this Agreement.

### **Section 3.4 Waivers of Rights**

Each party retains the rights accorded to it by the provisions of 5 U.S.C. Part III, Subpart F, Chapter 71, as amended. Any waivers of the rights given to the Agency or the Union by the Federal Labor Management Relations Statute, 5 U.S.C. Chapter 71, must be clear and unmistakably set forth in this Agreement and understood to be waived by both the Union and the Agency.

This provision does not preclude either party from considering the waiving of their rights regarding future matters. However, any waiver of statutory rights must be clear and unmistakably understood to be waived by both the Union and the Agency.

### **Section 3.5 Prior Agreements and Past Practices**

1. Any prior Agreement, written or oral, shall terminate upon the effective date of this Agreement with the exception of the following:
  - A. Any existing Memoranda of Understanding (MOU) negotiated with Council 241 where the matter is not a subject of this Agreement and provided it does not conflict with this Agreement; and
  - B. An MOU or other formal written agreements signed by the Parties addressing local issues where the matter is not a subject of this Agreement, and are attached as an addendum to this Agreement.
2. All past practices will end upon the effective date of this Agreement. However, should a practice continue after the effective date and meet the definition of a practice contained in this Article, it will be recognized as such providing it does not conflict with the terms of this Agreement.
3. The party alleging that a past practice exists bears the burden of establishing the following minimum standards:
  - A. The alleged practice was clear and applied consistently.
  - B. The alleged practice was not a special, one-time benefit or meant at the time as an exception to a general rule.
  - C. Both the Union and Agency knew the alleged practice existed and the Agency agreed with the practice or, at least, allowed it to occur.

- D. The alleged practice existed for a substantial period of time and it had occurred repeatedly.

The Parties agree to honor future changes by the FLRA regarding the elements required to establish a past practice.

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## ARTICLE 4. MANAGEMENT RIGHTS

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1. Nothing in this Agreement shall affect the authority of any management official to exercise any of the management rights available pursuant to 5 U.S.C. 7106 as follows:
  - 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, layoff, 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;
4. Among properly ranked and certified candidates for promotion; or
  - A. Any other appropriate source; and
  - B. To take whatever actions may be necessary to carry out the Agency's mission during emergencies.
2. Nothing in this Agreement 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 work; or
  - B. Procedures which management officials of the Agency will observe in exercising any authority under this Article; or appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such management officials.

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## ARTICLE 5. EMPLOYEE RIGHTS

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### Section 5.1 Right to Participation

In accordance with 5 U.S.C. 7102, each employee shall have the right to join or assist the Union, or to refrain from such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of

such right. Except as otherwise provided under the Statute, such rights include the following:

1. 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 to heads of agencies and other officials of the executive branch of the Government, Congress, or other appropriate authorities; and
2. The right to engage in collective bargaining with respect to conditions of employment through Union representatives.

### Section 5.2 Right to Representation

#### Section 5.2.1

Employees have a right to the representation and assistance of the Union. Employees may contact and meet privately with Union representatives during duty hours for representational matters. Employees are entitled to a reasonable amount of official duty time away from the job without charge to leave to meet with these officials.

An employee must request and receive approval to use time from his/her supervisor or designee in advance. The supervisor or designee will grant time unless the absence of the employee makes completing the work area's mission impossible. In those cases, the supervisor or designee will suggest the earliest available time for the employee to leave the work area, normally within twenty-four (24) hours. Upon request, the supervisor or designee will provide the employee and/or the Union representative a written notice stating why the release was denied. A copy of this notice will be provided as soon as practicable, normally within twenty-four (24) hours. Meetings between a Union representative and an employee should take place away from the employee's office or immediate workspace.

#### Section 5.2.2

The Union shall be given the opportunity to be represented at any examination (i.e., questioning) of an employee by a representative of the Agency in connection with an investigation if the employee reasonably believes that the questioning may result in disciplinary action against the employee and the employee requests representation. When a request for representation has been made, the Agency has the following choice:

1. Grant the request;
2. Discontinue the interview; or
3. Offer the employee the choice to continue the interview without representation or have no interview at all.

#### Section 5.2.3

The Agency will not communicate directly with employees regarding conditions of employment in a manner that will improperly bypass the Union under law.



#### *Section 5.2.4 Surveys*

The Agency will provide the Union with at least seven (7) days advance notice of surveys concerning conditions of employment that involve employees. The Agency will provide the Union with a copy of survey results as soon as they become available and before such results are released to employees.

Participation in surveys will be voluntary, unless the Parties agree to require participation. Employees will be assured that their responses will be confidential and their anonymity protected, unless the Parties agree otherwise.

The results of surveys conducted by either Party regarding conditions of employment will be shared with the other Party. If a third party conducts a survey regarding conditions of employment and the results are distributed to the Agency, the results will be shared with the Union.

#### **Section 5.3 Access to Agency Officials**

In resolving work-related problems, employees may choose to communicate with and seek advice from Agency offices and officials such as the following:

1. HR staff;
2. A supervisor or management official of higher rank than the employee's immediate supervisor; or
3. Equal Employment Opportunity (EEO) officials (staff members of the EEO office or an EEO counselor).

Employees are entitled to a reasonable amount of official duty time away from the job without charge to leave to meet with these officials. An employee must request and receive approval to use time from his/her supervisor or designee in advance. The supervisor or designee will grant time unless the absence of the employee makes it impossible to complete the work area's mission. In those cases, the supervisor or designee will suggest the earliest available time for the employee to leave the work area, normally within twenty-four (24) hours. Upon request, the supervisor or designee will provide the employee with a written notice stating why the release was denied.

A copy of this notice will be provided as soon as practicable, normally within twenty-four (24) hours.

### **Section 5.4 Personal Rights**

#### *Section 5.4.1*

All employees shall be treated fairly and equitably in all aspects of personnel management and without regard to political affiliation, race, color, religion, national origin, gender, sexual orientation, marital status, age, disabling condition, or Union activity; and with proper regard and protection of their privacy and constitutional rights.

#### *Section 5.4.2*

Discussions between supervisors and employees that are of a private, confidential, and/or sensitive matter will be conducted in private, except in situations such as emergencies or issues of imminent danger.

#### *Section 5.4.3*

If an employee is to be served with a warrant or subpoena, it will be done in private to the extent that the Agency has knowledge and control of the situation.

#### *Section 5.4.4*

Supervisors will make a reasonable effort to introduce employees to staff, where appropriate, during the first week they report for duty.

#### *Section 5.4.5*

In accordance with existing statutes and regulations, employees have the right to present their personal views to Congress, the Executive Branch, or other authorities without fear of penalty or reprisal.

#### *Section 5.4.6*

1. The Agency will make reasonable efforts to provide lockable accommodations for the secure storage of appropriate personal belongings for employees.
2. Upon request, the Agency will instruct employees on filing a claim for reimbursement of personal property damage or loss and will make forms available in case of loss.
3. Any search of these accommodations must be done for good reason and in compliance with applicable laws and regulations. At least two (2) people must be present during any search and one (1) of these will be the affected employee or a Union representative, except in extraordinary circumstances or issues outside of the Agency's control.

#### *Section 5.4.7*

Employees shall have the right to direct and fully pursue their private lives, personal welfare, and personal beliefs without interference, coercion, or discrimination at the worksite.

#### *Section 5.4.8*

An employee's decision to resign or retire, if eligible, shall be made freely and in accordance with prevailing regulations. If an employee is facing termination, the employee may resign freely and in accordance with prevailing regulations any time prior to the effective date of the termination. The employee may withdraw his or her resignation at any

time prior to the effective date of the resignation as long as the position is uncommitted, unencumbered, or is not prohibited pursuant to a settlement or resolution agreement.

#### *Section 5.4.9*

A notice of retirement eligibility will be sent to employees who are within five (5) years of retirement. Upon request, the Agency will provide retirement planning information to bargaining unit employees. Such information may include, but is not limited to notice of seminars, individual counseling, elder or long-term care assistance, retirement materials, annuity comparison estimates, life and medical insurance counseling, etc.

#### *Section 5.4.10 Space for Lunch/Breaks*

The Agency will make reasonable efforts to provide bargaining unit employees with access to clean and comfortable break areas in close proximity to their work areas. These areas typically will include sinks, refrigerators, microwaves, etc. These areas should be away from customers, clients, and other nonemployees whenever possible. All employees are expected to share in the responsibility of helping to keep the break room clean.

In rare cases when it is impossible to provide onsite space for break periods, the Agency will work with the Union to identify locations where employees can spend these non-work periods.

#### *Section 5.4.11 Space for Employee Fitness Activities*

Upon request, the Agency will make reasonable efforts to provide available space, such as conference rooms, training rooms, etc., for use by employees for exercise classes, aerobics, and other physical fitness activities. Established procedures for reserving the use of such space must be followed, and the Parties acknowledge that work requirements, such as meetings and training sessions, can override such requests.

This space may be made available during normal operating hours and for use by employees during their lunch periods or other nonduty time to the extent that these activities do not cause a disruption to the work area. Where convenient facilities exist nearby, the Union and the Agency will consider exploring a joint-use program provided there is no cost incurred by the Agency.

### **Section 5.5 Attendance at Internal Union Meetings**

Employees will be allowed to attend internal Union meetings, such as monthly membership meetings, lunch and learns, etc., while they are in a nonduty status (i.e., before or after work shifts, during breaks, lunch periods, or approved leave).

### **Section 5.6 Timely and Accurate Compensation**

#### *Section 5.6.1*

Employees are entitled to timely receipt of all compensation earned by them for the applicable pay period. The Agency will make every effort to ensure that employees receive their pay on the established payday and at the address or electronic site designated by the employee, in accordance with applicable laws rules and regulations.

#### *Section 5.6.2*

The Agency will ensure that employees' Earnings and Leave Statements are handled in a confidential manner.

#### *Section 5.6.3*

1. The Agency will ensure that employees have access to earnings and leave statements.
2. Employees are responsible for reviewing their earnings and leave statements and notifying their supervisor of any unexplained changes.
3. Upon receipt of a written request from the employee, the Agency will request a quick-service payment, or equivalent, for employees who do not receive a salary payment by the scheduled payday due to an Agency administrative error.
4. The Agency agrees to assist affected employees by verifying the amount of pay that is due and to take every step to replace the missing funds.
5. Employees claiming hardship may request a paper check via direct mail to their homes or post office box. All others will receive their pay via electronic funds.

### **Section 5.7 Whistleblower Protection**

Employees are protected by the Whistleblower Protection Act against reprisal for the lawful disclosure of information that the employee reasonably believes is evidence of a violation of any law, rule, or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

### **Section 5.8 Voluntary Activities**

Employees will not be required to contribute money in the Combined Federal Campaign, purchase U.S. bonds in any bond drive, or donate blood in any organized blood drive. Participation or nonparticipation will not give an advantage or disadvantage to employees. However, this section shall not be so construed as to prohibit the Agency from posting or circulating information concerning such charitable organizations, or from otherwise encouraging employees to consider contributing to worthwhile charities or purchasing savings bonds.



## **Section 5.9 Statutory Requirements**

Personnel management will be conducted in accordance with 5 U.S.C. 2301, Merit System Principles, and 5 U.S.C. 2302, Prohibited Personnel Practices.

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## **ARTICLE 6. UNION RIGHTS**

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### **Section 6.1 Exclusive Representation**

Pursuant to 5 U.S.C § 7114(a)(1), the Agency recognizes AFGE Council 241 (the Union) as the exclusive representative of the employees in the unit certified by the FLRA in (Case No. WA-RP-09-0044 [64 FLRA No. 64]). As such, the Union is entitled to designate representatives for the purpose of collective bargaining, the filing of grievances, and such other employee-management relations activities as are in accordance with applicable law and regulation.

### **Section 6.2 Union Representatives**

AFGE Council 241 will notify the HQ Labor Relations Officer (LRO) on a current basis of the name, title, and work location of its representatives. Local Unions will provide this information to the servicing LRO for their respective locals.

#### *Section 6.2.1*

Union representatives will receive official time for the performance of representational duties in accordance with Article 10, Official Time.

### **Section 6.3 Union Responsibilities**

#### *Section 6.3.1*

The Union, as the exclusive representative, is responsible for representing the interest of all employees in the unit it represents without discrimination and without regard to labor organization membership. This responsibility extends only to those matters in which the Union is the exclusive representative specifically for the collective bargaining, grievance, and arbitration processes.

#### *Section 6.3.2*

The Union is not required to represent or assist employees in any other matters, such as proposed adverse actions, Merit System Protection Board (MSPB) appeals, Equal Employment Opportunity complaints, Workers' Compensation claims, and other appeal procedures.

#### *Section 6.3.3*

Union representatives, when acting in that capacity, are entitled to dignity appropriate to partners on equal footing with Agency counterparts within the context of labor-management relations.

To this end, the Parties agree that representatives of the Union and of the Agency should conduct themselves in an

appropriate and respectful manner within the confines of uninhibited, robust, and wide-open debate as stipulated by the FLRA.

### **Section 6.4 National Representatives**

The Union will notify the servicing LRO normally one (1) day in advance of site visits by National Representatives. National Representatives of the Union who are not employees of the Agency are considered visitors and are subject to the facility's security practices, policies, and procedures applicable to all visitors.

### **Section 6.5 Agency Meetings, Conferences, and Committees**

The Union's participation in Agency meetings, conferences, and committees not otherwise covered by this Agreement will be determined by mutual agreement on a case-by-case basis. This includes determining whether Agency funds will be expended for Union representatives to attend the meeting, conference, or committee and determining the number of Union representatives that will be permitted to attend.

### **Section 6.6 Formal Discussions**

1. The Union shall be given the opportunity to be represented at any formal discussion between one or more representatives of the Agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy and practices or other general condition of employment.
2. The Union President and/or designee(s) will be given advance notice of any formal discussion that is to be held. This advance notice will include dates, times, and an agenda; and will be no less than twenty-four (24) hours unless management has been prevented from doing so due to an emergency.
3. Upon request of the Union representative in attendance, he/she will be acknowledged by the Agency at the start of such formal discussions. The Agency representative will permit the Union representative to ask relevant questions, and to present a brief statement outlining the Union's position concerning the issues presented by management.

### **Section 6.7 Investigatory Examinations**

As provided in 5 U.S.C. 7114(a)(2)(B) and Article 5, Employee Rights, the Union has the right to be represented at any examination of an employee in the bargaining 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 Union will determine which representative will be assigned to any

particular investigatory examination. The representative will be given a reasonable amount of time to arrive at the examination. Once the employee requests representation, the Agency has the following choice:

1. Grant the request and delay the interview or meeting until the representative arrives and has a chance to consult privately with the employee;
2. Discontinue the meeting or interview; or
3. Allow the employee to choose whether to continue with the interview unrepresented or forgo the interview entirely.

If the representative is not available due to work schedules or other representational business, the examination will be postponed for a reasonable period of time, normally not more than one (1) workday.

### **Section 6.8 Right to Information**

1. In accordance with Section 7114(b)(4) of the Federal Service Labor Management Relations Statute, the Agency, upon request and to the extent not prohibited by law, will furnish to the Union or its authorized representative data:
  - A. Which is normally maintained by the Agency in the regular course of business;
  - B. Which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and
  - C. Which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors relating to collective bargaining.
2. The Union agrees to document the requests for information and provide the particularized need why the information is necessary, relevant, and how it will be used. All requests for information must be submitted to the servicing LRO.
3. A submission of a request for information will not delay the filing or processing of a grievance.
4. This information will be provided to the Union normally within ten (10) workdays and at no cost to the Union. If additional time or clarification is required, the Agency will notify the Union within seven (7) workdays from the date the information request was received.

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## **ARTICLE 7. DUES WITHHOLDING**

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### **Section 7.1**

This Article provides for a fair and equitable system by which Union dues may be collected from employees in a timely and regular basis without having an adverse impact on the day-to-day operations of the organization.

### **Section 7.2 Union Dues**

Bargaining unit employees may authorize the payment of labor organization dues to the Union by voluntarily completing a Standard Form (SF) 1187 "Request for Payroll Deductions for Labor Organization Dues" or its equivalent. Information about employees electing to pay dues will only be used in conducting official business, and will not be disseminated to any individual without a need for this information.

### **Section 7.3 Dues Subject to Withholding**

The term "dues" includes regular and periodic dues, fees, and assessments of the exclusive representative of the bargaining unit. The Agency shall honor the assignment and make allotments pursuant to the assignment.

### **Section 7.4 Allotments (Payroll Deductions)**

#### *Section 7.4.1*

Bargaining unit employees who desire to make an allotment for payment of dues will request such allotments by completing a SF-1187. The Union will procure the forms as needed and will make them available to the bargaining unit members.

#### *Section 7.4.2*

Completed allotment forms will be submitted to the Union President or other authorized officer who will complete the certification portion of the form. The Union, in turn, will promptly submit all such forms received from employees to the appropriate servicing payroll office for processing. If the SF-1187 is incomplete or if an employee is ineligible (i.e., nonbargaining unit employees) for payroll deduction of labor organization dues, the form will be returned to the Union with the reason why the SF-1187 is being returned and/or the basis for ineligibility.

#### *Section 7.4.3*

Allotments normally will be effective at the beginning of the first pay period, but no later than the second pay period, following the receipt of a properly completed SF-1187 by the appropriate servicing payroll office. The Union will contact the local servicing LRO for assistance in resolving all discrepancies in regards to dues withholdings.

#### *Section 7.4.4*

Any allotment will be made at no cost to the Union or the employee.

#### *Section 7.4.5*

Employees who temporarily cease dues allotment because of a temporary assignment to a position not in the bargaining unit will have their dues allotment automatically reinstated upon transfer back into a bargaining unit position without the need to fill out a new SF-1187.

## **Section 7.5 Payment and Union Dues Deduction Report**

### *Section 7.5.1*

The Agency will make a remittance for the amounts withheld on a biweekly basis. The remittance will be an electronic funds transfer for the balance of the dues withheld and will be made payable to the Union. The Union will provide the Agency with the appropriate local account information.

### *Section 7.5.2*

The servicing LRO will provide the Union with a biweekly report containing:

1. Identification of the Agency;
2. Identification of the employee's location;
3. Total amount of the remittance;
4. Name, date, and the amount deducted (including reduced or zero deductions);
5. Total number of members for whom dues are withheld; and
6. Payroll office anniversary date. A copy of the Union Dues Deduction Report will be provided to the Council and a report will be sent to the Local Union covering only those employees in that Local.

### *Section 7.5.3 Movement Within the Bargaining Unit*

When an employee who is on dues withholding moves from one facility (office, work place) in the bargaining unit to another, the Union will notify the appropriate servicing Payroll Office and the employee will continue on dues withholding. After processing, the dues withheld will be remitted to the new local Union that has jurisdiction for the receiving facility.

## **Section 7.6 Changes in Dues Withholding Amounts**

### *Section 7.6.1*

The Union will notify the Agency of any changes to the amount of the regular and periodic Union dues deducted for each bargaining unit member. The Union President or other authorized Union officer shall forward a written request statement to the appropriate servicing Payroll Office indicating the dues change being requested.

### *Section 7.6.2*

Such notification must be received thirty (30) workdays prior to the first day of the pay period when such change is to be effective. Changes will be effective the first pay period after timely receipt by the appropriate servicing payroll office.

## **Section 7.7 Dues Revocation**

### *Section 7.7.1*

Union members who have authorized union dues withholding may revoke their payroll deduction of dues once a year on the anniversary date of the first withholding by submitting a SF-1188 to the local Union Office.

Members wishing to revoke their payroll deduction must submit an SF-1188, "Cancellation of Payroll Deductions for Labor Organization Dues" or its equivalent to the appropriate local union official. The union will determine who will be the appropriate local union official to handle the SF-1188. The union will procure the forms as needed and will make them available to the union members. The Agency will not provide SF-1188s to employees, but will direct them to the Union.

### *Section 7.7.2*

Upon receipt of the properly completed SF-1188, the Local Union President or designee must certify by date and signature or other date stamping device the date the SF-1188 is given to the union representative. In order to be timely, the SF-1188 must be submitted to the union during the calendar month of the anniversary date. The union official will, by reference to the Union Dues Deduction Report, determine the anniversary date of the allotment. The ending date of the pay period when the anniversary date appears will be documented on the SF-1188 and initialed by the union official. The SF-1188 will be delivered to the appropriate servicing payroll office by the end of the pay period that the employee's anniversary date falls.

Allotments normally will cease at the beginning of the first full pay period, but no later than the second pay period following the anniversary date provided by the union.

### *Section 7.7.3*

Notwithstanding Section 7.7.1 of this Article, deduction of employees' dues will terminate with the start of the first payroll period after which any of the following occurs:

1. Loss of exclusive recognition by the Union;
2. Separation of the employee for any reason;
3. Notice to the Agency from the Union that the employee has been suspended or expelled from the membership of the Union;
4. Transfer, reassignment, or promotion or demotion of an eligible member to a position excluded from the Union's recognition except where such assignment is temporary; or
5. Activation of an employee into active duty military status.

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## Section 7.8

If the Agency removes an employee from dues withholding based on a belief that the employee's position is outside the bargaining unit, and the FLRA determines that the Agency improperly excluded the employee, the Agency will promptly reinstate the employee's dues withholding authorization and reimburse the Union for missed dues.

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## ARTICLE 8. EMPLOYEE NOTICES

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### Section 8.1

Notices to bargaining unit employees concerning conditions of employment will be posted on the Agency's bulletin boards, electronic bulletin boards, Message of the Day, intranet, or sent via e-mail.

### Section 8.2

Prior to the initiation of a notice to employees that impacts conditions of employment, the Agency will notify the Union in advance and allow the Union to bargain as appropriate in accordance, with Article 16, Mid-Term Bargaining.

### Section 8.3

Joint notices will be discussed, agreed upon, and signed by both Parties prior to release to employees.

### Section 8.4 Representation Rights

In accordance with 5 U.S.C. 7114(a)(2)(B), employees will be notified of their rights to Union representation on an annual basis. The notification will be sent to all employees in January of each calendar year. The notice will contain the statutory reference and language as follows:

1. Any examination of an employee in the unit by a representative of the Agency in connection with an investigation if:
  - A. The employee reasonably believes that the examination may result in disciplinary action against the employee; and
  - B. The employee requests representation.
2. In addition, employees will be notified of the right of the Union, in accordance with 5 U.S.C. 7114(a)(2)(A), to be present at any formal discussion between one or more representatives of the Agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.

### Section 8.5

During new employee in-processing, employees will be provided a notice of their representational rights, information concerning standards of conduct, including appropriate use of government equipment.

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## ARTICLE 9. EMPLOYEE ORIENTATION

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### Section 9.1 Goal of Employee Orientation

An effective Orientation Program is an important component in achieving goals to establish and maintain an effective, diverse, and motivated workforce by ensuring that all bargaining unit employees receive information regarding their rights, benefits, roles, and responsibilities as employees of the Agency.

### Section 9.2 Frequency of Employee Orientation

Employee orientation sessions will be conducted on an as-needed basis. All new bargaining unit employees will be required to attend.

### Section 9.3 Notification and Information

#### *Section 9.3.1*

The Agency will determine the length, contents, and agenda of the orientation session. The Union will be included on the agenda for purposes of addressing new employees.

#### *Section 9.3.2*

The Union will be notified as far in advance as possible of the scheduled dates for employee orientation. Under normal circumstances, the Union will be notified no less than five (5) days prior to the orientation session.

This notice will contain the date of the employee orientation session, the estimated number of employees, title grade and series, type of appointment, location, and division or branch. At the Union's request, the Agency will provide the Union with a final list of new employees, as soon as it becomes available, but no later than three (3) workdays after the orientation. The final list will include the employee's name, entry on duty date, position title, grade and series, and location of the position.

#### *Section 9.3.3*

A copy of this Agreement will initially be included as part of any employee orientation package that is distributed to employees. Any employee requiring an additional copy after attending orientation will be informed of the intranet location to obtain a copy of the Agreement.

### Section 9.4 Union Participation

#### *Section 9.4.1*

The local Union officials will be introduced by the Agency representative at each session orientation.

### *Section 9.4.2*

The Agency agrees to grant up to two (2) local Union representatives no more than thirty (30) minutes of time at a new employee orientation to introduce himself/herself to employees, to distribute information regarding the Union, and to answer any questions that new employees may have regarding the information received.

### *Section 9.4.3*

The Agency will make every effort to schedule employee orientations during a regularly scheduled workweek of Monday through Friday. In the event the work schedule of a Union representative does not permit attendance at the orientation, the Agency may alter the representative's schedule for the purpose of attending the orientation session.

If a Union representative is not available, the Agency will distribute the Union's information packet during the orientation session, at the Union's request.

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## **ARTICLE 10. OFFICIAL TIME**

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### **Section 10.1 Purpose**

Official time in the Agency shall be administered in accordance with 5 U.S.C. Chapter 71, "The Federal Service Labor-Management Relations Statute" (the Statute) as amended and this Agreement.

#### *Section 10.1.1*

The purpose of official time is to provide employees time in which to perform union representational activities during scheduled working hours, without loss of pay or charge to annual leave. This Article provides an equitable process for the allocation and approval of official time and recognizes that the appropriate use of official time benefits both Management and Labor.

### **Section 10.2 Representational Functions**

#### *Section 10.2.1*

Elected or appointed Union representatives may use official time for representational purposes as provided by the Statute during such time as they are otherwise in a duty status. Work schedules will not be altered so that Union officials are in duty status for the sole purpose of using official time. In unforeseen or exceptional circumstances, at the discretion of the Agency, work schedules may be altered.

#### *Section 10.2.2*

Official time is prohibited for any activities performed by any employee relating to the internal business of the Union, including the solicitation of membership.

### *Section 10.2.3 Credit Hours*

In accordance with Article 42, Work Schedules, Union representatives on a Flexi time schedule may earn and use credit hours while on official time.

### **Section 10.3 Official List of Recognized Union Officials**

Upon execution of this Agreement, the Union will provide a list to the Headquarters LRO identifying all bargaining unit representatives by name, location, and time earning category listed below. The Union will provide updated listings no later than September 1 of each following calendar year. When possible, any changes to this list will be submitted to the LRO one (1) week prior to the change taking effect.

This list is the official list of recognized Union officials for the use of official time under the terms of this Agreement. In the event of a substitution lasting less than three (3) days, the representative chosen for the substitution must be designated to receive official time.

The Union normally will provide the LRO with forty-eight (48) hours, but no less than twenty-four (24) hours advanced notice, for all substitutions.

### **Section 10.4 Official Time Allocations**

The Agency agrees to provide official time to Union officials as follows:

#### *Section 10.4.1 AFGE Council 241 Representatives*

A pool of five hundred twenty (520) hours quarterly will be available for all designated representatives, as identified in Section 10.3 above.

#### *Section 10.4.2 Headquarters:*

Local President or designee: 100 percent of their tour of duty

Two (2) officials: 80 percent of their tour of duty

A pool of one thousand twelve hundred forty-eight (1,248) hours quarterly will be available for all designated representatives, as identified in Section 10.3 above.

#### *Section 10.4.3 Jeffersonville:*

Local President or designee: 100 percent of their tour of duty

Two (2) officials: 50 percent of their tour of duty

A pool of two hundred (200) hours per pay period will be available for all designated representatives, as identified in Section 10.3 above.

The two (2) 50 percent Union officials may only be changed on an annual basis. In the event of unforeseen circumstances, (i.e., vacancies, extended leave, etc.) the Local President or designee may change these designations. The Union must provide the LRO with notice of such changes.



During the decennial census cycle where there is a significant increase in staffing levels, the Parties may reopen for renegotiation the provisions of Section 10.4.3, specifically regarding the pool of hours.

*Section 10.4.4 Tucson Contact Center:*

Local President or designee: 15 percent of their tour of duty to be deducted from the annual pool

An annual pool of thirteen hundred (1,300) hours will be available for all designated representatives, as identified in Section 10.3 above.

*Section 10.4.5 Hagerstown Contact Center:*

An annual pool of eleven hundred (1,100) hours will be available for all designated representatives, as identified in Section 10.3 above.

*Section 10.4.6*

For the purposes of this Article, the term annually refers to fiscal year.

**Section 10.5 Activities Covered Under Official Time Hours**

Official time will be granted for the following purposes:

1. To consult with employee(s), supervisor(s), or management regarding a case and/or potential case;
2. To meet, prepare, and respond to a proposed disciplinary/adverse action;
3. To submit grievances to the Agency, in accordance with this Agreement;
4. To prepare for any employee, Union, or management grievance at the arbitration stage;
5. To attend any Union invoked arbitration hearing;
6. To investigate, prepare, and meet with the Agency on any Unfair Labor Practice (ULP) filed by the Union pursuant to 5 U.S.C. 7116 and Article 15, Unfair Labor Practices;
7. To investigate and prepare a petition for unit clarification under 5 U.S.C. Chapter 71;
8. To prepare for a hearing before the FLRA or MSPB;
9. To attend Weingarten meetings, if requested by the employee, as defined in 5 U.S.C. 7114(2)(B) and in Article 5, Employee Rights and Article 6, Union Rights;
10. To prepare financial and other reports which must be made available to the public as required by Section 7120 of the Federal Service Labor-Management Relations Statute; and
11. To communicate with Congress in their capacity as Union representatives, regarding matters concerning bargaining unit working conditions, except where prohibited by the Federal statute.

This list is not intended to be all-inclusive, but instead is intended to provide examples of situations where official time may be authorized. Official time should be authorized in any situation that is in accordance with Federal law and regulation.

**Section 10.6 Exceptions**

The following activities are excluded from the official time allocation and use specified in Section 10.5 of this Article. The Agency will authorize a reasonable amount of official time to those officials recognized under Section 3.0 for labor-management activities authorized under 5 U.S.C. 71, as follows:

1. To spend time in term agreement negotiations;
2. To spend time in mid-term negotiations;
3. To investigate and respond to a management filed grievance at Step (3) of Article 12, Negotiated Grievance Procedure;
4. To attend hearings such as at arbitration, the Federal Service Impasses Panel (FSIP), MSPB, and FLRA hearings;
5. To investigate and meet with the Agency on any ULP filed by the Agency pursuant to 5 U.S.C. 7116 and Article 15, Unfair Labor Practices (ULP);
6. To attend formal meetings as defined in 5 U.S.C. 7114(2)(A) and in Article 5, Employee Rights and Article 6, Union Rights;
7. To attend labor-management meetings, subject to Article 17, Labor Management Relations (LMR) Meetings, Article 18, Joint Labor-Management Training, and Article 19, Labor-Management Council;
8. To attend Management and Union joint committees or work groups; and
9. To prepare for an impasse proceeding.

**Section 10.7 Arranging for Official Time Use**

*Section 10.7.1*

Union representatives will be permitted to leave their assigned work area on official time as authorized under this Agreement only after receiving approval from their immediate supervisor or designee and identifying the specific representational activity being performed under Section 10.5 or 10.6.

Release to perform representational duties should normally be provided unless absence from the worksite would cause an adverse impact to the mission of the Agency. Delays in release should be of short duration, under two (2) hours, but normally not more than twenty-four (24) hours. The Union representative will be given reasonable time solely to inform any bargaining unit employees, and/or management representative, involved in the delay.

### *Section 10.7.2*

On occasion, discussions between the Union representative and the employee may take longer than originally anticipated. In these cases, each must notify and obtain approval from his/her respective supervisor or designee of the need to extend the anticipated return time.

### *Section 10.7.3*

Consistent with Section 10.7.1 of this Article, supervisors may require that Union officials return to the work site if a work need arises or if the Union official failed to complete a work assignment that was a precondition for the approval of official time. Following the completion of the necessary work assignment, Union officials will be permitted to return to official time status, or have the time rescheduled for another day/time.

### *Section 10.7.4*

Union officials who have a need to enter a work area in the exercise of legitimate representational duties under this Agreement must request and receive permission from the supervisor of that work area in advance.

### *Section 10.7.5*

The Agency agrees to provide a report of representational official time for AFGE Council 241 and each respective Local on a pay period basis.

## **Section 10.8 Training**

Training hours will be allocated per fiscal year as follows:

AFGE Council 241—Union representatives will be granted a pool of up to two hundred (200) hours to be shared for the purpose of attending labor relations training or other training related to employees' working conditions.

HQ—Union representatives will be granted a pool of up to six hundred (600) hours to be shared for the purpose of attending labor relations training or other training related to employees' working conditions.

The Local President will be excluded from the total pool of training hours.

Jeffersonville—Union representatives will be granted a pool of up to six hundred (600) hours for the purpose of attending labor relations training or other training related to employees' working conditions.

The Local President will be excluded from the total pool of training hours.

HCC—Union representatives will be granted a pool of up to two hundred (200) hours for the purpose of attending labor relations training or other training related to employees' working conditions.

TCC—Union representatives will be granted a pool of up to two hundred fifty (250) hours for the purpose of attending

labor relations training or other training related to employees' working conditions.

### *Section 10.8.1 Training Requests*

Written requests, including an agenda, will be forwarded normally no later than ten (10) workdays in advance of the training to the servicing LRO. The Agency will respond to the request no later than five (5) workdays from the date it is received.

## **Section 10.9 Term Contract Training**

The Parties will jointly provide Term Contract training to employees within six (6) months of this Agreement. The cost of the training will be paid by the Agency, budget permitting. The Parties will prepare training material and attend training jointly; however, this does not preclude additional training by either Party.

## **Section 10.10 Limitations Concerning the Use of Official Time**

1. Union representatives will not be authorized to earn overtime or compensatory time off for their performance of Union representational duties.
2. The Agency, at its sole and exclusive discretion, may approve official time for travel associated with Union requests for training. An Agency decision under this section may not be disputed, grieved, or otherwise contested in any forum or appeal process.

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## **ARTICLE 11. UNION FACILITIES AND SERVICES**

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### **Section 11.1 Office Space, Furnishings, and Equipment**

1. The Agency will continue to provide the current or equivalent office space and the current or equivalent office equipment to the Union at Jeffersonville and HQ as it had prior to the effective date of this Agreement.
2. In addition to provisions delineated in Section 11.1 of this Article, the Agency will provide the Union at HQ with a large screen monitor to be placed in the Union's conference space.
3. The Agency agrees to provide the Union at TCC the space identified as room 14. The Union will be provided with the current or equivalent of all furnishings, equipment, services, and supplies it had prior to the effective date of this Agreement. In addition, the Agency will provide two (2) additional computers and monitors, and set up additional workstations in the Union's office space. In return, the Union will relinquish its existing space identified as room 11.

4. The Agency agrees to provide the Union at HCC the space on the first floor previously occupied by the Assistant Branch Chief with the current or equivalent of all furnishings equipment, services, and supplies it had prior to the effective date of this Agreement. In addition, the Agency will provide one additional computer and monitor and set up an additional workstation in the Union's office space. In return, the Union will relinquish its existing space, identified as room 9.

#### *Section 11.1.1 Other Facilities, Services, and Supplies*

Any requests by the Union for additional facilities, services, and supplies not provided for elsewhere in the Agreement shall be made in writing to the servicing LRO. The Agency may grant the request subject to the following:

1. Availability of the requested facilities, services, or supplies;
2. The Union demonstrating need; and
3. Payment by the Union of any costs over and above the Agency's normal/usual operating expenses.

If payment will be required by the Union, the Agency will give the Union an actual or estimated cost associated with the items requested under this Article prior to the item or service being provided.

### **Section 11.2 Union Meetings**

The Union will be given access to conference rooms, training rooms, and auditoriums for meetings that will accommodate appropriate size and space needs, upon availability. The Union will submit all requests for reservations to the servicing LRO thirty (30) days in advance. This time-frame will be waived for representational matters where official time may be authorized.

Facilities shall be made available for Union meetings and membership drives before or after duty hours, during lunch periods, or during duty hours when the Union official(s) and all present are in leave status or on nonduty time, if such space is not already committed.

The Union reserves the right to change the date and time of the meeting pending room availability. The meeting times are to be determined by each location.

Union information will be posted in the Message of the Day system (MOD), on electronic bulletin/message boards, or on the broadcast system upon content review/approval by the Agency. Normally, no more than two (2) postings per month will be permitted in any given system.

#### *Section 11.2.1 Headquarters*

Union meetings will be held the third Thursday of each month. The Agency agrees to provide conference room(s) when available.

#### *Section 11.2.2 Jeffersonville*

The Agency agrees to furnish the Union space to conduct regular membership meetings on the fourth Wednesday of each month when available.

#### *Section 11.2.3 Hagerstown and Tucson Contact Centers*

Union meetings will be held the third Thursday of each month. The Agency agrees that meetings will be held in the training rooms, provided the facility is open. The space shall be subject to change if needed for facility work requirements.

### **Section 11.3 Union Access**

The President or designee will provide the servicing LRO with reasonable notice when Union officials in nonduty status need access to the premises, including secured areas when necessary. The servicing LRO will notify the Security Office to provide the appropriate access.

### **Section 11.4 Bulletin Boards**

The Agency agrees to continue providing the currently used bulletin boards for the use of the Union. Within one (1) month of the ratification of this Agreement, the Parties agree to develop a list specifying/repositioning of bulletin board locations. The Union agrees to be responsible for the propriety of materials posted on these boards. The Union agrees that material posted will not violate any laws, applicable regulations, provisions of this Agreement, the security of the Agency, or contain libelous or derogatory material.

### **Section 11.5 E-Mail**

1. The Union may communicate with Agency officials, employees, neutral third parties, or members of the public via the Agency's e-mail system. The Union will comply with all security measures enforced on other users including procedures covering the transmission of Personally Identifiable Information (PII).
2. The Union will have access to the Census Bureau address book that includes the e-mail addresses for all employees and management representatives.
3. Consistent with 18 U.S.C. 1913, electronic mail transmissions shall not be used to urge or promote lobbying activities by employees, either in support of or in opposition to any legislation or appropriation of Congress.

### **Section 11.6 Distribution of Literature**

The Union agrees that all mass distribution of materials, including but not limited to announcements and flyers, will be accomplished electronically rather than through interoffice mail where available. Official publications of the Union that may include newsletters, fliers, or other notices may be distributed by Union representatives during nonduty



time. Union representatives may use centralized or individualized employee mail slots/drops to distribute Union publications.

The Agency agrees to allow the Union to continue reasonable use of the interoffice mail system for materials containing PII where it is not possible to encrypt the information.

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## **ARTICLE 12. NEGOTIATED GRIEVANCE PROCEDURE**

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### **Section 12.1 Purpose**

The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable settlement of grievances filed by employee(s), the Union, or the Agency.

### **Section 12.2 Coverage and Scope**

A grievance means any complaint:

1. By an employee(s) concerning any matter relating to the employment of the employee;
2. By the Union concerning any matter relating to the employment of any employee; or
3. By any employee(s), the Union, or the Agency concerning:
  - A. The effect or interpretation, or a claim of breach, of a collective bargaining agreement; or
  - B. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

### **Section 12.3 Exclusions**

#### *Section 12.3.1*

Grievances on the following matters are excluded from the scope of this procedure:

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 5 U.S.C. 7532 relating to national security;
4. Any examination, certification, or appointment; or
5. The classification of any position that does not result in the reduction in grade or pay of an employee.

#### *Section 12.3.2*

The Parties agree that unless there is a violation of regulations, law, or specific portions of this Agreement, the following will be exempted from the grievance procedure:

1. The termination of an employee, who does not meet the definition of an employee under 5 U.S.C. 7511(a)(1), during a probationary period or trial period.
2. The decision to adopt or not to adopt a suggestion.
3. Counseling of an employee that relates to conduct and/or performance.
4. The Parties agree that the criteria used for determining award recipients are negotiable. The decision to grant or not to grant an award to an individual or group of employees is not subject to this grievance procedure unless there is a misapplication of the criteria.
5. A notice of a proposed administrative action.

### **Section 12.4 Exclusivity**

#### *Section 12.4.1*

Grievances may be initiated by an employee covered by this Agreement and/or their Union representative or by the Agency. Representation of employees shall be the sole and exclusive province of the Union.

#### *Section 12.4.2*

As provided for in 5 U.S.C. 7121, the following actions may be filed under either the statutory procedure or the negotiated grievance procedure, but not both:

1. Discrimination because of race, color, religion, sex, national origin, age, or handicapping condition pursuant to 5 U.S.C 2302(b)(1);
2. Allegations of prohibited personnel practices; pursuant to 5 U.S.C 2302(b)(2 thru 12);
3. Removal or reduction in grade based on unacceptable performance pursuant to 5 U.S.C 4303; and
4. Adverse actions (i.e., removal, suspension for more than 14 days, reduction in grade, reduction in pay, and furlough of thirty (30) days or less) pursuant to 5 U.S.C 7512.

The employee will be deemed to have exercised their option when the employee timely files an appeal under the applicable appellate procedure or timely files a grievance in accordance with the provisions of this Article, whichever event occurs first.

Selection of the negotiated grievance procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board or the Equal Employment Opportunity Commission (EEOC) to review a final decision of discrimination as provided in 5 U.S.C. 7121.

### **Section 12.5 Representation**

#### *Section 12.5.1*

Upon filing of a grievance, an employee may elect to be self-represented or represented by a Union representative.

If the employee chooses to be represented by the Union, the employee will notify the Agency in writing of the name of the representative that was assigned to him/her by the Union and the effective date of the designation. This designation will remain in effect throughout the processing of the grievance unless the employee or the Union otherwise revokes it in writing.

In presenting a grievance, an employee electing to be self-represented is bound by and may avail himself/herself of all provisions of this Article, except the employee may not invoke arbitration over any issue.

#### *Section 12.5.2*

The Union has the right to be present during any proceeding under the negotiated grievance procedure. If the Union is not the designated representative, a copy of the grievance will be provided to the Union within five (5) business days of the filing date. The Agency will provide the Union reasonable advance notice of any grievance meeting/discussion that is considered formal in nature under the Statute when the Union is not the designated representative. A copy of each grievance decision will be provided to the Union in a timely manner.

#### *Section 12.5.3*

When the employee elects Union representation, all meetings and communication regarding the grievance and any attempts at resolution shall be conducted through the designated Union representative.

#### *Section 12.5.4*

When the grievant and the representative are on the same shift, reasonable efforts will be made to ensure grievance meetings are scheduled during that shift.

#### *Section 12.5.5*

In situations where the grievant and representative are on different work schedules and/or locations, the Parties will make a reasonable effort to schedule grievance meetings during the common work times of the grievant and representative. However, this shall not be interpreted as meaning the Agency is obligated to change the grievant and/or his or her representative's work schedule.

### **Section 12.6 Resolution of Grievances and Employee Standing**

The Union and the Agency agree that grievances should be settled in an orderly, prompt, and equitable manner so that the efficiency of the Agency may be maintained and morale of employees shall not be impaired. Reasonable effort shall be made by the Agency and the Union to settle grievances at the lowest possible level. Employees and their representatives will be unimpeded and free from restraint, interference, coercion, discrimination, or reprisal, consistent with 5 U.S.C. Chapter 71 and this Agreement, in seeking adjustment of

grievances. With supervisory approval, employees shall be authorized a reasonable amount of duty time, if already in a duty status, to prepare and present a grievance.

### **Section 12.7 Grievability/Arbitrability Questions**

In the event either party should declare a grievance non-grievable or nonarbitrable, the original grievance shall be considered amended to include this issue. The Parties agree to raise any questions of grievability or arbitrability of a grievance within the time limit for the written answer in the final step of this procedure. All disputes of grievability/arbitrability shall be presented along with the merit(s) and/or issue(s) in the related grievance.

### **Section 12.8 Time Limits**

#### *Section 12.8.1*

A grievance concerning a particular act or occurrence must be presented to the servicing Labor Relations Office within twenty-one (21) calendar days of the act, or occurrence, or date the employee became aware of it or should have become aware of it.

#### *Section 12.8.2*

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

#### *Section 12.8.3*

A grievance remanded on grounds that the matter is not timely under this Agreement shall be considered rejected and constitute a statement by the remanding party that the grievance is neither grievable nor arbitrable. However, if the grieving party does not accept the reason for untimeliness, the grieving party will have seven (7) business days to resubmit the grievance and pursue it through the remaining steps of the grievance procedure established by this Agreement, as to both the rejection of the grievance and the merits of the grievance. In the event the grievance is not resolved, the procedure established in Article 13, Arbitration, shall apply.

#### *Section 12.8.4*

Proof of service shall be a return post office receipt and/or electronic confirmation executed by the person served; or a written acknowledgment from the person served when hand delivered.

### **Section 12.9 Grievance Meetings**

Unless otherwise agreed to by the Parties, grievance meetings normally will be limited to the grievant, a Union representative, and representative(s) from the Agency.

The grievance meetings will normally occur within ten (10) business days of the referral from the servicing LRO or the HQ LRO.

## **Section 12.10 Procedures for Employee Grievances**

The Parties recognize that most grievances arise from misunderstandings or disputes that can be resolved promptly and satisfactorily on an informal basis. The Parties should make a reasonable effort to resolve the issue by discussing it informally prior to committing the grievance to writing.

### *Section 12.10.1*

Grievances normally will begin at Step (1), except for the following:

1. An employee grieving an adverse action consisting of a removal, suspension for more than fourteen (14) days, reduction in grade or pay, furlough for thirty (30) days or less, and any personnel actions resulting from a Reduction in Force (RIF) must begin at Step (3) of the grievance procedure.
2. An employee grieving a suspension of fourteen (14) days or less must begin at Step (2) of the grievance procedure.
3. Agency and Union grievances begin at Step (3) of the grievance procedure.

### *Section 12.10.2 Step (1)*

The Step (1) grievance must be submitted in writing on a fully completed grievance form (Addendum A) to the servicing LRO. The servicing LRO will refer the grievance within five (5) business days to the appropriate deciding official, normally the lowest level supervisor who has authority over the matter and can grant relief. Within five (5) business days after receipt of the grievance, the Step (1) deciding official will contact the Union representative and/or employee (if self-represented) to schedule a grievance meeting. The grievance meeting will be scheduled in accordance with Section 12.9 of this Article. The Step (1) deciding official will issue a decision in writing within ten (10) business days after the meeting.

### *Section 12.10.3 Step (2)*

If Step (1) does not result in a mutually acceptable resolution, the grievant and/or his/her representative may proceed to Step (2) by filing the completed grievance form, as provided in Step (1), along with a copy of the decision from Step (1) to the servicing LRO within ten (10) business days of the receipt of the decision at Step (1). The servicing LRO will refer the grievance within five (5) business days to the appropriate deciding official, normally the Division Chief or designee. Within five (5) business days after receipt of the grievance, the Step (2) deciding official will contact the Union representative and/or employee (if self-represented) to schedule a grievance meeting. The grievance meeting will be scheduled in accordance with Section 12.9 of this Article. The Step (2) deciding official will issue a decision in writing within ten (10) business days after the meeting.

### *Section 12.10.4 Step (3)*

If Step (2) does not result in a mutually acceptable resolution, the grievant and/or his/her representative may proceed to Step (3) by filing the fully completed grievance form, along with a copy of the decision from Step (2) to the HQLRO within ten (10) business days of the receipt of the decision at Step (2). The HQ LRO will refer the grievance within five (5) business days to the appropriate deciding official above the division/office level or their designee. For Agency filed grievances, the HQ LRO will refer the grievance to the respective Local President or designee, or Council 241 Union President or designee, as appropriate. Within five (5) business days after receipt of the grievance, the Step (3) deciding official will contact the Union representative, or employee (if self-represented). In the case of an Agency filed grievance, the Step (3) deciding official will contact the HQ LRO to schedule a grievance meeting. The grievance meeting will be scheduled in accordance with Section 12.9 of this Article. The Step (3) deciding official will issue a decision in writing within fifteen (15) business days after the meeting.

### *Section 12.10.5 Step (4)*

If the grievance is not satisfactorily resolved in Step (3), the grievance may be referred to arbitration as provided in Article 13, Arbitration. Only the Union or the Agency can refer a grievance to arbitration.

## **Section 12.11 Improperly Filed Grievances**

If a grievance has been improperly filed under this Article, it shall be remanded to the grievant/representative with a specific statement as to the deficiencies. The grievant/representative shall then have seven (7) additional business days to file the grievance properly. Should the grievant/representative fail to remedy the deficiencies within the seven (7) business days, and absent any further extension of the time limit, the grievance shall be nullified.

## **Section 12.12 Grievance Decisions**

All grievance decisions will be in writing and state the issue being grieved, a summary of the findings, and the rationale for the decision. Upon written request, copies of relevant documents cited in the decision will be provided if they are not otherwise readily available to the grievant or representative.

## **Section 12.13 Multiple Grievances**

Multiple grievances over the same issue may be initiated as either a group grievance or as a single grievance at any time. At any stage of the grievance procedure, grievances may be combined and decided as a single grievance by mutual consent of the Parties.

## **Section 12.14 Nullification**

When an employee dies, resigns, or is otherwise separated from the Agency before a decision is reached on his or her grievance, the grievance shall be nullified unless the issue involves a question of back pay.

## **Section 12.15 Failure to Meet Time Requirements**

Failure of the deciding official to render a decision within the time limits in this Article shall permit the grievant(s) to advance to the next step.

## **Section 12.16 Withdrawal**

The Union, acting as the responsible representative of an employee, may withdraw a grievance without advanced notice or reason at any step of the grievance procedure. An employee, acting as his/her own representative, may withdraw a grievance at any step of the grievance process without advanced notice or reason by presenting notice in writing to the servicing LRO. Management may withdraw a grievance at any step of the grievance process without advanced notice or reason by presenting notice in writing to the Union.

## **Section 12.17 Outstanding Grievances**

The Parties agree that any outstanding grievances initiated before the effective date of this Agreement will be processed under the terms of the Agreements in place at the time the grievance was filed. "Initiated" means that the grievant/representative timely filed the grievance at the appropriate step of the process under the prior Agreements.

If the event giving rise to a grievance occurs before the effective date of this Agreement, but the grievant/representative timely files the grievance after the effective date of this Agreement, the terms and conditions of this Agreement will control the grievance.

This section should not be interpreted as an extension/waiver of the time limits for filing under either Agreement.

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# **ARTICLE 13. ARBITRATION**

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## **Section 13.1 General**

This Article shall be administered in accordance with the Federal Service Labor-Management Relations Statute, Title 5, U.S.C. Chapter 71. This Article establishes the procedures for the arbitration of disputes between the Union and Agency that are not satisfactorily resolved by the negotiated grievance procedure found in Article 12 of this Agreement.

Arbitration may be invoked only by the Union or the Agency. The Union will provide the Agency with a designation of Union officials with the authority to invoke arbitration.

## **Section 13.2 Preliminary Procedures**

Arbitration must be invoked within thirty (30) days of the receipt date of the final grievance decision and submitted in writing to the HQ LRO. The notice to invoke shall identify the grievance and shall be signed and dated by an authorized representative on behalf of the party submitting the matter to arbitration. If the arbitration invocation is withdrawn or the invocation deadline is not met, absent an approved extension, the last written grievance decision will be considered final.

## **Section 13.3 Selecting an Arbitrator**

The LRO will submit an electronic request with a copy to the Union President or designee, for a list of seven (7) qualified arbitrators to the Federal Mediation and Conciliation Service (FMCS), Office of Administrative Services. The request must be submitted no later than five (5) business days from the date arbitration was invoked.

Within ten (10) days after receipt of the list of arbitrators, the Parties will meet for the purpose of selecting an arbitrator from the list. Selection will be accomplished by the Parties alternately striking names from the list until one individual remains. This individual shall serve as arbitrator. The right of "first strike" will alternate between the Parties with a coin flip determining the first right of "first strike". A new panel of arbitrators will be obtained for each grievance for which arbitration has been invoked.

At any time, the Parties may obtain a new list of arbitrators from the FMCS by mutual consent. Upon request of the grieving party (i.e., the Agency or the Union), the FMCS shall be empowered to make a direct designation of an arbitrator to hear the case in the event (1) either party refuses to participate in the selection of an arbitrator; or (2) upon inaction or undue delay on the part of either party.

## **Section 13.4 Scheduling Arbitration**

Upon selection of the arbitrator, the Parties shall jointly communicate with the arbitrator and one another within fifteen (15) calendar days to select an agreeable date for the submission of motions and responses dealing with questions of arbitrability, if any, and request a list of possible dates for the hearing.

Arbitration hearings over employee grievances concerning an employee separation shall take place at the site where the employee works, or worked, unless otherwise mutually agreed to.

An arbitration must be scheduled (not held) within ninety (90) days of the selection.

Timeframes may be extended by mutual agreement.

## **Section 13.5 Expedited Arbitration**

### *Section 13.5.1*

Expedited arbitration must be mutually agreed upon on a case-by-case basis; where the arbitrator appointment, hearings, and awards are acted upon quickly by the Parties, FMCS, and the arbitrator.

### *Section 13.5.2*

The following rules apply to the conduct of the expedited arbitration hearing:

1. Arbitration must be invoked within five (5) days of the receipt date of the final grievance;
2. The selection/contacting of the arbitrator (striking method in Section 13.3) must be agreed within thirty (30) days from receipt of the Step (3) grievance decision;
3. Both Parties must attempt to schedule a hearing within ten (10) business days of the receipt of the arbitrator schedule of availability;
4. Subject to the availability of the arbitrator, the Parties will attempt to have the hearing within thirty (30) calendar days of the notification to the arbitrator;
5. The rules of evidence will be relaxed;
6. Briefs will not be filed either before or after the hearing; and a transcript will not be made unless mutually agreed to by the Parties or required by the arbitrator;
7. Both Parties will be encouraged to use stipulations of fact and expected testimony for uncontroverted evidence;
8. Both Parties may present closing statements orally at the conclusion of the hearing. If the Parties mutually conclude at the hearing that the issues are of such complexity or significance as to warrant further consideration, the hearing procedures may be appropriately modified, or the hearing may be cancelled and the matter referred to regular arbitration; and
9. The arbitrator will issue an award either from the bench at the conclusion of the hearing, which will be confirmed in writing within two (2) days; or in writing within two (2) days after the conclusion of the hearing.

## **Section 13.6 Issues of Grievability/Arbitrability**

The arbitrator has the authority to make all grievability and/or arbitrability determinations. If either Party raises an issue of grievability/arbitrability and the arbitrator is unable to determine arbitrability, he/she will hear the merits of the underlying grievance and decide both issues together.

Upon mutual agreement of the Parties, issues arising under this section may be submitted to the arbitrator and decided

prior to hearing the merits of the underlying grievance. There will be no separate hearing for grievability/arbitrability issues except by mutual consent.

## **Section 13.7 Prehearing Matters**

The Parties shall communicate twenty (20) days in advance of the arbitration hearing in an attempt to agree on a joint submission of the issue(s) for arbitration. If the Parties fail to agree on a joint submission, each party will prepare a separate statement of the issue(s) for presentation to the arbitrator five (5) business days prior to the arbitration hearing. The arbitrator will have the final authority to determine the issue(s) to be decided.

The Parties will exchange lists of witnesses ten (10) days in advance of the hearing and indicate the nature of the testimony to be provided by each (e.g., direct observation of an incident, knowledge of bargaining history, or special expertise for each witness). Disputes regarding the relevance of a witness or redundant testimony will be resolved by the arbitrator.

The grievant(s) and employees who are called as witnesses and/or technical advisors will be excused from the performance of their normal duties to the extent necessary to participate in the arbitration proceedings and during such times, these employees shall continue in a pay status.

The Union shall have full authority to settle, withdraw, or otherwise dispose of any grievance brought on behalf of the Union and/or on behalf of employees. Any decision by the Union to settle, withdraw, or otherwise dispose of a grievance appealed to arbitration shall be binding upon the grievant(s).

The Agency and the Union may have an equal number of representatives at an arbitration hearing. The Union is obligated to notify the Agency in writing, no less than ten (10) days prior to the hearing, with the name(s) of the Agency employee(s) to be on duty time, as well as any representative(s) not on official time.

## **Section 13.8 Authority of Arbitrator**

The arbitrator's decisions shall be final and binding subject to the Parties' right to take exceptions to an award in accordance with law; or the grievant's right, if applicable, to initiate court action. However, the arbitrator shall be bound by the terms of this Agreement and shall have no authority to add to, subtract from, alter, amend or modify any provision of this Agreement. The arbitrator may retain jurisdiction over a case when necessary to clarify the award; and will retain jurisdiction in all cases where exceptions are taken to an award and the FLRA remands the arbitration for further consideration.

The jurisdiction and authority of the arbitrator shall be confined to the matter(s) presented through the Step (3) grievance, unless otherwise mutually agreed to by the Parties.



## **Section 13.9 Ex Parte Communication With Arbitrator**

There will be no communication with the arbitrator unless both Parties are participating in the communication.

## **Section 13.10 Arbitrator's Award**

The arbitrator shall render a written decision no later than thirty (30) days after the submission of post-hearing briefs or the conclusion of the hearing, whichever is later, unless the Parties mutually agree to extend this time limit. If no exception or other appropriate legal action is filed within the time limit established by statute and/or FLRA regulation, the award is final and binding. The appropriate Party will immediately take the actions required by the final award within thirty-one (31) days after it becomes final and binding, except as provided by the Award. This section does not apply to the expedited arbitration procedure contained at Section 13.5.

## **Section 13.11 Costs of Arbitration**

### *Section 13.11.1*

Costs of regular fees, including reasonable travel expenses of the arbitrator selected to hear the case, will be borne by the nonprevailing Party. It is the responsibility of the arbitrator to designate one and only one nonprevailing Party. However, the arbitrator will have authority to determine an equitable split of the cost when a prevailing Party cannot be determined.

### *Section 13.11.2*

The cost of a reporter or transcript shall be shared equally when the Parties mutually agree to have one, or where requested by the arbitrator. Absent mutual agreement, either Party may unilaterally request that a transcript be prepared, but must bear all costs incurred in its preparation. If the nonmoving Party requests a copy of the transcript, the Parties will share the entire cost of the transcript.

### *Section 13.11.3*

If the Parties resolve the grievance prior to the arbitration hearing, any cancellation fees shall be borne equally. If a Party requests postponement, that Party shall bear the full cost of any rescheduling fees or postponement fees.

### *Section 13.11.4*

In the event that a Party withdraws an invocation of arbitration after the arbitrator's deadline for cancellation or postponement of the arbitration, that Party will bear all of the costs imposed by the arbitrator for the cancellation of the hearing date.

## **Section 13.12 Attorney Fees and Expenses**

### *Section 13.12.1*

The Union may request reasonable attorney fees and expenses that are consistent with government statute, regulation, and/or case law within fifteen (15) days of the arbitrator's award, if not already included in the remedy sought.

### *Section 13.12.2*

1. An arbitrator has jurisdiction to resolve a motion for attorney fees from the Union after an award becomes final and binding. The arbitrator must provide the Agency with an opportunity to respond in writing to a request for attorney's fees.
2. The arbitrator's award on the issue of attorney fees will be issued within thirty (30) days of the arbitrator's receipt of the Agency's response to the Union's request. The arbitrator will provide a detailed explanation of why fees were or were not granted, as well as the hours and rates allowed.
3. All charges of the arbitrator incurred in connection with the award of attorney fees will be borne by the nonprevailing party.

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## **ARTICLE 14. ALTERNATIVE DISPUTE RESOLUTION (ADR)—MEDIATION**

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### **Section 14.1 Purpose**

The Agency and the Union strongly support the use of ADR problem-solving methods in resolving various employee conflicts and disputes as an alternative to traditional methods of early intervention and dispute resolution. The Union and Agency, at all levels, are highly encouraged to use ADR problem-solving methods as a priority to resolve disputed matters.

### **Section 14.2 Definitions**

ADR is an umbrella phrase used to describe problem-solving methods or techniques, such as mediation, that are efficient and cost-effective. An essential element of ADR is that it provides Parties the opportunity to identify common ground and concurrences, and prepare mutually acceptable options to resolve disputed issues. It is a process that increases both the likelihood and quality of resolutions and/or settlements. ADR may be used for EEO complaints, grievances, and workplace disputes.

Mediation is an ADR process available to all employees covered by this Agreement. Mediation resolutions/settlements shall not be precedential unless specifically agreed to by the Parties. Mediation involves the intervention of a third person, or mediator, into a dispute to assist the Parties in negotiating jointly acceptable resolution of issues

in conflict. Mediation may be inappropriate for the reasons set forth in 5 U.S.C. 572.

ADR may be used at any stage of a complaint; specific time frames relevant to the applicable process will be held in abeyance while the employee is engaged in mediation.

### **Section 14.3 Legal Authority**

Administrative Dispute Resolution Act of 1996 (Pub. Law 104-320).

### **Section 14.4 Participants**

Participants in the mediation process normally include the parties in dispute, a management official with authority to resolve the dispute appointed by the Agency, and the mediator. The Parties to mediation are entitled to bring a representative of their choosing to assist them in the process.

1. Participation in mediation is voluntary for both the employee and management. However, supervisors and managers are expected to attempt to resolve conflicts at the lowest levels in the organization and at the earliest stage where appropriate.
2. The mediator has no decision-making authority. While the Parties understand that the mediator can help them create solutions, the Parties themselves ultimately share responsibility for the outcome. The mediator facilitates communications between the Parties in a private and confidential meeting and helps the Parties generate optional solutions.
3. If the Parties do not reach an agreement, participants in the mediation may exercise the right to pursue the matter in an administrative or judicial proceeding. No person participating in mediation is to be penalized in any way because of such participation or because the Parties did not reach a resolution.

### **Section 14.5 Mediation Process**

The Agency will arrange for the services of a trained mediator. The Agency will provide the employee and the designated Agency official with the name and background information of the mediator.

Either Party may ask that another mediator be obtained if there is a compelling reason, such as conflict of interest, which may compromise the integrity and impartiality of the process. The Party requesting a different mediator must notify the ADR Program Manager within three (3) business days of receipt of the mediator's name and biographical information. Upon receipt of such notification, the ADR Program Manager will review the facts and make a determination as to whether another mediator should be requested.

1. The Agency will arrange for the meeting to be held at a neutral location, normally within the respective facility, which will ensure that the mediation is private and confidential.
2. Each party is encouraged to be open and candid about his/her point of view.
3. The mediator, as a neutral third party, assists the parties in considering alternatives and options that they might not have considered.
4. The process ends when a determination is made that a resolution and/or settlement has, or has not, been reached; or when either party or the mediator decides to terminate mediation.

If a resolution and/or settlement are not reached during a mediation session and the dispute is litigated in any administrative or judicial proceeding, neither the mediator nor his/her notes can be subpoenaed by either party. Confidentiality will be maintained in accordance with 5 U.S.C. 574.

If the Union or employee (self-represented) believes that the Agency is not carrying out the terms of the settlement, the party must notify the ADR Program Manager in writing within thirty (30) days of the date the party first became aware of the alleged breach.

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## **ARTICLE 15. UNFAIR LABOR PRACTICES**

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The Union and Agency recognize the mutual benefits to be gained from in-house resolution of ULP charges. Toward this end, the Parties agree to the following:

1. The Union and the Agency agree to provide each other with a copy of any ULP charge ten (10) workdays before the charging party files it with the FLRA.
2. The Union and the Agency agree to provide the other party in writing with the specific event(s) that caused the ULP charge to be submitted and suggested ways to correct the alleged violation.
3. The Parties agree to conduct a review of the alleged violation and meet with the charging party to discuss its findings.
4. The Parties agree to take action appropriate to correct and/or prevent recurrence of the violation or problem that precipitated the charge. When either party takes such action, the other party agrees not to grieve the matter and not to file the ULP with the FLRA.

No part of this Article is to be construed as a waiver of either party's right to file an ULP charge in cases where the issue is unresolved and the statutory time limit (180 days) would otherwise be violated.

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## ARTICLE 16. MID-TERM BARGAINING

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### Section 16.1 Purpose

#### Section 16.1.1

This Article shall be administered in accordance with 5 U.S.C. Chapter 71 and this Agreement. The purpose of this Article is to prescribe the criteria and procedures by which the Parties shall engage in negotiations during the term of the Agreement.

#### Section 16.1.2

While the Agreement is in effect, the parties shall negotiate over matters not covered by the Agreement to the extent required by law.

#### Section 16.1.3

Either party may propose changes in conditions of employment during the life of the Agreement, which are not already expressly contained, inseparably bound up with, and plainly an aspect of a subject covered by the Agreement.

### Section 16.2 Bargaining Obligations

#### Section 16.2.1 National-Level Bargaining

During the term of this Agreement, the Agency shall transmit at the level of recognition to AFGE Council 241 its proposed changes relating to personnel policies, practices, and general conditions of employment that have an Agency-wide impact or affect more than one (1) facility. For the purposes of this Agreement, the BCC is a part of the HQ facility. The proposed changes shall be sent to the Council President and/or designee. In addition, the Agency shall send a copy in writing to the Local President and/or designee impacted by the change. The Parties will follow the bargaining procedures set forth under Section 16.3.

#### Section 16.2.2 Local-Level Bargaining

The Agency shall give in writing to the Local President and/or designee proposed changes relating to personnel policies, practices, and conditions of employment. In addition, a copy will be sent to the Council President and/or designee. The Parties will follow the bargaining procedures set forth under Section 16.3.

### Section 16.3 Procedures for Negotiating During the Term of the Agreement

#### Section 16.3.1 Notice of Proposed Change

For management-initiated changes, the Agency will provide the Union with reasonable advance written notice, not less than twenty (20) days for national issues and ten (10) days for local issues, prior to the proposed implementation date

of any change affecting conditions of employment, except in emergency conditions outside the Agency's control. At a minimum, the notice will contain the following information:

1. The scope of the proposed change;
2. A description of the change;
3. An explanation of the initiating Party's plans for implementing this change;
4. An explanation of why the proposed change is necessary; and
5. The proposed implementation date.

#### Section 16.3.2 Initiating Negotiations

1. The Union must demand to bargain, if it so desires, within the notice periods contained in Section 16.3.1 of this Article, by submitting a written request to the HQ LRO for national issues or the servicing LRO for local issues.
2. During the same notice periods described in Section 16.3.1 of this Article, the Union may submit a written request for a briefing and/or a request for additional information in order to clarify or determine the impact of the proposed change. A request for a briefing and/or additional information will not serve as a basis to postpone or delay a demand to bargain unless timeframes are mutually extended according to Section 16.3.4 of this Article.
3. Demands to bargain must include a written notice of concerns or a statement of interests regarding the proposed changes in conditions of employment.

#### Section 16.3.3 Agreement to Negotiate

1. The Parties will meet to discuss negotiations within twenty-five (25) days from the receipt of the initial notice of the proposed change for national issues, and fifteen (15) days for local issues.
2. The Parties agree to negotiate in good faith through appropriate representatives for the purpose of collective bargaining as required by law and this Agreement. The Union must submit its proposals at least five (5) days prior to the first negotiation session.

#### Section 16.3.4 Timeframes

The Parties may extend or reduce timeframes prescribed by this Article through mutual agreement.

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## ARTICLE 17. LABOR MANAGEMENT RELATIONS MEETINGS

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### Section 17.1 Purpose

The primary purpose of all LMR meetings covered by this Article shall be to promote and facilitate understanding,



and constructive and cooperative relationships between the Union and the Agency. Therefore, the Parties agree to participate in joint LMR meetings at the local and national levels. Meetings under this Article shall provide the parties with a structured opportunity to hold discussions on personnel policies, practices, working conditions, conditions of employment, and matters of general interest.

1. Items that may be discussed during these meetings include, but are not limited to the following:
  - A. Interpretation or application of the language of this Agreement that deals with personnel policies and practices and other working conditions;
  - B. Systemic or operational concerns related to equal employment opportunity, training, safety and health, and performance management;
  - C. Problems that may arise in the implementation and administration of this Agreement;
  - D. Matters of mutual concern and interest with respect to personnel policies and practices, or matters affecting working conditions not specifically addressed in this Agreement; and
  - E. Systemic concerns regarding the grievance, arbitration, or ULP process where patterns of behavior on the part of either party appear to exist and are adversely affecting the relationship of the parties. The discussion of specific grievances, arbitrations, or ULPs that are currently in process shall not be allowed or appropriate for discussion at these meetings.
2. The consultation or informal discussions that take place during these meetings shall not prejudice either party from exercising its bargaining rights should the consultation or informal discussions cover a mandatory subject for bargaining. In the event a party elects to exercise such right, the Parties agree that the LMR meetings are not the proper forum to engage in such bargaining.

### **Section 17.2 Notes**

The Parties understand the importance of having a record of the LMR meetings, therefore a record of obligations, action items, and commitments will be kept to reflect the structure, provide a baseline, and track the progress of the Parties. The Agency will be responsible for completing the notes. Upon conclusion of the meetings, the Agency will submit a copy of the notes to the Union within five (5) business days. The Union must provide concurrence of within three (3) business days. Failure to provide concurrence within that timeline will deem the LMR meeting notes accurate and official. Under no circumstances will any meeting be recorded or videotaped on any electronic device, unless mutually agreed to by both parties in writing.

### **Section 17.3 Local Meetings**

1. Meetings will be held once a month at each location covered by this Agreement. Local meetings shall be held at a time and place mutually agreed by the Parties. If either party wants to meet more than once a month, it should be agreed by the Parties each party determines who comes to the meeting.
2. Unless otherwise mutually agreed by the Parties, both the Agency and the Union will have no more than four (4) representatives present.
3. All Union representatives attending this meeting will be allowed a reasonable amount of official time for preparation, meetings, and debriefing. The release of Union representatives for official time shall be handled in accordance with Article 10, Official Time.
4. The Parties will exchange agendas ten (10) days prior to the scheduled meeting. In cases where neither party has an agenda, the meeting will not be held.
5. Local LMR meetings may be two (2) hours in duration, unless otherwise mutually agreed by the Parties.

### **Section 17.4 National Meetings**

1. A National LMR meeting shall be held every six (6) months, or sooner on matters of an urgent nature, at a mutually agreeable time, date, and location.
2. The National LMR meeting shall be held with the Council President and each Local President or designee.
3. All Union representatives attending this meeting will be allowed a reasonable amount of official time for preparation, meetings, and debriefing. The release of Union representatives for official time shall be handled in accordance with Article 10, Official Time.
4. The Union participants' travel and per diem will be paid by the Agency in accordance with FTR. The Parties agree that one (1) meeting per year may be conducted via video conference. The duration of these meetings will be agenda driven and mutually agreed to by the Parties.

The Parties will exchange agendas fourteen (14) days prior to the scheduled meeting. In cases where neither Party has an agenda, the meeting will not be held.

5. The designees and/or participants representing each party must have approving authority. The Parties will mutually agree on action items, and will document them under a MOU that will be signed by the duly appointed individuals representing the Parties. This process is not considered bargaining, but a commitment by the Parties to resolve matters of mutual concern.

### **Section 17.5 Meeting With the Director**

1. The meeting with the Director shall be held with the Council 241 President and each Local President or

designee at least annually or as otherwise agreed by the Parties. The scheduling of this meeting will coincide with the National LMR meeting to avoid any potential additional travel expenses. The Union participants' travel and per diem will be paid by the Agency in accordance with FTR. If more than one (1) meeting is held, the Parties agree that one (1) meeting per year may be conducted via video conference. The meeting should be agenda driven. This meeting should not normally exceed two (2) hours. The Union will submit an agenda to the HQ LRO thirty (30) days prior to the scheduled meeting. If the Director has an item(s) to include on the agenda, he/she will submit it to the Council President within thirty (30) days prior to the scheduled meeting.

2. All Union representatives attending this meeting will be allowed a reasonable amount of official time for preparation, meetings, and debriefing. The release of Union representatives for official time shall be handled in accordance with Article 10, Official Time.

### **Section 17.6 Official Time for Travel to Attend Meetings**

Union representatives who attend at the National LMR meeting and/or the meeting with the Director shall be entitled to official time for travel in accordance with FTR.

This shall not preclude Union representatives from utilizing official time, annual leave, or (LWOP) to conduct other appropriate business before returning to their duty stations, provided that the use of official time, annual leave, or LWOP does not exceed any limitations imposed by law, rule, or regulation, and is approved by the Agency under existing administrative procedures and the conditions of this Agreement. The release of Union representatives for official time shall be handled in accordance with Article 10, Official Time.

Payment of travel expenses shall be in accordance with this Article and Article 50, Official Travel. The Agency is not obligated to pay additional travel expenses if the Union extends its travel beyond the authorized travel dates.

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## **ARTICLE 18. JOINT LABOR-MANAGEMENT TRAINING**

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### **Section 18.1 Jointly Sponsored Labor-Management Relations Training**

1. The Parties agree that jointly sponsored LMR training is of mutual benefit when it covers appropriate areas. Examples are contract administration, grievance handling, and information relating to federal personnel/labor relations laws, regulations, and procedures. Training that relates to internal Union business will not be conducted or attended on official time.

2. The Parties will provide joint LMR training as appropriate. The Agency and the Union normally will have equal representation at any training provided under this Article. Any decisions made regarding the content or deployment of joint LMR training will be made by mutual agreement of the Parties. The joint training may consist of topics such as Interest-Based Bargaining, ADR, Cooperative Labor Management Relations, communication skills, etc.
3. Joint LMR training will be recorded in each employee's individual training record.
4. Joint LMR training will normally be presented by a third party, unless it is mutually agreed that the Parties will develop and present the training.
5. Local facilities are encouraged to give recognition to individuals or groups who materially advance the process of LMR training.
6. The Agency will ensure that appropriate resources are made available for joint LMR training.
7. The Parties are encouraged to share training materials or experiences to nurture better LMR training.

### **Section 18.2 Joint Collective Bargaining Agreement Training**

The Parties will jointly provide voluntary Collective Bargaining Agreement training for employees and/or supervisors. Any cost associated with this training will be covered by the Agency. The Parties will prepare training material and attend training jointly.

### **Section 18.3 Official Time**

Arrangements for the use of official time for training will be jointly determined by the Agency and the Union. Training may be conducted locally or Agency-wide. Department personnel responsible for scheduling work will be given appropriate and adequate notice to include specific agendas of scheduled LMR training to ensure maximum attendance. Official time for official time training will be handled in accordance with Article 10, Official Time.

Union representatives participating in this training will be granted official time in accordance with Article 10, Official Time.

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## **ARTICLE 19. LABOR-MANAGEMENT COUNCIL**

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### **Section 19.1 History**

Since the inception of 5 U.S.C. Chapter 71, cooperation and communication have been and do remain goals of LMR. The implementation and maintenance of a cooperative working relationship between Labor and Management

known as “Partnership” was established by Executive Order 12871 and a Presidential Memorandum dated October 28, 1999. The Order and the Memorandum were revoked by Executive Order 13203 in 2001.

In December 2009, Executive Order 13522 was issued creating Labor-Management Forums. Executive Order 13522 states in part that the Agency shall, “to the extent permitted by law, allow employees and their Union representatives to have predecisional involvement in all workplace matters to the fullest extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106; provide adequate information on such matters expeditiously to Union representatives where not prohibited by law; and make a good-faith attempt to resolve issues concerning proposed changes in conditions of employment, including those involving the subjects set forth in 5 U.S.C. 7106(b)(1), through discussion in its Labor-Management Forums.”

### *Section 19.2 Purpose*

The desire and intent in this Article is to describe and encourage effective Labor-Management cooperation. In the interest of performing the Agency’s mission, providing efficient and effective service to the public, improving morale and the quality of work life for employees, the Parties will strive for engaging with each other in a cooperative, collaborative manner through Partnership and the Labor-Management Council. The Parties support and encourage cooperative Labor-Management relationships at all levels.

Partnership involves the design, implementation, and maintenance of a cooperative working relationship between Labor and Management through maximum predecisional involvement in order to achieve common goals. This predecisional involvement will be accomplished through the Labor-Management Council. Agency and Union leadership must be committed to the principles of Partnership for this effort to be successful.

To this end, the Parties will engage in Partnership as delineated in the Labor-Management Council Charter as contained in Addendum B of this Agreement.

The Union or the Agency may withdraw from participation on the Labor-Management Council as necessary with no duty to bargain its withdrawal. Neither the provisions of the Labor-Management Council Charter nor the terms of this Article will be enforceable once either Party has withdrawn from participation.

Nothing in this Article shall be construed to impair or otherwise affect the authority granted by law to the Agency or the Union.

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## **ARTICLE 20. WORK GROUPS/FOCUS GROUPS**

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The purpose of this Article is to provide employees an opportunity to provide input in a group setting on existing or future Agency policies, procedures, initiatives, or other matters affecting conditions of employment.

### **Section 20.1 Workgroups**

When the Agency intends to establish a workgroup to gather input and/or recommendations on matters concerning conditions of employment for employees, and assigns employees to the workgroup, the Union will be provided seven (7) days advance notice, except in unexpected circumstances, and the opportunity to participate.

1. The Agency will determine the number of employees, qualifications, and job types for each workgroup. The Agency will provide the Union with notice of the proposed site(s), date(s), subject(s), and time(s) of the planned workgroup discussions. To the extent possible, the Agency will schedule workgroup meetings for dates and times that minimize any adverse impact on employees’ participation.
2. The Agency will consult with the Union when assigning bargaining unit employees to a workgroup.
3. The Agency will invite the Union to participate in all existing workgroups that affect conditions of employment as of the effective date of this Agreement. Upon request from the Union, the Agency will provide a list of all existing workgroups to the Union within sixty (60) days as of the effective date of this Agreement.

### **Section 20.2 Focus Groups**

The Agency will notify and consult with the Union in advance when it intends to form a focus group, and assign bargaining unit employees to the focus group to gather input and/or recommendations on matters concerning conditions of employment.

The Agency will determine the number of employees, qualifications, and job types for each focus group. The Agency will provide the Union with notice of the proposed site(s), date(s), subject(s), and time(s) of the focus group discussions planned. To the extent possible, the Agency will schedule focus group meetings for dates and times that minimize any adverse impact on employees’ participation.

### **Section 20.3 Other Means of Gathering Employee Input**

If the Agency intends to solicit input from bargaining unit employees concerning conditions of employment by any means other than what is described in this Article or Section 5.2.4 of Article 5, the Agency will consult with the Union in advance.

## **Section 20.4 .**

1. Nothing in this Article should be construed as applicable to activities performed under the authority of the Agency's Labor-Management Council.
2. Employees will not be precluded from earning credit hours, overtime, or compensatory time in lieu of overtime, should their participation in activities described in this Article exceed the normal tour of duty for that day pursuant to this Agreement.
3. No employee shall be subject to retribution/reprisal for expressions of his or her personal opinions. However, this should not be interpreted as allowing employees to engage in misconduct.
4. The Agency will not issue any publication that references these meetings as "AFGE approved", implied as having AFGE approval, or presented in such a manner where the audience would reasonably infer AFGE approval, without first obtaining concurrence from the Union.
5. Any reports or data generated by the Agency as a result of employee input gathered under the provisions of this Article will be provided to the Union.

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## **ARTICLE 21. REORGANIZATIONS**

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### **Section 21.1 General**

Reorganization is defined as establishing, abolishing, realigning a function, renaming, or redescribing any organizational structure assigned an organization code. This Article is subject to all applicable provisions of both 5 U.S.C. Chapter 71 and this Agreement.

#### *Section 21.2 Provisions*

The Agency will notify the Union of all reorganizations, normally at least (10) business days (local level) and twenty (20) business days (national level) prior to the effective date of the proposed reorganization.

1. The Agency will provide the following:
  - A. Current and proposed organizational charts, functional statements, and names of affected bargaining unit employees by pay plan, series, grade, and title;
  - B. Information, if any, concerning adverse impact on bargaining unit employees; and
  - C. Identification of any new bargaining unit positions created as a result of the proposed reorganization.
2. The Union may request a meeting by submitting a request to the servicing LRO within three (3) business

days (local level) and five (5) business days (national level) of a notice of a proposed reorganization. The Parties will then meet within five (5) business days to discuss any problems relating to the implementation of reorganization, special circumstances associated with a particular reorganization, or alleged noncompliance with this Article.

3. The Parties will make a reasonable effort to resolve any outstanding issues prior to the planned implementation date of the proposed reorganization.

### **Section 21.3 .**

1. Any demand to bargain will identify the potential adverse impact to bargaining unit employees and must be submitted during the notice period described in Section 21.2 (A) of this Article. The procedures contained in Article 16, Midterm Bargaining will then apply.
2. The Union and the Agency agree that reorganizations that will not create an adverse impact on employees may be implemented subsequent to satisfying Section 21.2 of this Article, or after consultation and mutual agreement of the Parties.
3. Physical relocations resulting from reorganizations will follow the provisions under Article 22, Physical Relocations.

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## **ARTICLE 22. PHYSICAL RELOCATIONS**

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### **Section 22.1 General**

This Article pertains to physical relocations within existing worksites and temporary off-site facilities.

This Article is subject to all applicable provisions of both 5 U.S.C. chapter 71 and this Agreement.

The Parties recognize that relocating employees represents a change in their working conditions. Therefore, the Agency will keep the Union informed by discussing and attempting to resolve issues concerning current and future related changes.

The Parties will discuss, as they are raised by the Union, unforeseen issues arising from relocation and will attempt to resolve those having an adverse impact on employees in a mutually agreeable manner. In addition, the Parties understand that there could be situations, by virtue of work necessity or other extraordinary circumstances that may require prompt and immediate action in order to maintain or support adequate workflow for employees, customers, and/or sponsors. When these situations arise, the Agency will immediately notify the Union and discuss ways

to more expeditiously implement movement of employees outside the timeframes agreed to under this Article. This may include the Parties agreeing to resolve outstanding issues after employees have been relocated.

## **Section 22.2 Procedures**

The Agency agrees to:

1. Except in extraordinary circumstances or issues outside of the Agency's control, notify the Union of any physical relocation of 5 (five) or more bargaining unit employees ten (10) business days before the intended relocation;
2. Provide names, current location, receiving location, pay plan, series, grade, and title of all affected employees;
3. Provide floor plans of the receiving area containing square footage of the space, the location of work stations, furniture, and equipment and for the losing area where available;
4. Place employees in space sufficient for the total number of employees. The space available for workstations will be distributed as equitably as possible among those bargaining unit employees occupying the area. In addition, the space will meet applicable standards and/or guidelines for safety, lighting, heating, cooling, ventilation, and access to electrical outlets necessary for work-related equipment;
5. Ensure that the new workspace is suitably clean and substantially ready for use at the time of the move; and
6. Unless there is a mutual agreement for an extension, meet as soon as possible, but no more than five (5) business days of a Union request to the servicing LRO to discuss any problems relating to the implementation of a physical move, special circumstances associated with a particular move, or alleged noncompliance with this Article. Upon mutual agreement that the criteria in items "a" through "e" above have been met, the Agency may implement the proposed relocation.

## **Section 22.3 Physical Moves—Less Than Five Employees**

Sections 22.2 (4) and 22.2 (5) of this Article apply when the Agency is moving fewer than five (5) employees.

Any employee physically relocated from his/her usual worksite should normally be given three (3) scheduled workdays advance notice of such a move.

Individual issues arising from such relocation will be handled in accordance consistent with this Agreement.

## **Section 22.4 Communication**

The Parties agree that there be full and open communications with all employees affected by a physical relocation during the relocation process.

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## **ARTICLE 23. EQUAL EMPLOYMENT OPPORTUNITY**

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### **Section 23.1 Policy**

The Agency and the Union affirm their commitment to the policy of providing EEO to all employees, to establish the Agency as a model agency, and to prohibit discrimination and harassment on the bases of race, color, religion, sex (including sexual harassment and gender identity), pregnancy, age, national origin, disability, genetic information, or reprisal for prior EEO activity and other protected classes as defined by the EEOC.

In addition, the Parties recognize their commitment to the policy of prohibiting discrimination on the basis of marital status, sexual orientation, gender identity, parental status, and/or political affiliation, as well as to the policy of prohibiting retaliation for opposing any practice or protected activity made unlawful by Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act (ADEA) of 1967; the Americans With Disabilities Amendments Act (ADAAA), as amended; the Rehabilitation Act of 1973, as amended; the Equal Pay Act, of 1963, as amended; Genetic Information Nondiscrimination Act (GINA) of 2008; and all other applicable federal laws, regulations, and Executives Orders related to unlawful discrimination.

### **Section 23.2 Definitions**

The term "disability" means, with respect to an individual:

1. Has a physical or mental impairment that substantially limits one or more major life activities of such individual;
2. Has a record of such impairment;
3. Is regarded as having such an impairment;
4. Has a temporary disabling condition to the extent that such a condition constitutes a disability under 29 CFR 1630.

Pursuant to 29 CFR 1630.2(m) and subject to the exceptions in 29 CFR 1630.3, the term "qualified", with respect to an individual with a disability, is someone who, with or without reasonable accommodation (RA), can perform the essential functions of the position in question, without



endangering the health and safety of him/herself or others (e.g., poses a direct threat as defined in 29 CFR Part 1630) and who:

1. Meets the requisite skill, experience, educational requirements (which may include passing a written test), and other job-related requirements of the position in question that the individual holds or desires; or
2. Meets the criteria for appointment under one of the special appointing authorities for persons with disabilities.

### **Section 23.3 Equal Employment Opportunity Program**

#### *Section 23.3.1*

The Agency's EEO Program is designed to promote equal employment opportunity in every aspect of the Agency's personnel policies and practices in accordance with applicable law and government-wide rules and regulations. The Agency shall conduct a continuing campaign to eliminate discrimination from its personnel practices and policies and employment conditions consistent with this Agreement, 29 CFR 1614, and the U.S. EEOC applicable Management Directives (MD).

The Agency will continue to have a positive, ongoing, and results-oriented diversity and affirmative employment-opportunity program and will continue to ensure that all managers and employees are trained accordingly. The Agency will continue to provide programs and training designed to help advance the following broad objectives and goals:

1. Identify and eliminate barriers that impair the ability of individuals to compete in the workplace because of protections as identified in Section 23.1 of this Article;
2. Providing RA for qualified employees with disabilities;
3. Reviewing selection processes and staffing procedures to identify those which are inconsistent with governing federal EEO rules and regulations and taking corrective actions consistent with such rules and regulations in those instances where adverse equal employment opportunities impact is found;
4. Making accommodations for the religious needs of employees;
5. Committing to the prevention of workplace harassment and sexual harassment;
6. Preparing and implementing Affirmative Employment Plan(s); and ensure that unlawful discrimination and harassment in the workplace is promptly addressed and corrected; and
7. Maintaining and promoting the ADR program consistent with Article 14, ADR.

### **Section 23.4 Equal Employment Opportunity Director**

Consistent with EEO rules and regulations, the Agency will designate a Director of the EEO program. The EEO Office will:

1. Receive and process individual and class complaints of discrimination, as well as provide counseling for the aggrieved individuals; and
2. Evaluate and report to the Agency Head on the adequacy of the Agency's program and make any recommendations on improvements or corrective actions needed including remedial or disciplinary actions.

### **Section 23.5 EEO Advisory Committee**

The Parties agree to maintain an Equal Employment Opportunity Advisory Committee (EEOAC), as delineated in the EEOAC charter contained in Addendum G of this Agreement. The Parties further agree that the charter may be amended by the EEOAC with approval from the Labor Management Council. This does not confer upon any party the right to open any portion of this Agreement.

### **Section 23.6 Participation in EEO and Affirmative Employment Plans**

#### *Section 23.6.1*

The establishment and implementation of EEO Affirmative Employment Plans and related plans is a fundamental Agency objective.

#### *Section 23.6.2*

The Agency will continue to provide overall management support and budgetary planning to achieve affirmative action objectives and to establish and to maintain effective EEO programs that cover all aspects of equal employment opportunity throughout the Agency, as outlined in 29 CFR 1614.102 and EEOC MD 715 (MD-715).

The Agency will provide a copy of its EEO and Affirmative Employment Plans, related plans, and MD-715 reports to the EEOAC on annual basis.

#### *Section 23.6.3*

Consistent with the EEOC Guidelines for Affirmative Employment Plans and Model EEO Programs, the Agency's EEO plans shall include, at a minimum:

1. A comprehensive assessment and program analysis of the current status of the Agency and all affirmative action efforts including:
  - A. Organization and Resources;
  - B. Workforce Analysis;

2. Analysis of the Agency's workforce by Professional, Administrative, Technical, Clerical, and Other White-Collar Occupational Categories and the Blue-Collar Occupational Category (PATCOB), grade groupings, and major occupations, and other required categories or groupings;
3. Comparison of the Agency's current workforce with the previous year's workforce; and
4. Comparison of the Agency's workforce with the appropriate civilian labor force for each demographic area.
  - A. Discrimination complaints (review basis, issues, locations, trends, dispositions, findings of informal and formal complaints, and ADR;
  - B. Recruitment and Hiring;
  - C. Training Opportunities and Employment Development Programs;
  - D. Promotions and Other Internal Selections;
  - E. Separations, including Disciplinary Actions;
  - F. Program Evaluations; and
5. Performance Recognition Incentives and Awards.
6. An examination of employment policies, procedures, and practices to identify actual problems, barriers, and "triggers" that alert the Agency to the existence of problems or barriers which may limit employment opportunities to certain groups or protected classes.
7. The development of plans, objectives, and action items to address and to correct problems and barriers, including:
  - A. A clear statement of specific and measurable objectives and supporting action items which will address and resolve problems and barriers identified;
  - B. Assignment of a responsible official for each objective and action item; and
  - C. A target date for completion of each objective and action item.

## **Section 23.7 Information for Employees**

### *Section 23.7.1*

The Agency will establish a toll-free phone number for access by all employees who require assistance of an EEO counselor, and the Agency shall make available to employees written information describing the Agency's EEO program, the Affirmative Employment Plan, and the EEO Complaint process. This information will be posted electronically and/or on Agency bulletin boards. It will include:

1. A toll-free phone number for the EEO office;
2. A dedicated e-mail/Web site address to contact an EEO counselor and/or initiate an informal EEO complaint; and

3. The flowchart of the discrimination complaint process and all other information required by law.

## **Section 23.8 Discrimination Complaints**

### *Section 23.8.1 Complaint Options*

Any employee who believes that he or she has been discriminated against on the grounds set forth in Section 23.1 of this Article may file any one of the following:

1. A formal EEO complaint of discrimination with the Agency;
2. A grievance, pursuant to the provisions of Article 12, Grievance Procedure;
3. An appeal to the MSPB involving a mixed case, as defined in Section 23.8.5; and
4. A complaint of discrimination with the Office of Special Counsel (OSC).

### *Section 23.8.2*

An employee alleging discrimination on the basis of race, color, religion, sex, national origin, age, disability (or handicapping condition), sexual orientation, or gender identity may, in some cases, file a discrimination complaint under both the EEO process and with OSC. Complaints to the MSPB, the EEOC, and the OSC will be filed pursuant to such regulations and time limitations as prescribed by those agencies.

### *Section 23.8.3*

At the conclusion of the EEO precomplaint/informal interview process, the EEO counselor will inform employees in writing of their right to file a formal EEO complaint.

### *Section 23.8.4*

A discussion with an EEO counselor in no way precludes the filing of one of the complaints listed in Section 23.8.1 and 23.8.2 that is otherwise timely.

### *Section 23.8.5*

1. A mixed-case complaint is a complaint of employment discrimination filed with the Agency's EEO office based on race, color, religion, sex, pregnancy, gender identity, prior EEO activity, national origin, disability, genetic information, or age related to or stemming from an action that can be appealed to the MSPB.
2. A "mixed-case" appeal is an appeal filed with MSPB alleging an appealable agency action was taken in part or in whole because of discrimination based on race, color, religion, sex, pregnancy, gender identity, prior EEO activity, national origin, disability, genetic information, or age.

## **Section 23.9 EEO Process**

### *Section 23.9.1*

Consistent with 29 CFR 1614 and Section 23.8.1 of this Article, an employee must initiate a request for EEO counseling within forty-five (45) calendar days of the date when the employee was aware or should have been aware of the alleged discrimination or the effective date of the alleged discriminatory personnel action. For purposes of establishing time limits, the contact requesting counseling services by the employee in person, telephonically, or through e-mail will be considered the date the counseling is initiated. The complaint process afforded to employees must follow the procedures set forth by government-wide regulations. The flowchart referred to in Section 23.7.1 (3) will be followed.

### *Section 23.9.2*

EEO counselors will complete their duties within thirty (30) calendar days of the initial counseling contact, unless the parties mutually agree in writing to extend the counseling period. The agreed-upon extension must include a statement identifying the additional amount of time that has been agreed upon.

### *Section 23.9.3*

The Agency will provide employees with a place to meet privately with EEO counselors, if not immediately, within a reasonable amount of time, normally within twenty-four (24) hours.

## **Section 23.10 Protections**

### *Section 23.10.1*

Any person who has alleged, has filed, or previously filed, served as a representative for, or a witness to, concerning an EEO complaint will be free from coercion, interference, dissuasion, and reprisal.

## **Section 23.11 Official Time**

### *Section 23.11.1*

The overall hours of official time afforded to a representative for both preparation and attendance at meetings and hearings is determined from the point at which the employee initially contacts the EEO office. A reasonable amount of time may be granted for an employee and employee representative during the initial precomplaint contact to discuss issues. In addition, employees and/or their representatives will be provided a reasonable amount of official time to prepare and present a formal EEO complaint. Official time for such purposes typically will include time to assemble documents to be submitted in conjunction with the complaint, time to meet or consult with the employee, and time to attend meetings and hearings.

### *Section 23.11.2*

All requests for official time after a formal EEO complaint has been filed must be submitted by the employee and/or the employee's representative to his or her supervisor/manager (or designee). The employee and/or the employee representative must have supervisory approval prior to the use of official time.

## **Section 23.12 Reasonable Accommodation for Employees With Disabilities**

### *Section 23.12.1*

In accordance with Section 501 of the Rehabilitation Act of 1973, as amended, DAO 215-10, and other government-wide rules and regulations pertaining to the employment of individuals with disabilities, the Agency is committed to affirmative action for the employment, placement, and advancement of qualified individuals with disabilities including temporary disabilities, any disabilities related to pregnancy, and disabled veterans.

### *Section 23.12.2*

The Agency agrees to consider RAs, depending on the employee's medical circumstances and work requirements, which may include, but are not limited to the following:

1. Job restructuring;
2. Making facilities readily accessible to and usable by individuals with disabilities;
3. Modifying work schedules;
4. Acquiring or modify equipment or devices;
5. Adjusting or modifying examinations, training materials, or policies;
6. Providing qualified readers and interpreters for persons with hearing or visual impairments;
7. Teleworking;
8. Granting of leave in accordance with this agreement; or
9. Reassigning or transferring employees to another position.

Upon request by the employee, the Agency agrees to provide RAs for qualified individuals with disabilities, unless the accommodation would impose an undue hardship on operations of the Agency. DAO 215-10, Reasonable Accommodation for Employees or Applicants With Disabilities will also help govern the RA process.

### *Section 23.12.3*

For employees with disabilities, job restructuring is one of the important means where some qualified employees with disabilities can be accommodated. The principal steps in restructuring jobs are as follows:

1. Identifying factor(s) that make a job incompatible with the employee's disability.



2. If a barrier is identified in a job function, the barrier may be eliminated or modified 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 that enable the person with a disability to perform those essential functions.

#### *Section 23.12.4*

The Agency may grant leave to accommodate an employee's disabling condition as follows:

1. LWOP may be granted for illness or disability; and
2. Sick leave can be appropriately used by a disabled individual (who used prosthetic devices, wheelchairs, crutches, guide dog, or other similar type devices) for equipment repair, guide dog training, and/or medical treatment.

#### *Section 23.12.5*

The Agency agrees to provide interpreter services for hearing-impaired employees when it is a RA. This encompasses the provision of interpreter services during meetings with the Union. Normally, these requests require twenty-four (24) hours notice.

#### *Section 23.12.6*

Employees with disabilities shall be provided with equal opportunity to perform official business travel. Certain additional travel expenses that are necessary incurred to reasonably accommodate the employee's disability may be reimbursed under the FTR.

#### *Section 23.12.7*

The Agency will provide employees with disabilities full consideration for all training opportunities. Once an employee is selected for training, the Agency will provide reasonable accommodations to the employee to attend and complete the training, consistent with federal guidelines and laws. The Agency agrees to provide on-the-job training opportunities to qualified disabled employees on the same basis as nondisabled employees consistent with the Agency's operational needs.

### **Section 23.13 Reasonable Accommodation Process**

#### *Section 23.13.1*

In accordance with DAO 215-10, the RA process begins as soon as the request for the change or the identification of a barrier is made. A request does not need to use any special words, such as reasonable accommodation, disability, or Rehabilitation Act.

An employee identifies a need for an RA by notifying, orally or in writing, his/her chain of command, another

supervisor or manager, his/her Office or Division Director, the Reasonable Accommodation Coordinator (RAC), or the Agency's medical staff (HQ or NPC Medical Staff). Upon receipt of the RA request to one of the entities above, the request will be forwarded to the RAC who will then notify the requesting employee's supervisor that an RA request has been submitted. The employee will be provided instructions for requesting an RA and a copy of the forms to complete as appropriate. The requesting employee then submits the appropriate form to the RAC. If the disability is obvious or the requesting employee has a record of the disability on file, medical documentation may not be necessary or required. The completed request for accommodation serves as a medical release for the requesting employee.

Employees will be provided a reasonable amount of duty time, along with access to facsimile and/or scanning capabilities, in order to submit RA requests to the RAC.

The Agency's Medical Staff or RAC may contact the employee's medical provider directly to clarify any additional medical information that may be needed concerning the disability and/or accommodation request.

If the employee/employee's medical provider is unable or does not provide sufficient information/clarification in regards to the RA, the RAC may require the employee to provide additional medical documentation or see a medical provider of the Agency's choice and at the Agency's expense.

The RAC will acknowledge an employee's request for reasonable accommodation within five (5) business days of receiving the request.

RA requests will be processed within the timeframes outlined in DAO 215-10. If additional time is necessary to respond to the request, the reason(s) for the delay and the approximate timeframe for the response will be provided to the employee in writing. If the request is denied, the reason(s) for the denial will be provided. The RAC will inform the employee of the appropriate management official who has authority to engage in the interactive process with the employee to discuss RA options.

The RAC will work with the supervisor/appropriate manager and the requesting employee in the interactive process to determine the appropriate accommodation action.

The RAC will issue the recommended action via formal memo/e-mail to the supervisor/appropriate manager.

When an accommodation is approved, the RAC will send an official notice of approval to the employee within five (5) calendar days of the decision.

When approved, the supervisor notifies the RAC that the accommodation has been implemented in a timely manner as specified within DAO 215-10, or will communicate if other determining factors are involved that have delayed the implementation of the accommodation.

Before considering a request for RA, the RA coordinator may consult with the Agency medical staff to assist in making a suitable determination.

If denied, the Agency must provide the employee with information regarding the reconsideration process submitted to the deciding official/RAC that he/she has a right to engage in ADR, to file an EEO complaint, or to file a grievance under Article 12, Negotiated Grievance Procedure.

#### *Section 23.13.2*

Before considering reassignment as an RA, the RAC should first consider those accommodations that would enable an employee to remain in his/her current position. Reassignment is the RA of last resort and is required only after it has been determined that: (1) there are no effective accommodations that will enable the employee to perform the essential functions of his/her current position, or (2) all other RAs would impose an undue hardship. However, if both the Department and the employee voluntarily agree that transfer is preferable to remaining in the current position with some form of RA accommodation, then the Department may transfer the employee.

In considering vacant positions for reassignment, the Agency must provide the employee a listing of all available open-funded vacancies within the Agency for which the employee is qualified with or without an RA. In particular, the Agency must identify a listing of all such vacancies within the employee's commuting area that are available.

#### *Section 23.13.3*

A family member, health professional, or other representative may request an accommodation on behalf of an employee. A doctor's note outlining medical restrictions for an employee constitutes a request for reasonable accommodation. A request does not have to include any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." A request is any communication in which an individual asks or states that she needs the Agency to provide or to change something because of a medical condition. A supervisor, manager, or the Reasonable Accommodation Office should ask an individual whether she is requesting an RA if the nature of the initial communication is unclear.

When an individual (or third party) makes an oral request, the RAC must ensure that a request form is filled out. The RAC must fill out the form if the requestor does not. The requesting employee shall be provided a copy of, and afforded five (5) business days to review and amend a request form submitted by the RAC or a third party.

### **Section 23.14 Temporary Alternate Duty Station (TADS)**

1. Employees recuperating from a temporary illness or injury and who are temporarily unable to perform the full range of official duties may also submit to the

servicing Employee Relations office staff (ER) a written request for a temporary work-at-home assignment for up to thirty (30) calendar days. Additional time may be considered as appropriate. Such requests must be accompanied by a medical certification that will be used to assist in establishing the duty limits for the employee.

2. To be approved, there must be sufficient work that is commensurate with the employee working from an alternate location throughout the duration of the request period. Work assignments may be added or modified as necessary to fully enable this provision.
3. The employee's supervisor, in consultation with the ER, will respond to an employee's request for a temporary work-at-home assignment within ten (10) workdays of receiving the request. If additional time is necessary to respond to the request, the reason(s) for the delay and the approximate timeframe for the response will be provided to the employee in writing. If the request is denied, the reason(s) for the denial will be provided to the employee in writing. Denials will not be made for arbitrary reasons.

### **Section 23.15 Confidential Information**

The Agency will preserve the confidentiality of employee medical records and medical data in accordance with the Privacy Act of 1974 and DAO 215-10, and other applicable laws and regulations. Written permission from the employee is required for any release of medical documents and records, except where allowed by law or government-wide regulation.

HR personnel should identify current vacant positions and those that should become vacant in the foreseeable future (sixty [60] calendar days) to which the employee could be reassigned.

### **Section 23.16 Definitions**

1. "An individual with a disability" is defined for purposes of this Agreement as one who:
  - A. Has a physical or mental impairment which substantially limits one or more of such person's major life activities;
  - B. Has a record of such impairment;
  - C. Is regarded as having such an impairment;
  - D. Has a temporary disabling condition, which includes, but is not limited to pregnancy; or
  - E. Is classified as a disabled veteran.
2. "Qualified person with a disability" means, with respect to employment, a person with one or more impairment(s) who, with or without RA, can perform the essential functions of the position in question, without endangering the health and safety of him/herself or others and who:

- A. Meets the experience and/or education requirements (which may include passing a written test) of the position in question; or
- B. Meets the criteria for appointment under one of the special appointing authorities for persons with disabilities.

*Section 23.16.1*

The Agency will provide employees with disabilities full consideration for all training opportunities. Once an employee is selected for training, the Agency will provide RA to the employee to attend and complete the training, consistent with federal guidelines and laws. The Agency agrees to provide on-the-job training opportunities to qualified disabled employees on the same basis as nondisabled employees, consistent with the Agency's operational needs.

*Section 23.16.2*

Employees with disabilities shall be provided with equal opportunity to perform official business travel. Certain additional travel expenses that are necessarily incurred to reasonably accommodate the employee's disability may be reimbursed under the FTR.

*Section 23.16.3*

The Agency will provide employees with disabilities full consideration for all training opportunities. Once an employee is selected for training, the Agency will provide RA to the employee to attend and complete the training.

**Section 23.17 Harassment Prohibited by Law**

The Agency and the union recognize that harassment is prohibited by law and undermines the integrity of the employment relationship and may adversely affect the workforce.

The parties agree to emphasize the prevention of harassment prohibited by law. The Department Administrative Order (DAO) 202-955, Allegations of Harassment Prohibited by Federal Law, currently defines harassment, including sexual harassment, as:

1. The targeting of an employee for harassment because of his/her sex (this includes harassment which is not necessarily sexual in nature), race, color, national origin, age, religion, disability or reprisal, or other protected status;
2. A pattern of pervasive harassment in the work unit including unwelcome behavior towards an individual or individuals which has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment; or
3. A single incident of prohibited harassment of such a serious nature that the continued effective functioning of the unit will be impacted.

Employees must report all instances of alleged harassment to their supervisor or other appropriate management official immediately. If a conflict of interest prevents them from reporting to their supervisor, employees should report it to the Chief of the Human Resources Division. All allegations of harassment will be evaluated to determine whether it is covered by DAO 202-955. If the allegation is covered, a formal investigation will be conducted.

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**ARTICLE 24. MEDICAL DETERMINATIONS**

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**Section 24.1 Purpose**

Any requirement for an employee to undergo a fitness for duty examination, or provide the Agency with medical documentation to support an absence of leave, or a request for a work-place accommodation will be requested and obtained in accordance with 5 CFR 339 Medical Qualification Determinations.

**Section 24.2 Definitions**

For purposes of this Article and consistent with Federal Regulations, the following definitions apply:

1. Accommodation means RA as outlined in 29 CFR 1613.704.
2. Medical conditions mean health impairment, which results from injury or disease, including psychiatric disease.
3. Medical documentation or documentation of a medical condition means a statement from a licensed physician or other appropriate practitioner that provides information the Agency considers necessary to enable it to make an employment decision. To be acceptable, the diagnosis or clinical impression must be justified according to established diagnostic criteria and the conclusions and recommendations must be consistent with generally accepted professional standards. The determination that the diagnosis meets these criteria is made by or in coordination with a physician, or if appropriate, a practitioner of the same discipline as the one who issued the statement.
4. Medical standard is a written description of the medical requirements for a particular occupation based on a determination that a certain level of fitness of health status is required for successful performance.
5. Physician means a licensed Doctor of Medicine or Doctor of Osteopathy, or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations.
6. Practitioner/Physician Assistant means a person providing health services who is not a medical doctor, but who is certified by a national organization and licensed by a state to provide the services in question.

### **Section 24.3**

All medical examinations ordered or offered pursuant to this Article shall be at no cost to the employee and performed on duty time at no charge to leave.

### **Section 24.4**

In all discussions with any Agency official regarding a medical determination, the employee shall be entitled to Union representation. Prior to any discussion, the employee shall be given an opportunity to contact and discuss the matter with a Union representative.

### **Section 24.5 Conditions Requiring Fitness for Duty Examinations**

#### *Section 24.5.1*

The Agency may direct an employee to undergo a fitness-for-duty examination only under those conditions authorized by this Article or in accordance with 5 CFR 339.

#### *Section 24.5.2*

When the Agency directs a medical examination, it shall inform the employee in writing of its reasons for directing the examination and the consequences of failure to cooperate. The Agency shall designate the examining physician or other appropriate practitioner and shall offer the employee an opportunity to submit medical documentation to the designated examining physician from his or her personal physician or practitioner for review.

### **Section 24.6 Conditions When Fitness for Duty Examinations May Be Offered**

#### *Section 24.6.1*

The Agency may offer a medical examination (including a psychiatric or psychological evaluation) in situations where the Agency needs additional medical documentation to make an informed management decision. This may include situations where an individual requests a change in duty status, assignment, working conditions, or any other benefit or special treatment for medical reasons (including RA or re-employment on the basis of full or partial recovery from a medical condition); or where the individual has a performance or conduct problem that may require Agency action. Reasons for offering an examination must be documented.

#### *Section 24.6.2*

When the Agency offers a medical examination, it shall inform the employee in writing of its reasons for doing so and the consequences of failure to accept the offer. The Agency shall designate the examining physician or other appropriate practitioner and will offer the employee the opportunity to submit medical documentation from his or her personal physician for review. The Agency will review

and consider all documentation supplied by the individual's personal physician and/or practitioner.

### **Section 24.7 Medical Documentation**

#### *Section 24.7.1*

Any medical documentation requested by the Agency in order to make an informed management decision regarding an employee's performance, conduct or ability to remain in a position because of medical reasons, will be consistent as outlined in 5 CFR 339.

### **Section 24.8 Release of Medical Information**

#### *Section 24.8.1*

All medical information or documentation furnished by the employee to the Agency will be subject to the Privacy Act of 1974 (5 U.S.C. 552a) and disclosure will only be made to those individuals who have a need to know in order to make informed management decisions regarding the employee's performance, conduct, or request for an accommodation.

#### *Section 24.8.2*

The employee may be asked to provide a signed release provided by the Agency that will accompany all medical documentation. The release will identify who is authorized to review the medical documentation and for what purpose. Should further release be required, the Agency will inform the employee of the necessity for the release and secure a written consent form with expiration date from the employee. Under no circumstances will the employee's medical documentation be released to anyone other than those specified without the prior consent of the employee.

To prevent the occurrence of an employee's benefits being denied and/or negatively impacted, the employee must release information to the Agency representative requesting information who has a need to know. Medical information related to an employee's workers' compensation claim shall be accessed and shared by the Agency in accordance with the Federal Employee's Compensation Act (FECA) and/or the regulations of the U.S. Department of Labor (DOL), Office of Workers' Compensation Programs (OWCP).

Upon request, the employee may be present during the phone call to the physician/practitioner. If the physician/practitioner is not available at that time, the Agency will conduct a follow-up telephone call to the physician/practitioner. If it is not practicable for the employee to be available, the Agency will conduct the telephone call with the employee's physician/practitioner and will follow-up with the employee when he/she is available. In cases where medical releases are signed, the employee will be advised by the Agency of the findings.



### *Section 24.8.3*

Any medical documentation that is provided to the Agency by an employee will be properly secured to maintain required privacy.

## **Section 24.9 Inability to Perform Assigned Duties**

### *Section 24.9.1*

If the Agency determines, as a result of a fitness for duty examination or review of medical documentation, that an employee is unable to perform his or her assigned duties, the Agency will attempt to reassign the employee to another position at the same grade for which the employee qualifies and where he/she can perform the required duties.

### *Section 24.9.2*

In the event that a position at the same grade is not available, the Agency may determine if another position exists at a lower grade for which the employee qualifies and can perform the assigned duties. If a position exists, the employee will be notified of the availability of the position and given the opportunity to accept the position through a voluntary change to a lower grade.

### *Section 24.9.3*

In the event a position cannot be located for the employee, the Agency will notify the employee of his/her right to apply for disability retirement when proposing any adverse action taken against the employee in accordance with Section 53.4, Involuntary Separation, of Article 53, Retirement, Resignation, and Separation.

If the employee elects to file for disability retirement, the Agency will consider authorizing the employee sick leave, annual leave, LWOP, or other nonpay status pending the receipt of a decision from the OPM.

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## **ARTICLE 25. EMPLOYEE ASSISTANCE PROGRAM**

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### **Section 25.1 General**

The Parties agree and recognize that employees in the work place may require assistance for work/life concerns. Therefore, it is the policy of the Agency and the Union to work together to encourage employees, whose performance and conduct are adversely affected by such concerns, to seek assistance.

### **Section 25.2 Employee Assistance Program**

The Employee Assistance Program (EAP) is a voluntary, confidential program that offers professional counseling and referral services to all employees at no cost. However, the employee will bear all costs associated with their

participation in a referred service. The goal of the EAP is to promote a healthy, productive workforce.

### *Section 25.2.1*

The Parties will encourage employees to seek employee assistance and recognize that the EAP can be important in preventing, resolving, and/or coping with personal and workplace incidents; delivering critical incident stress debriefings; and providing assistance to management and employees during Agency restructuring or other major organizational transitions or developments.

### *Section 25.2.2*

Employees may utilize any of the following EAP services:

1. Confidential, free, short-term counseling;
2. Referral where appropriate, to a community service or professional resource that provides treatment and/or rehabilitation;
3. Follow-up services as appropriate, to help an employee readjust to his or her job during and after treatment, e.g., back-to-work conferences; and/or
4. Briefings to educate management and Union officials on the role of EAP.

### *Section 25.2.3*

Supervisors are encouraged to offer the availability of the EAP to employees who exhibit personal and/or work-related problems. Supervisors will be advised that it is not their role to diagnose employee problems, e.g., alcohol or drug abuse, depression, etc.

### *Section 25.2.4*

The Agency will publicize and post information regarding the EAP in areas that are frequented by employees, such as break and lunch rooms, bulletin boards, MOD, e-mail, Census intranet, etc. The information will include, at a minimum, the telephone number, location, and hours of operation of the EAP.

## **Section 25.3 Voluntary Participation and Employee Responsibility**

### *Section 25.3.1*

Although the existence and functions of the EAP will be publicized to employees, employees will not be required to participate or be penalized for declining a referral to the program.

### *Section 25.3.2*

Prior to leaving the work place to meet with an EAP counselor, the employee must inform and receive approval in advance from his or her supervisor. However, employees are not required to advise their supervisor of their reason for visiting the EAP. Furthermore, employees who do not

want their supervisors to know of their attendance at an EAP session must arrange the appointment outside of their duty hours or request leave in accordance with Article 46, Leave, of this Agreement. Unless there is an emergency, employees should schedule the EAP session in advance.

## **Section 25.4 Access to EAP Services**

### *Section 25.4.1*

The Agency may grant periods of excused absence, normally up to one (1) hour per session, to an employee for participation in the EAP for problem identification, referral to an outside resource, for general employee orientation, or education activities provided that the employee informs and receives approval in advance from his/her supervisor. Employees will be excused from duty without charge to pay or leave to meet with an EAP counselor. The Agency may verify the date and time of the EAP session.

### *Section 25.4.2*

Employees who are referred to community services for treatment will need to request leave in accordance with the Article 46, Leave, of this Agreement when such treatment or services are provided during duty time.

## **Section 25.5 Confidentiality of the Program**

### *Section 25.5.1*

The Parties recognize that all confidential information and records concerning an employee's counseling and treatment through the EAP will be maintained in accordance with The Privacy Act of 1974.

### *Section 25.5.2*

Except as specified in Section 25.5.2(B) of this Article, the Agency may not obtain information about the substance of the employee's involvement with the EAP without an employee's specific written consent. The EAP staff will provide the employee with a written notice concerning the confidential nature of EAP records along with the conditions where information discussed in counseling may be disclosed, and inform the employee that there are three (3) types of disclosure:

1. Disclosure with consent: The employee's written consent is obtained before any information is released.
2. Disclosure without consent: This disclosure is only permissible in a few instances, such as the following:
  - A. To medical personnel in a medical emergency;
  - B. In response to an order of a court of competent jurisdiction;
  - C. To comply with Executive Order 12564, "Drug Free Federal Workplace;"
  - D. Incidents of suspected child abuse and neglect (in some states, elder and spouse abuse) to the

appropriate state and local authorities as EAP is required by law to report; and

- E. Disclosure to appropriate individuals, such as law enforcement authorities and persons being threatened, if the employee has committed or threatens to commit a crime that would physically harm someone (including him/herself). This can be done only if the disclosure does not identify the employee as an alcoholic or drug abuser.
3. Secondary disclosure: Any information disclosed with the employee's consent must be accompanied by a statement that prohibits further disclosure, unless the consent expressly permits further disclosure(s).

## **Section 25.6 EAP and Its Relationship to Unacceptable Performance, Disciplinary, and Adverse Action**

Disciplinary and/or performance-based actions should be based on employee conduct or performance issues. In evaluating an employee's work performance and job-related conduct, the supervisor may consider whether an employee referred to counseling is cooperating with a recommended plan of counseling. This will require the employee's written consent consistent with Section 25.5.2(1) of this Article.

If an employee receives a proposed disciplinary or adverse action, and the employee discloses to the deciding official an issue that significantly contributed to the misconduct and for which he or she is legitimately seeking the services of, or being counseled by the EAP, the Agency may consider entering into a resolution/settlement agreement placing the proposed action in abeyance while the employee undergoes treatment under terms and conditions agreed to by the Parties.

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## **ARTICLE 26. OCCUPATIONAL SAFETY, HEALTH, AND WELLNESS**

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### **Section 26.1 General**

#### *Section 26.1.1*

As a shared value by the Union and the Agency, maintaining safe and healthful work environments is necessary for the accomplishment of the Agency's mission and contributes to a high quality of life for employees. The Agency will provide and maintain conditions and places of employment that are free from recognized hazards and unhealthy working conditions, consistent with the requirements of 29 U.S.C. 668 et seq. (the Occupational Safety and Health Act of 1970), Executive Order 12196, 29 CFR Parts 1910 and 1960, other applicable laws, rules, regulations, and health and safety codes.

### Section 26.1.2

Employee wellness and the investment in programs to maintain employee health contribute directly to sustained productivity and reduction of lost employee time due to illness. Therefore, the Agency should facilitate and/or encourage programs in areas such as weight reduction, stress reduction and management, nutritional counseling, smoking cessation, prevention of injuries, health screenings, and exercise.

### Section 26.1.3

The Parties recognize that the Agency may seek the Secretary of Labor's approval for alternative and supplementary standards.

### Section 26.1.4

The Agency may adopt health standards and safety that is more stringent to address specific concerns on a case-by-case basis.

### Section 26.1.5 Changes to Safety Program

Where there is a statutory duty to bargain the impact of any changes to the Agency's Safety Program, the Agency will provide notice and an opportunity to bargain consistent with the procedures in Article 16, Midterm-Bargaining.

### Section 26.1.6

In circumstances where there is no legal/regulatory applicable safety or health standard, the Agency will use nationally recognized sources of health and safety criteria.

### Section 26.1.7

Employees shall not be subject to restraint, interference, coercion, discrimination, or reprisal by either the Agency or the Union for either filing or choosing not to file a report of an unsafe or unhealthful working condition, or for participating or not participating in a voluntary safety and health program or committee activity.

## Section 26.2 Facility Safety Committees

The principal mission of the Occupational Safety and Health Committee will be to assist the development and implementation of the Agency's Occupational Safety and Health Program.

1. The Agency agrees to maintain facility Safety Committees with a minimum of six (6) members at HQ and Jeffersonville and four (4) members at Tucson and Hagerstown. Each Committee shall have equal representation of management and employees. Employees shall be appointed by the Union. The position of Committee Chair will alternate each year between Union and Agency members. A Union member will hold the Chair position in the first year of this Agreement.

2. Union representatives will receive official time to attend Facility Safety Committee meetings and for other related authorized activities in accordance with Article 10, Official Time.
3. Written minutes of each meeting will be maintained and distributed to each Committee member and made available to employees via electronic messages and/or posting on appropriate health and safety bulletin board.
4. In accordance with applicable laws, rules, regulations, and this Agreement, the Agency will make available to the Committee existing Agency information that is relevant and necessary to the duties of the Committee. Examples of such information include the Agency's safety and health policies/programs, accident, injury, and illness data, epidemiological data, material safety data sheets (MSDS), inspection reports, abatement plans, and internal and external evaluation reports.
5. In accordance with 29 CFR 1960.59(b), the Agency will provide Union representatives occupational safety and health training, including both introductory and specialized courses and materials, which will enable Union representatives to function appropriately in ensuring safe and healthful working conditions and practices in the workplace, and enable them to effectively assist in conducting workplace safety and health inspections.
6. Duties of the established Committee will include the following:
  - A. Monitor the safety and health program and make appropriate recommendations to the Safety Officer;
  - B. Monitor the findings and reports of workplace inspections;
  - C. When requested by the Safety Officer or Safety Committee, participate in periodic inspections to monitor inspection procedures, and comment on supplementary standards proposed by the Agency;
  - D. Review internal and external evaluation reports and make recommendations concerning the safety and health program;
  - E. Monitor plans for abating safety and health hazards;
  - F. Review responses to reports concerned with allegations of hazardous conditions, alleged safety and health program deficiencies, and allegations of discrimination due to participation in the Occupational Safety and Health Administration (OSHA) program. If at least half of the members of record on the Committee are not substantially satisfied with the response, they may report their dissatisfaction to the OSHA or request an appropriate investigation by OSHA;
  - G. Review procedures for handling safety and health suggestions and recommendations from employees;

- H. Review reports of unsafe and unhealthful conditions where the hazard has been disputed; and
- I. Review the Agency's response(s) to reports of hazardous conditions or program deficiencies identified by the OSHA.

#### *Section 26.2.1*

Union appointed members of facility Safety Committees will be given copies of all Safety Officer letters and OSHA Notices of Violation received by the Agency.

#### *Section 26.2.2*

The Parties acknowledge that Union participation in Safety Committees is not to be construed as a waiver of the Union's right to collective bargaining.

#### *Section 26.2.3*

Each Safety Committee will meet at mutually agreeable times and places, normally no less than quarterly. At their initial meeting, the Safety Committees will establish operational ground rules necessary to carry out their mission.

#### *Section 26.2.4*

The Agency will comply with federal regulations in regards to Personal Protective Equipment (PPE), as required by appropriate federal and/or state government (or its subdivisions) standards, to protect employees from hazardous conditions encountered during the performance of their official duties. PPE will be provided at no cost to employees required to wear PPE.

### **Section 26.3 Personal Protective Equipment**

#### *Section 26.3.1*

The Agency will comply with federal regulations in regards to PPE, as required by appropriate federal and/or state government (or its subdivisions) standards, to protect employees from hazardous conditions encountered during the performance of their official duties. PPE will be provided at no cost to employees required to wear PPE.

#### *Section 26.3.2*

Assessments to determine the need for PPE will be conducted by the Agency in each workplace. These assessments will also evaluate the need for and the feasibility of engineering controls or other devices designed to reduce workplace injuries and illnesses, or to eliminate the need for PPE. The Union will be notified before any assessments take place. Upon request and in accordance with Article 6, Union Rights, Section 6.8, Right to Information, the Union will be given copies of all assessments, including findings, conclusions, decisions, and all documents, data, and materials used as a basis for the decision.

#### *Section 26.3.3*

Protective devices may include, but are not limited to, safety glasses and/or safety goggles that will fit safely and firmly over prescription eyeglasses, safety-toed shoes/boots, earplugs, respirators, safety aprons, foul weather clothing, and protective gloves. Employees will use safety equipment, and personal protective equipment, and other devices provided and procedures directed by the Agency, as necessary for their protection. Employees must maintain personal protective equipment cleanliness, inspect equipment before each use, and report defective equipment to their supervisor. Employees who fail to use prescribed safety equipment and/or protective devices may be subject to disciplinary action.

#### *Section 26.3.4*

Situations requiring employees to wear respirators for safety will include a process for fit testing.

### **Section 26.4 Unsafe/Unhealthful Conditions**

#### *Section 26.4.1*

OSHA requires employees to comply with all safety and health standards that apply to their actions on the job. Employees should follow the Agency's safety and health rules, wear or use all required gear and equipment, follow safe work practices, and report hazardous conditions to a supervisor or safety representatives.

#### *Section 26.4.2*

Any employee, group of employees, or Union representative of employees who believes that an unsafe or unhealthful working condition exists in any worksite should first report such condition to any Agency supervisor, manager, executive, or safety official. An employee may also report unsafe or unhealthful working conditions to the Safety Committee and/or the Union. Employees making these reports may request to remain anonymity.

Inspections will be conducted within twenty-four (24) hours for employee reports of imminent danger conditions, within three (3) working days for potentially serious conditions, and within twenty (20) working days for other than serious safety and health conditions, respectively, under 29 CFR 1960.28(d)(3). However, an inspection may not be necessary if the hazardous condition(s) can be abated immediately through normal management action, and with prompt notification to employees and the Safety Committee.

#### *Section 26.4.3*

When the Agency or other appropriate authority determines that a dangerous or potentially dangerous condition exists at a worksite, employees at that worksite will be notified as soon as practicable so that precautionary steps can be taken.



#### *Section 26.4.4*

The Agency shall post a notice of hazardous conditions discovered in worksites as required by applicable laws, rules, and regulations. The notice shall be posted at or near the location of the hazard and shall remain posted until the cited condition has been corrected. Such notices shall contain a warning and description of the unsafe or unhealthful condition and any required precautions to the full extent required by applicable laws, rules, and regulations. Simultaneously with the posting, the Agency shall deliver copies of the notice to the Union and the appropriate facility Safety Committee(s).

#### *Section 26.4.5*

The appropriate facility Safety Committee will evaluate employee reports of unsafe or unhealthful working conditions in accordance with 29 CFR 1960. The Union will be formally notified of all serious hazards as defined in 29 CFR 1960.

#### *Section 26.4.6*

The Agency shall promptly abate any unsafe and unhealthful working condition. Toward this end, any equipment, devices, structures, clothing, supplies, tools, or instruments that are found to be unsafe will be removed from service, locked-out, tagged-out, or rendered inoperative as appropriate.

#### *Section 26.4.7*

If there is an unsafe or unhealthy situation in a worksite, the paramount concern is for the preservation of safety and health. Should it become necessary to evacuate an area, the Agency shall take precautions to guarantee the safety and health of employees. Employees ordinarily will not be readmitted to an evacuated area until it is determined in conjunction with whatever expert resources, if necessary, have been called in to determine that there is no longer danger to the evacuated personnel. "Expert resources" may include, but are not limited to, local police departments, the Federal Protective Service, local fire departments, appropriate health authorities, etc. The Union will be notified as soon as possible regarding the emergency situation.

#### *Section 26.4.8*

An abatement plan will be prepared if the abatement of an unsafe or unhealthy working condition will not be possible within thirty (30) days. Such plan shall contain a proposed timetable for the abatement and a summary of steps being taken in the interim to protect employees from being injured as a result of the unsafe or unhealthy working conditions. Copies of the plan will be provided to the Safety Committees and the Local Union President.

#### *Section 26.4.9*

The Safety Committees will be timely notified regarding the development and implementation of abatement plans for their respective facility and all personnel subject to the hazard shall be advised of interim measures in effect and shall be kept informed of subsequent progress on the abatement plan.

#### *Section 26.4.10*

If the abatement plan cannot be immediately implemented, the Agency shall inform affected employees of the interim measures that will be instituted for the protection of the employees.

#### *Section 26.4.11*

If adequate interim measures cannot be implemented, employees will be assigned work in a safe and healthy area. If an alternate work area is not available or appropriate as determined by the Agency, and the Agency makes a decision to close the facility/facilities, employees may be assigned to telework if feasible, or will be excused with pay and without charge to leave until the condition is corrected. Employees already on leave are not eligible. Nonleave-earning employees who are dismissed from duty due to unsafe or unhealthy working conditions will be paid for the time remaining on their shift.

#### *Section 26.4.12*

The Agency will comply with confined-space entry requirements in accordance with applicable federal regulations.

#### *Section 26.4.13*

Employees who are required to operate specialty vehicles, e.g., tractor trailers, all-terrain vehicles, forklifts, etc., shall receive training at the Agency's expense on the safe and proper operation of the vehicles.

#### *Section 26.4.14*

The Union will actively support employees' safe operation of government vehicles and personal vehicles used for government business, including the following:

1. Consistent use of seat belts and shoulder harnesses;
2. Refraining from texting or using electronic devices while driving; and
3. Obeying applicable traffic laws.

#### *Section 26.4.15*

If an employee is required to have in their possession a commercial driver's license, the employee shall be responsible for maintaining this license including training, physicals, and costs are covered by the Agency. Any subsequent costs for training or physicals will be covered by the Agency.

### *Section 26.4.16*

Prior to developing or changing local cold- or heat-related contingency plans, the Agency will offer a predecisional opportunity to the Local Union President or designee to present the Union's views. These plans shall be developed at the local level.

### *Section 26.4.17*

The Agency shall review the health and safety concerns related to any chemical application that may affect employee exposures in the workplace and comply with the Hazard Communication Standard under 29 CFR 1910.1200. There will be no application of insecticides, carpet glue, HVAC cleaning agents, paint, or other like construction or potentially hazardous chemicals during work hours in enclosed spaces while occupied by employees.

Normally, whenever insecticides or pesticides are used in large scale in government-owned space, the Union and employees will be notified at least three (3) days in advance whether the application is indoors or out, during work hours or not.

In government-leased space, the Agency will notify the Union, as soon as practicable after it becomes aware, that insecticides or pesticides are to be used. RAs will be considered for employees with special health considerations consistent with Article 23, EEO, Section 12.1, Reasonable Accommodation.

## **Section 26.5 Imminent Danger Situations and Imminent Risk Situations**

### *Section 26.5.1*

An employee may decline his or her assigned task because of reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is an insufficient time to seek effective redress through normal hazard reporting and abatement procedures. The employee must notify the supervisor as soon as possible.

### *Section 26.5.2*

If an employee reports an unsafe or unhealthful working condition through the normal reporting procedure and the Agency determines that imminent danger exists, the Agency will undertake abatement and the withdrawal of exposed employees who are not necessary for abatement. Employees not needed for abatement will follow instructions given to them. The appropriate Union President or designee will be informed.

## **Section 26.6 Safety Training**

### *Section 26.6.1*

As determined by the Agency, employees will be provided with appropriate orientation and/or training to perform

their jobs safely. Such training shall include instructions in proper work methods to be used and proper use of required PPE. The Agency should provide appropriate safety and health training for employees as necessary.

## **Section 26.7 Hazardous Duty Pay**

### *Section 26.7.1*

It is Agency policy to eliminate or minimize hazards and physical hardships. When such situations cannot be practically eliminated, appropriate environmental differentials will be paid to employees exposed to such situations as provided by 5 U.S.C.5545(d) for General Schedule (GS) employees and 5 U.S.C.5343(c)(4) for WG employees.

When the Union believes that an employee may be entitled to environmental differential pay, it will notify the Agency of the employee's name, title, duty location, and the nature of the hazard.

## **Section 26.8 Hazardous Materials**

The Agency will maintain a current list of all hazardous materials in each location and will maintain paper copies of current MSDS in each workplace where such materials are used or stored. The Agency shall comply with all aspects of 29 CFR 1910.1200.

All employees determined to be exposed to hazardous chemicals and materials at work will be informed of their exposure to each hazard, the amount of exposure, the level of safe exposure (if there is a standard), and the risks associated with the hazardous chemicals and materials to which they were exposed. Exposures will be documented in the employees' medical records.

## **Section 26.9 Employee Wellness**

To the extent provided by law, the Agency will provide the following services:

1. Eye test
2. Blood pressure measurement
3. Pulse screening
4. Respirations measurement
5. Glucose reading
6. Oxygen saturation

## **Section 26.10 Safety Inspections**

### *Section 26.10.1*

A designated Union representative and a representative from the Safety Committee may accompany the safety inspector during annual occupational safety and health inspections of the Agency's workplaces. A designated representative shall be authorized normal duty time to participate in such inspections.

## **Section 26.11 Safe Working Environment**

The Agency agrees to provide employees with appropriate orientation, training, furniture, and equipment necessary to perform their duties in a safe and healthful manner. Training may include instruction in ergonomics, proper work methods to be used, and/or proper use of equipment and furniture. The Parties agree to review and discuss on a regular basis the need to update training and to replace furniture and equipment as necessary. Employees who have a need for special health/safety training or accommodation should make that need known to their supervisor.

The Agency will maintain all equipment in a safe manner. The Agency will apply applicable laws, rules, regulations, or directives when developing procurement specifications for video display terminals, printers, ergonomic furniture, and chairs, and accessories such as glare filters, foot-rests, wrist rests, document holders, telephone headsets, replacement ear pads and microphone windscreen covers for telephone headsets, and lockers. In areas where such equipment is being furnished as of the effective date of this Agreement, the Agency will continue to provide the equipment (as approved by the Agency).

In an effort to maintain a healthy and productive work environment, the Agency will observe the following:

1. Adequate lighting: In work areas controlled by the Agency, overhead lighting levels will be within the ranges required by applicable laws, rules, regulations, or directives. In an effort to reduce excessive glare, windows shall be fitted with blinds or drapes where possible;
2. Ergonomically adaptable and situated keyboards and video screens;
3. Ergonomically conducive chairs and desks; and
4. Isolation/mitigation of excessively noisy equipment.

Subject to the availability of funds, the Agency will consider additional requests for devices to improve comfort and reduce repetitive strain.

Employees requesting a special desk, chair, or other equipment because of documented health-related reasons should contact the appropriate Health Unit to request an ergonomic assessment, or may follow procedures as covered in Article 23, EEO, Section 12.1, Reasonable Accommodations for Employees with Disabilities.

## **Section 26.12 Temperature Conditions**

Workplace temperatures will be maintained at levels appropriate to the nature of the workplace and the type of work being performed in accordance with the CFR, Title 41, Cooling and Heating Energy Conservation Policies and Procedures.

In situations where indoor temperature is too hot or too cold, the Agency will take appropriate steps to remedy the

situation as soon as possible. If the situation cannot be remedied within a reasonable period of time, the Agency may consider other appropriate remedial action such as alternate workstations, telework, or will excuse employees with pay and without charge to leave until the condition is corrected. Employees already on leave are not eligible. Nonleave-earning employees dismissed from duty due to unsafe or unhealthy working conditions will be paid for the time remaining on their shift.

## **Section 26.13 Work in Confined Spaces or Remote Areas**

### *Section 26.13.1*

When an employee is required to work in confined spaces or other areas or environments that present a known hazard likely to cause imminent serious physical harm, a second employee will be assigned to work there.

### *Section 26.13.2*

When employees work in remote areas/buildings, periodic checks may be made by supervisors, their employees, or security personnel, as determined by the Agency.

### *Section 26.13.3*

When work is required to be performed in areas where flammable or other harmful vapors exist, all such areas will be maintained so that vapor levels remain within acceptable safety parameters as determined by OSHA safety standards.

## **Section 26.14 Field Federal Safety and Health Councils**

The Agency will consider requests for a Union representative to participate in activities and attend meetings of Field Federal Safety and Health Councils in the local area without loss of pay or charge to leave, provided that no additional overtime or premium pay will be allowed for such participation.

## **Section 26.15 Agency Safety and Health Records**

The Agency agrees to compile and maintain records required by the OSHA and the Agency's Occupational Safety and Health Program. Upon request, in accordance with Article 6, Union Rights, Section 6.8, Right to Information, the Agency will make available copies of the records to the Union unless prohibited by law.

## **Section 26.16 On-the-Job Injury, Illness, or Death**

### *Section 26.16.1*

In the event of an on-the-job death, the Agency will promptly notify the Union of the name of the employee.

### *Section 26.16.2*

In the event of an occupationally related on-the-job injury or illness, the Agency will assist the employee in completing appropriate worker's compensation forms in accordance with Article 27, Workers' Compensation. The employee may also seek Union assistance in completing the forms.

### *Section 26.16.3*

The Union will be promptly notified of any serious on-the-job injuries. Such notification will be consistent with any requirements pertaining to employee privacy.

## **Section 26.17 Personal Security**

### *Section 26.17.1*

The Agency shall provide adequate security to all employees.

### *Section 26.17.2*

Employees faced with physically threatening situations will receive appropriate assistance from the Agency.

### *Section 26.17.3*

When the Agency becomes aware that an employee as a result of the performance of official duties, has been subjected to alleged threats, harassment, or other conduct leading to a reasonable fear on the part of the employee for the safety of the employee and/or his or her family, the Agency shall promptly discuss the matter with the employee and take appropriate action in accordance with the Agency's policies on workplace violence and/or harassment.

### *Section 26.18 Emergency Preparedness*

Each post of duty (POD) for Agency employees shall have an Occupant Emergency Plan that establishes procedures for safeguarding lives in the event of fire, earthquake, bomb threat, tornado, flood, hurricane, terrorist attack, biological threat, chemical threat, hostage-taking, nuclear explosions, and radiological contamination, or similar natural or man-made emergency.

## **Section 26.19 Indoor Air Quality**

### *Section 26.19.1*

Employees are entitled to work in an environment containing safe and healthful indoor air quality. The Agency shall provide safe and healthful indoor air quality by conforming to laws, guidelines, regulations, and/or policies issued by Federal regulatory agencies such as OSHA, Environmental Protection Agency, and government Services Administration (GSA).

### *Section 26.19.2*

On-site investigations/inspections will be conducted when a problem concerning indoor air quality or building-related illness is formally brought to the Agency's attention. These investigations/inspections shall meet the criteria of the GSA and the protocols of OSHA. The Agency may require an employee to submit medical documentation needed to properly investigate a complaint of building-related illness. Any documentation will be maintained in strict confidence by the Agency.

### *Section 26.19.3*

The Agency will comply with all applicable engineering standards in the maintenance of ventilation efficiency.

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## **ARTICLE 27. WORKERS COMPENSATION**

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### **Section 27.1 Responsibilities**

#### *Section 27.1.1*

The DOL, OWCP administers disability compensation benefits for civilian employees in accordance with the FECA (Chapter 81 of 5 U.S.C.). The Act prescribes civilian employee compensation benefits for disability arising from personal injury or disease sustained while in the performance of duty.

The Act and OWCP procedures under 20 CFR Part 10 also provide for job retention rights, long-term disability situations, and the payment of benefits to dependents if a work-related injury or disease causes an employee's death. The Act and OWCP procedures further set forth responsibilities for both the employing Agency and for employees.

In order for an employee to qualify for benefits, it must be established that injury, illness, or death was directly related to employment, or that a prior injury or illness was accelerated or aggravated in the course of employment. However, employees cannot receive disability compensation benefits if the injury or death is due to willful misconduct, intention to bring about injury or death to oneself or another, or if intoxication is the proximate cause of the injury.

#### *Section 27.1.2*

1. The Agency agrees that when an employee sustains an injury or an alleged acquired illness or exposure in the performance of duties and reports it to the Agency, the supervisor and/or the appropriate Agency official will immediately inform the affected employee of his/ her rights and responsibilities under the FECA. These rights and responsibilities include the following:

- A. The employee's right to file for compensation benefits;

- B. The types of benefits available;
  - C. The written procedure for filing claims at each station or workplace;
  - D. The option to use compensation benefits, if approved, in lieu of sick or annual leave; and
  - E. The option to use Continuation of Pay (COP) for traumatic injuries in lieu of sick, annual leave, or LWOP.
  - F. The employee is responsible for submitting or arranging for submittal of a medical report from the attending physician to the DOC's workers' compensation contractor or other appropriate office. For wage loss benefits, the employee must also submit medical evidence showing that the condition claimed is disabling, and detail any specific work restriction.
  - G. If medical evidence from the treating physician shows that the employee is not totally disabled, the Agency may provide a written offer of a suitable alternative position or the employee's usual position with modifications.
  - H. If the employee refuses a written offer of a suitable alternative position by the Agency, COP will be terminated. If OWCP later determines that the position was not suitable, OWCP will direct the Agency to grant the employee COP retroactive to the termination date.
2. If an employee believes the Agency has mishandled the employee's Workers' Compensation claim, the employee may contact OWCP to register a complaint.

## **Section 27.2 Procedure for Filing Claims for Workers' Compensation Benefits**

- 1. As soon as possible after experiencing a job-related injury or illness, the employee should contact his/her supervisor and seek first aid.
- 2. At that time, the Agency shall provide the employee instructions for electronically filing claims or other documents through OWCP's ECOMP system. In accordance with OWCP requirements, employees will also be provided copies of appropriate forms. Principal OWCP forms are as follows:
  - A. CA-1 is the appropriate form for reporting a traumatic injury. A traumatic injury is a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable by time and place of occurrence and member of the body affected; it must be caused by a specific event or incident, or a series of events or incidents within a single day or work shift. A traumatic injury also includes damage to or destruction of prosthetic devices or appliances.
  - B. CA-2 is the appropriate form for reporting an occupational disease or illness. An occupational

disease is defined as a condition produced in the work environment over a period longer than one workday or shift. It may result from systemic infections, repeated stress or strain, exposure to toxins, poisons, or fumes, or other continuing conditions of the work.

- C. CA-2A is the appropriate form for recording a recurrence of disability. A recurrence of disability is defined as a spontaneous return or increase of disability due to a previous injury or occupational disease without intervening cause, or a return or increase of disability due to a consequential injury.
- D. CA-16 authorizes a physician to provide an initial examination and/or treatment to an employee who has experienced an on-the-job injury. An employee has the initial right to select a physician of his/her choice to provide necessary treatment. The physician must be listed by name on the CA-16. The term 'physician' includes doctors of medicine, surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors within specific limits as defined by 5 U.S.C. 8101(3) and CFR § 10.311.

Whenever possible, the treating physician will be provided a CA-16 (Authorization for Examination and/or Treatment) within four hours after requesting the CA-16. When that is not possible, the Agency may authorize medical treatment by telephone and send the completed form to the medical facility within forty-eight (48) hours. The Agency will provide the employee with information about accessing DOL's online medical provider search tool and will assist the employee in obtaining the list. The fact that a provider is listed in no way constitutes an endorsement of the provider or the provider's services by the Agency.

- E. CA-17 is one of several forms used to report the duty status of the employee. The supervisor must fill out the left-hand portion of the form describing the physical requirements of the position. The physician or practitioner completes the CA 17, Duty Status Report, as appropriate, to provide information such as the date the employee can return to work or any specific restrictions on work the employee will be able to perform.
- F. CA-7 is the form used to claim compensation (wage loss) when the employee cannot return to work after COP ends, or when the employee is not entitled to receive COP and claims compensation for wage loss. CA-7 is filed in occupational exposure or recurrence cases. In injury cases where COP is controverted, form CA-7 may be submitted with form CA-1. CA-7 is also used to claim a schedule award for permanent impairment as a result of traumatic injury.



- G. CA-20 is a Medical Report Form. The CA-20 may be filed when a CA-16 is not issued by the Agency, or along with a CA-7. The Agency will provide form CA-20 to the employee as often as needed.
  - H. The Agency and the employee may each submit additional documentation as needed, including the employee's Position Description (PD), witness statements, or other pertinent information.
3. The appropriate sections of these forms should be filled out by the employee and given to the supervisor as soon as possible, no later than thirty (30) days from the date of the injury or illness. If the employee is incapacitated, this action may be taken by someone acting on behalf of the employee. Supervisory action on CA-1 and CA-2 forms shall be completed within ten (10) working days after the employee completes his/her portion of the form. For all forms, the Agency must complete the appropriate parts of the form(s) and transmit them to the DOL, OWCP within the time limits set out by the DOL.
  4. The Agency will release employee medical records only in accordance with the FECA and OWCP procedures under 20 CFR Part 10.

The Agency will not request that an employee release the employee's medical records or other PII, except to the extent required to adjudicate the employee's claim. Administratively acceptable medical documentation as detailed in Article 46, Leave, Section 46.5.5 may also be required to substantiate that an absence is related to the claim. This release will be specific to the injury/illness claimed.

It is the employee's responsibility to keep his/her immediate supervisor and OWCP fully informed of his/her ability to return to any useful work, of any medical restrictions/limitations imposed by the treating medical provider, as well as any changes in his/her return to work status. If in doubt as to the documentation required, the employee and/or supervisor may contact Agency Workers' Compensation staff.

5. All records relating to claims for benefits filed under FECA are covered by the government-wide Privacy Act system of records (DOL\Govt1) and 20 CFR 10.11.
6. An employee may designate a representative in writing in accordance with OWCP regulations. If the representative is a federal employee, he or she must be a recognized Union official or an immediate family member.

### **Section 27.3 Posting of Employee Rights**

The Agency agrees to post information advising employees of the procedures for filing Workers' Compensation claims. The notice will include, at a minimum, HR office telephone numbers and/or the Agency OWCP specialist's office telephone number for obtaining information/assistance relevant to Workers' Compensation claims.

### **Section 27.4 Election of Benefits Options**

1. Under OWCP regulations, three (3) years from date of injury or three (3) years from the employee's first awareness of an occupational illness is the time limit for initially filing an OWCP claim.
2. It is to the employee's advantage to file a claim immediately after becoming aware of a medical condition that was caused by work.
3. DOL, OWCP (not the Agency) decides if an employee has a compensable injury and the benefits he/she is entitled to under FECA.
4. An employee with a job-related traumatic injury/illness or occupational disease may elect to be placed on sick or annual leave instead of LWOP. It is the employee's responsibility to provide medical documentation to support this claim. If the employee's claim is approved, the employee shall have the option of buying back any leave used and having it reinstated to the employee's account.
5. An employee with a job-related traumatic injury may elect to receive up to forty-five (45) days of COP if the claim is filed within thirty (30) days of the injury. The employee is responsible to ensure that medical evidence supporting disability resulting from the claimed traumatic injury, including a statement as to specific work limitations, is provided to the Agency within ten (10) days after filing the claim for COP. The entitlement to COP is not available to employees who file an occupational disease/illness claim.
6. If the employee's request for COP is disallowed by the DOL, OWCP, any of the forty-five (45) days of COP that were previously granted may be converted to sick leave, annual leave, and/or LWOP as appropriate. The employee shall be responsible for advising the Agency as to which form of leave is/are requested and for completing an SF-71, Application for Leave, or its electronic equivalent.

### **Section 27.5 Placement of Workers' Compensation Claimants**

1. When an employee requests and supports his/her request with appropriate medical information, the Agency will make a serious effort to assign the employee, on a temporary basis, to duties consistent with the employee's medical needs, pending resolution of his/her claim.
2. Where the employee requests and supports his/her request with an approved OWCP claim and appropriate medical information, the Agency will take prompt action with regard to all job related injuries or illnesses so that the employee receives the appropriate benefits expeditiously and is returned to duty as soon as possible. The employee will be informed about his/



her rights and responsibilities related to job-incurred illnesses or injuries.

3. The employee will be provided assignments consistent with his/her qualifications and medical limitations. These assignments must be in writing and may include reduced hours or changing the employee's scheduled tour of duty. Whenever possible, a limited-duty reassignment will be without reduction in pay within the employee's current series or another series where the employee is qualified to perform the duties assigned.
4. An employee who suffers a reduction in pay due to a temporary or permanent disability is eligible to claim compensation from OWCP for the difference between their new wages and their wages on the date of injury.

## **Section 27.6 Permanent Disability**

### *Section 27.6.1 Disability Retirement Counseling*

Employees who are prevented from performing the full range of duties of their position due to a disability are encouraged to seek counseling from an Agency benefits counselor concerning their eligibility for a disability retirement. The Agency will not include any information in a written job offer regarding the election of OPM benefits.

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## **ARTICLE 28. DISCIPLINARY AND ADVERSE ACTIONS**

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### **Section 28.1 Statement of Purpose and Policy**

#### *Section 28.1.1*

The objective of discipline is to correct and improve employee behavior. This Article does not apply to performance-based actions taken under 5 U.S.C. § 4303.

#### *Section 28.1.2*

The concept of progressive discipline, which is designed primarily to correct and improve employee behavior, will guide managers in making decisions regarding discipline. Discipline generally should be preceded by counseling or oral warnings that are informal in nature. However, nothing in this provision interferes with management's right to choose a specific penalty to impose in a disciplinary action if a lesser form of discipline/adverse action would not be appropriate. Counseling and warnings will be conducted privately and in such a manner as to avoid embarrassment to the employee. All bargaining unit employees will be subject to disciplinary or adverse action only for just cause.

#### *Section 28.1.3*

The Agency will administer disciplinary and adverse action procedures and determine appropriate penalties to all employees in a fair, equitable, and consistent manner, dependent upon the individual circumstances of the

case. The deciding official will always be different from the official who proposed a disciplinary or adverse action. Normally the deciding official will be at a higher level of management than the proposing official.

#### *Section 28.1.4*

Upon request, the employee and/or their representative will be provided the information that was used in preparing and issuing a disciplinary action.

## **Section 28.2 Definitions**

The following definitions are used for the purposes of this Article:

1. Administrative leave means an authorized absence from official duties without loss of pay and continued benefits, and without charge to the employee's leave account.
2. Adverse action for purposes of this Article consists of either removal, suspension for more than fourteen (14) days, reduction in grade or pay, or furlough without pay for thirty (30) days or less.
3. Alternative discipline provides a choice or an alternative to traditional discipline usually when the traditional penalty would be less than removal and there has been an admission of misconduct.
4. Disciplinary action for purposes of this Article consists of either a written reprimand, or a suspension for fourteen (14) days or less.
5. Indefinite suspension means placing an employee in a temporary status without duties and pay pending investigation, inquiry, or further Agency action. The indefinite suspension continues for an indeterminate period of time and ends with the occurrence of the pending conditions set forth in the notice of action, which may include the completion of any subsequent administrative action.
6. Progressive discipline is the process of using increasingly severe steps or measures when an employee fails to correct behavior.
7. Removal is an involuntary separation from federal service.
8. Suspension means placing an employee (for disciplinary reasons) in a temporary status without duties and pay.

## **Section 28.3 Inquiries**

### *Section 28.3.1*

Prior to issuing any proposed disciplinary or adverse action, the Agency will conduct an inquiry as appropriate to the alleged offense to determine whether any action is warranted.

### *Section 28.3.2*

Disciplinary inquiries will be conducted fairly and impartially, and reasonable effort will be made to reconcile conflicting information. The Union shall be given the opportunity to be represented at any examination (i.e., investigative questioning) of an employee by a representative of the Agency in connection with an investigation if the employee reasonably believes that the questioning may result in disciplinary action against the employee and the employee requests representation.

## **Section 28.4 Timeliness of Discipline**

If the Agency believes that disciplinary or adverse action is necessary, such action will be initiated in a timely manner.

## **Section 28.5 Alternative Discipline**

The Parties agree that alternative discipline may, under the right circumstances, be a more efficient and effective approach than traditional discipline. As such, supervisors are encouraged to discuss the possibility of using alternative forms of discipline with their servicing HR office when contemplating taking and/or deciding upon disciplinary actions. The Parties may consider and/or propose an alternative form of discipline at any stage during the disciplinary process. If the Agency and the employee and/or his/her representative come to an agreement on an alternative form of discipline, the terms of the alternative discipline will be set forth in a signed resolution/settlement agreement.

## **Section 28.6 Reprimand**

### *Section 28.6.1*

If appropriate discipline is found to be a written reprimand, a letter of reprimand will be issued and a copy placed in the employee's Official Personnel Folder (OPF) for two (2) years. Records of written reprimand may be removed from the OPF after one (1) year upon written request by the employee to the servicing Employee Relations office.

### *Section 28.6.2*

The letter of reprimand will inform the employee of his/her rights under the negotiated grievance procedure.

### *Section 28.6.3*

In consideration of an appropriate penalty, written reprimands older than three (3) years will not be considered as prior offenses in progressive discipline.

## **Section 28.7 Suspensions of Fourteen (14) Days or Less**

### *Section 28.7.1*

In the case of a proposed suspension for fourteen (14) days or less, an employee is entitled to the following:

1. An advance written notice stating the specific reasons for the proposed action;
2. Ten (10) business days to respond orally and/or in writing; and to furnish affidavits and other documentary evidence in support of the response;
3. Be represented by an attorney or other representative;
4. If already in a duty status, a reasonable amount of duty time to prepare and present an oral and/or written response to the proposal; and
5. After considering the employee's response, if any, a written decision containing the specific reasons for the action.

## **Section 28.8 Removal, Suspension for More Than Fourteen (14) Days, Reduction-in-Grade, Reduction-in-Pay, or Furlough of Thirty (30) Days or Less**

### *Section 28.8.1*

In the case of a proposed suspension for more than fourteen (14) days, removal, or reduction-in-grade or pay, an employee is entitled to the following:

1. Advance written notice of thirty (30) days stating the specific reasons for the proposed action;
2. Ten (10) business days to respond orally and/or in writing, and to furnish affidavits and other documentary evidence in support of the response;
3. Be represented by an attorney or other representative;
4. If already in a duty status, a reasonable amount of duty time to prepare and present a response to the proposal; and
5. After considering the employee's response, if any, a written decision containing the specific reasons for the action.

## **Section 28.9 Additional Charges**

If the Agency wishes to add additional charges between the time it proposes disciplinary/adverse action and when a decision is issued, the Agency will rescind the original proposal and issue a new one, including the new charges, thus restarting the process over.

## **Section 28.10 Crime Provision**

The Agency may provide a notice period shorter than what is provided for under this Article when the Agency has reasonable cause to believe that the employee has committed a crime where a sentence of imprisonment may be imposed and the Agency is proposing a removal or a suspension, including an indefinite suspension.

## **Section 28.11 Administrative Leave**

When the circumstances require that the employee be banned from the worksite, the Agency may place the

employee in a nonduty status with pay for such time as is necessary to effect the proposed action.

### **Section 28.12 Requests for Time Extensions on Proposals**

The Agency will not deny a reasonable request for extension of the time to respond to proposals.

### **Section 28.13 Medical Condition**

An employee who wishes consideration of any medical condition shall be given a reasonable amount of time to furnish medical documentation as defined in 5 CFR 339.104.

### **Section 28.14 Off-Duty Misconduct**

In cases where a disciplinary or adverse action is proposed for reasons of off-duty misconduct, the Agency's written notification provided for in Sections 28.7 and 28.8 of this Article will address the relationship (nexus) between the off-duty misconduct and the efficiency of the service in accordance with applicable law.

### **Section 28.15 Agency Decision**

#### *Section 28.15.1*

In arriving at its written decision on any proposed disciplinary or adverse action, the Agency shall not consider any reasons for action other than those specified in the notice of proposed action. It shall consider any answer that the employee and/or his or her representative made to a designated official, any medical documentation furnished, and all the information gathered in any investigation.

The Agency shall also consider appropriate and relevant mitigating and aggravating factors, such as those enumerated by the MSBP in cases such as Curtis Douglas, et al. vs. Veterans Administration, 5 MSPR 280 (1981). If the imposed penalty is less severe than proposed, the decision will address the reasons the penalty was mitigated.

#### *Section 28.15.2*

If the decision is to effect an action specified in Sections 28.7 or 28.8 of this Article, it will specify the reason the action is being taken, the action to be taken, the effective date of that action, and the employee's appeal rights regarding the decision.

#### *Section 28.15.3*

If the employee does not have a designated representative, a second copy of the decision letter labeled "Optional Copy for Representative" and any associated attachments will be provided to the employee. A copy of the decision letter and any attachments will be provided directly to the representative in cases where the employee has designated a representative in writing.

### **Section 28.16 Appeal Rights**

#### *Section 28.16.1*

A decision to take an action specified in Sections 28.6, 28.7, and 28.8 of this Article may be grieved under Article 12, Negotiated Grievance Procedure.

#### *Section 28.16.2*

The employee may appeal the decision to take an action addressed in Section 28.8 of this Article either to the MSPB or under the provisions of Article 12, Negotiated Grievance Procedure, but not both. The decision letter will specify the time frame by which an appeal to MSPB must be filed, have an attached appropriate appeal form, and a copy of the MSPB's regulations regarding appeals of adverse actions.

#### *Section 28.16.3*

The choice of the appeal forum is irrevocable. An employee shall be deemed to have exercised his/her option at such time as the employee timely initiates an appeal to the MSPB, or timely files a written grievance, whichever occurs first.

### **Section 28.17 Last Chance Agreements**

#### *Section 28.17.1*

"Last Chance Agreements" refer to situations where the Agency agrees to forgo taking a proposed disciplinary or adverse action against an employee in exchange for the employee agreeing to conform to certain conduct expectations for a set period of time. If the employee does not meet his or her obligation under the agreement, then the Agency is free to reinstate the proposed disciplinary or adverse action.

#### *Section 28.17.2*

Prior to offering an employee a "Last Chance Agreement," the Union will be notified and given an opportunity to be present at any meeting where the employee is offered such an agreement.

#### *Section 28.18 Notice to Union*

On an annual basis, upon request from the Union, the Agency will provide a report of, actions taken involving bargaining unit employees according to Sections 28.7 and 28.8 of this Article.

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## **ARTICLE 29. UNIFORMS**

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### **Section 29.1 General Provisions**

The Agency determines the categories of employees that require the wearing of uniforms in the performance of their duties, as well as basic uniform requirements.

In accordance with 5 CFR 591 Subpart A, the Agency agrees to provide an allowance to the employee or furnish uniforms at no cost to the employee.

### **Section 29.2 Furnishing Uniforms**

1. All uniforms and required supplemental clothing will be provided to employees who are required to wear them.
  - A. When using a commercial uniform service, the service will include furnishing, maintaining/repairing, and cleaning uniforms.
  - B. Employees who are required to wear uniforms will be provided shirts, pants or shorts, and a jacket for employees who are required to work outside. Initially, employees will be provided a sufficient number of uniforms to sustain employment for two (2) weeks.
  - C. If required, supplemental clothing, may include, but is not limited to, rubber boots, rain gear, cover-alls, and heavy outerwear.
  - D. Uniforms are the property of the contractor and must be returned to the Agency when the employee leaves the position.
2. Where personal protective equipment (including safety shoes) is required as outlined in applicable regulations, Article 26, Occupational Safety, Health, and Wellness, and this Article, the Agency will be responsible for providing that equipment at no cost to the employee. Additional replacement needs of safety shoes and/or equipment will be determined on a case-by-case basis.
3. If an employee is required to wear a prescribed uniform in accordance with 5 CFR 591.102, the employee must wear the full uniform in the performance of duties.
4. Employees will not be subject to any negative action as a result of failure to comply with the uniform policy due to circumstances outside the employee's control, such as when the uniform service fails to deliver uniforms in the proper size, proper condition, or in a timely manner.
5. The required uniform may be supplemented with additional clothing during cold/inclement weather in accordance with Article 31, Dress Code.

### **Section 29.3 Uniform Allowance (Nurses)**

1. The uniform allowance, if provided, will be no less than the \$500 or no more than the maximum amount allowed by OPM, and in accordance with 5 CFR 591 Subpart A, to employees who are required to wear prescribed uniforms in the performance of their duties. This allowance will be used for the purchase and maintenance of the uniform including appropriate shoes. This annual allotment will be paid on a quarterly basis.

2. If an allowance is provided, newly selected employees for the positions will receive an initial allotment of 50 percent of the annual allotment. The remaining amount will be provided in the last two (2) quarters of the year. The employees will normally receive an allowance from the Agency within thirty (30) days of the effective date of their assignment.

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## **ARTICLE 30. PARKING**

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### **Section 30.1**

Where there is government-controlled parking, employees shall be provided free parking in the Agency's controlled lots or parking garages for the life of this Agreement. If there is to be a change in any of the provisions of this Article, the Agency must provide the Union with notification of the proposed change in accordance with Article 16, Mid-Term Bargaining.

The Agency will continue to provide parking consistent with current lease agreements at nongovernment-controlled facilities.

### **Section 30.2**

Where there is government-controlled parking, properly marked handicap spaces will be provided in accordance with applicable law and regulation.

### **Section 30.3**

The Agency will provide reserved spaces for use by the Union as set forth in Section 30.3.1. Upon notice from the Union, the Agency will notify owners of unauthorized vehicles using these spaces that they must move their vehicles. Appropriate action may be taken if the vehicles are not promptly removed.

### **Section 30.4 Allocations of Controlled Parking Spaces to the Union**

HQ—Three (3) designated parking spaces will be provided in front of or within close proximity to the HQ building.

Jeffersonville—The Agency will provide two (2) reserved parking spaces located near the Union office. Upon request from the Union, the Agency will provide official parking hangtags to the local Union President to accommodate current Union officials when conducting representational activities.

### **Section 30.5 Jeffersonville Reserved Parking**

For informational purposes, reserved parking spaces will be provided as follows:

1. Health Unit;

2. Visitor's spot for Health Unit in Building 63E and 60E for employees driving from other buildings;
3. Disabled employees;
4. Division Chief, Assistant Division Chiefs, Branch Chiefs, or equivalent grade level;
5. Carpool parking;
6. Congressional Offices, government vehicles, contractors, and security vehicles;
7. A limited number of additional spaces to be assigned to employees who frequently use their automobiles in connection with the work of NPC; and
8. Credit Union Manager.

The Agency will periodically review reserved parking assignments and modify as necessary. Remaining spaces will constitute general parking spaces and are utilized on a first-come, first-serve basis. A list of reserved parking spaces will be furnished to the Union.

### **Section 30.6 Security**

All Agency locations covered by this Agreement will provide safe and secure parking areas that comply with all federal regulations governing the security of parking areas.

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## **ARTICLE 31. DRESS CODE**

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1. The Agency expects employees, as representatives of the federal government, to maintain a neat, clean, business-like appearance and manner during working hours. Clothing and behavior must be appropriate to the conduct of government business. Accordingly, all manner of dress must be safe, dignified, and shall avoid anything that tends to result in criticism or creates controversy among employees.
2. Acceptable and Consistent Dress
  - A. Appropriate shirts, blouses, slacks, trousers, jeans, and dress shorts, skirts, and dresses of suitable length may be worn in all work areas consistent with the work being done and the work environment.
  - B. Appropriate footwear consistent with the work being performed and the work environment should be worn in the work areas at all times.
3. Should a supervisor or employee have questions regarding consistency and/or appropriateness of dress, he/she should consult with their servicing Employee Relations Office staff.
4. Notice of Inappropriate Dress
 

The following kinds of apparel/manner of dress (though not all-inclusive) are not business-like, nor appropriate and are prohibited:

- A. "See-through" shirts, blouses, jerseys, or similar garments without appropriate undergarments
- B. Pajamas, or other nightwear
- C. Halter tops, tube tops, midriff tops, muscle shirts, swim wear, and other abbreviated and/or revealing attire
- D. Cut-offs, short-shorts, jogging shorts, spandex shorts, and other abbreviated and/or revealing attire
- E. Any garment with excessive holes, wrinkles, stains, dirt, or is cut-off, ripped, or frayed
- F. Any garment with slogans, pictures, or language that may be offensive, profane, obscene, sexually suggestive, or advocate the use of alcohol, drugs, or unlawful conduct
- G. Any garment that displays partisan political messages
- H. Beach/shower footwear

In all cases, the supervisor shall inform an employee if his/her attire is unacceptable for the work area. The employee will be given an opportunity to request annual leave, LWOP, or take other suitable steps to conform to this policy. Employees who dress inappropriately may be subject to counseling or administrative action. Supervisors are to enforce this policy consistently and equitably.

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## **ARTICLE 32. TRAINING**

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### **Section 32.1 General Provisions**

The Agency and the Union agree that the training and development of employees is of critical importance in carrying out the mission of the Agency. In recognition of this, the Agency will provide training and career development opportunities to employees of the bargaining unit, as appropriate. The Agency is responsible for ensuring that all employees receive the training necessary for the performance of their assigned duties. Employee training and development will be administered in accordance with all applicable laws, regulations, including 5 U.S.C. 4101, 4121, 5 CFR parts 410-412, and the provisions of this Agreement.

### **Section 32.2 Training Costs**

#### *Section 32.2.1*

The Agency will pay all expenses including tuition and travel in connection with training required by the Agency to perform the duties of an employee's current position or a position to which an employee has been assigned.



### *Section 32.2.2*

The Agency may also pay reasonable expenses for approved work-related training that may:

1. Improve an employee's ability to perform his/her current job or a job the employee has been selected to fill through merit promotion.
2. Increase an employee's knowledge or skills in connection with career growth or future advancement opportunities.

### *Section 32.2.3*

If attendance is approved, the Agency may pay employees' expenses for attending conferences and meetings authorized by 5 U.S.C. Section 4110 when the criteria of 5 CFR 410 are met.

### *Section 32.2.4*

To the extent the Agency has established (or establishes in the future) a condition of employment that employees must be members of particular professional societies or organizations, the Agency will reimburse employees for their dues, subject to the availability of funds and as authorized by applicable laws and regulations.

### *Section 32.2.5*

Training is subject to funding availability and supervisory approval. When resources for the training are limited, approval for training funds will be based on fair criteria that are equitably applied. Upon request, the Union will be provided with information regarding resources for training in accordance with Article 6, Union Rights, Section 6.8, Right to Information.

## **Section 32.3 Training Programs**

The Agency will notify employees of the availability of training or developmental programs, the general description of the program, the criteria for approval, and the nomination or application procedures. Programs may include, but are not limited to the following:

1. Job-related courses directly related to the employees' current job duties or to skills that employees may need in the future to perform the job.
2. Leadership development programs: provide participants with the common knowledge and skills to compete for future leadership positions.
3. Management trainee programs: designed for creating future managers through developmental course work and rotational assignments.
4. E-learning: Internet-based learning tool covering a wide range of educational, developmental, and workplace specific topics.
5. Brown bag/lunch and learn: lunchtime forums to educate and/or inform employees on a variety of topics

using in-house or external resources, such local colleges or universities.

6. Tuition assistance: payment for specific college courses in areas of study identified by the Agency and taken from an accredited college.

## **Section 32.4 Career Development**

An Individual Development Plan (IDP) is a flexible document jointly and voluntarily developed between the supervisor or other Agency-designated management official and the employee to be used as a roadmap for the employee's professional and career development. The primary emphasis of the plans will be:

1. To address the competencies (or knowledge, skills, and abilities) needed by the employee in his/her current position;
2. To help prepare employees for new career opportunities; and
3. To address the competencies needed to compete for advancement beyond his/her current promotion potential.

Each plan shall establish objectives and identify the responsibilities of each party in striving to realize the goals. IDPs should be aligned with the overall mission of the Agency or individual operating unit.

### *Section 32.4.1*

Each employee will be entitled to establish an IDP to guide his or her career development. Upon request, the supervisor or other Agency designated management official will assist the employee in the preparation of the IDP and will review it with the employee to ensure that the plan conforms to organizational and individual career needs. Employees may seek assistance from career counselors, IDP coordinators, employee development specialists, and others who may provide advice and assistance in the preparation of the plan.

### *Section 32.4.2*

Employees will not be penalized in any manner, including during the performance evaluation process, for not completing an IDP.

## **Section 32.5 Specific Contact Center Training**

### *Section 32.5.1*

All telephone interviewers will have the opportunity to sign up for survey/project training. When training is offered to current employees for a survey/project, a sign-up sheet will be posted for volunteers. For ongoing surveys (i.e., American Community Survey, Telephone Point of Purchase Survey, Current Population Survey) a sign-up sheet will be maintained at all times.



### *Section 32.5.2*

A notice regarding the posting of sign-up sheets will be posted on official bulletin boards, electronic messaging systems, and any other media where gaps in announcement information coverage are identified. The sign-up sheet will be located in a common area of the facility convenient for all employees.

Training opportunity sign-up sheets normally will be posted no less than ten (10) days prior to the training date. For nonongoing surveys (i.e. MPS, National Survey of College Graduates, etc.), the Agency will attempt to contact employees on leave or who are unscheduled to notify them of training opportunities.

### *Section 32.5.3*

Trainee selections will be made taking into consideration employee schedule preferences, availability, current work needs, sponsor requirements, rating of record of level three (3) or greater, employee qualification skills, and seating capacity. If the number of eligible volunteers exceeds the number of training slots available, the decision will be made based on Entrance on Duty (EOD), with the most senior being selected first.

To the extent practicable, opportunities for training for projects/surveys will first be made available for current employees who meet the criteria for that opportunity.

### *Section 32.5.4*

Survey refresher training will take place as needed and with approval of the sponsor. Survey specific, as well as refresher training will normally be conducted during non-peak work cycles. In addition, the most current training materials will be made readily available to all employees.

### *Section 32.5.5*

Make-up training opportunities will be offered within thirty (30) days of the initial opportunity and in the same format as the initial training. Where this is not possible, make-up training information may be provided in an alternate electronic or hard copy format with provisions for completion certification.

### *Section 32.5.6*

When employees complete training opportunities for a specific project, the Agency will consider utilizing those employees on that project within a reasonable amount of time.

### *Section 32.5.7*

The Agency agrees to consider an employee's request to decline selection for a training opportunity. This does not preclude the employee from receiving the same or other offers of training.

### *Section 32.5.8*

Records related to training will be made available to the Union, upon request, in accordance with Article 6, Union Rights, Section 6.8, Right to Information.

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## **ARTICLE 33. PERFORMANCE MANAGEMENT SYSTEM**

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### **Section 33.1 Overview**

#### *Section 33.1.1*

Performance Management is the systematic process where the Agency involves its employees, as individuals and members of a group, in improving organizational effectiveness in the accomplishment of Agency and goals per 5 CFR 430.102 (a).

#### *Section 33.1.2 Legal Requirements and Authority*

This Article implements provisions of 5 CFR 430, 5 U.S.C. Chapter 43, Department Administrative Order 202-430, and other applicable laws, rules, and regulations.

#### *Section 33.1.3 Training and Information*

The Agency is responsible for communicating the purpose and procedures of the General Workforce Performance Management System by establishing appropriate training and orientation programs. These programs must emphasize performance plan development; supervisory and management responsibility for carrying out the program; and the linkage between ratings, employee recognition, and other personnel decisions. The Agency agrees to provide information on the General Workforce Performance Management System to employees.

### **Section 33.2 Definitions for the General Workforce Performance Management System**

Acceptable Performance is performance that meets the acceptable level of performance for the Department's 5-level rating scale.

Agency ("The Employer") is the U.S. Census Bureau.

Appraisal is the act or process of evaluating the performance of an employee against the prescribed performance standard(s).

Appraisal Cycle is a one- (1-) year period established by the Agency's System where an employee's performance will normally be reviewed.

Approving Official is normally the supervisor who assigns, controls, and is responsible for the work of the rating official, usually the rating official's immediate supervisor. However, operating units or departmental offices may

designate a higher level official in the management chain as the approving official provided this designation does not conflict with any other provision of this document. The approving official is responsible for approving the final rating.

Critical Element is a component of an employee's position consisting of one (1) or more duties and responsibilities that contributes toward accomplishing the Agency's organizational goals and objectives, which are of such importance that unacceptable performance on the element would result in unacceptable performance in the position.

Generic Performance Standards are performance standards that can be applied to all employees covered by a 5-level System.

Interim Rating is a rating that should be prepared during the course of an appraisal cycle when an employee has spent the minimum appraisal period one hundred twenty (120 days) in a covered position and then changes to another position. This may happen more than once during the appraisal cycle.

Major Activity is a task, duty, or project that needs to be accomplished in support of a critical element.

Meritorious Step Increase is an increase in a foreign-service employee's rate of basic pay from one (1) step of his/her position to the next higher of the grade. Only an employee who receives a rating of record at Level (5) or equivalent is eligible.

Minimum Appraisal Period is the minimum length of time an employee must perform under a performance plan prior to being appraised. The minimum appraisal period is one hundred twenty (120) days.

Opportunity to Demonstrate Acceptable Performance is a reasonable time period within which an employee, whose performance has been determined to be at Level (1) in one (1) or more critical elements, has an opportunity to demonstrate performance at a level above Level (1).

Performance is an employee's accomplishment of assigned work as specified in the critical elements and as measured against standards of the employee's position.

Performance Award is a one-time cash payment to recognize the contributions of an employee and is based on the rating of record. A performance award does not increase base pay.

Performance Improvement Plans (PIP) are developed for employees at any point in the appraisal cycle when performance becomes Level (1) (unacceptable) in one (1) or more critical elements. This plan affords an employee the opportunity to demonstrate acceptable performance and it is developed with specific guidance provided by a servicing HR office.

Performance Management is the integrated process where the Agency involves its employees in improving

the Agency's organizational effectiveness in the accomplishment of its mission and strategic goals. Performance Management consists of performance planning, monitoring employee performance, employee development, evaluating employee performance, and recognition.

Performance Plans are the documentation of performance expectations communicated to employees from supervisors. Performance plans define the critical elements and the performance standards by which an employee's performance will be evaluated.

Performance Standards are statements of the expectations or requirements established by management for a critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance.

Preappraisal Meeting is a meeting, although not mandatory, which may be requested by an employee prior to the formal appraisal meeting with the rating official. During this meeting, the employee may do the following:

- A. Present an assessment of his/her performance during the appraisal cycle;
- B. Cover aspects of his/her work of which the rating official may not be aware; and
- C. Identify what he or she would like to include in the next cycle's performance plan.

Progress Review is a formal feedback session where the rating official and employee discuss the employee's progress toward meeting the elements in his/her performance plan; the need for any changes to the performance plan; and any performance deficiencies the supervisor has noted.

Quality Step Increase is an increase in the GS employee's rate of basic pay from one (1) step of his/her position to the next higher step of the grade. Only an employee who receives a rating of record at Level (5) is eligible.

Rating is the written record of the appraisal of the employee's performance in each critical element and the assignment of a summary rating level.

Rating Official is the person responsible for informing the employee of the critical elements of his/her position, establishing performance standards, providing feedback, appraising performance, and recommending the rating.

Required Performance Elements are performance elements that apply to all employees in an organization. Customer Service is a required element for all employees. An additional element, Leadership, is required for all managers and supervisors.

Summary Rating (or Rating of Record) is the overall rating for the most recent appraisal cycle. This rating is established by combining the individual ratings on each element to arrive at an overall evaluation of an employee's performance for an appraisal cycle.

Supplemental Performance Standards are used to define performance in terms of results (e.g., what is to be accomplished) and the process (e.g., how it is to be accomplished). Supplemental standards are expressed in terms of quality, quantity, timeliness, cost effectiveness, or other relevant measures, rather than tasks or specific duties.

Unacceptable Performance is performance that fails to meet the established performance standards in one or more critical elements of an employee's position. It is referred to as a Level (1) rating on the Agency's 5-level rating scale.

Within-Grade Increase (WGI) is a periodic increase in an employee's rate of basic pay from one (1) step of the grade of his/her position to the next step of that grade.

### *Section 33.3 Objectives*

The Agency's General Workforce Performance Management System serves as the basis for the following:

1. Establishing critical elements and related performance standards for each covered position to the maximum extent feasible, permits the accurate evaluation of job performance on the basis of objective criteria related to the position;
2. Using performance plans to communicate the Agency's organizational goals and objectives as they relate to the actual work of individuals; reinforce individual accountability for meeting the work requirements of the Agency; and track and evaluate individual performance results and organizational performance results;
3. Using performance appraisal results as a basis for providing information to employees on their performance and how it may be improved; and other personnel management actions including training, rewarding, reassigning, promoting, reducing in grade, retaining, granting within-grade increases, and removing employees; and
4. Evaluating and improving individual and organizational accomplishments.

### **Section 33.4 Coverage**

1. The system applies to all employees covered by this Agreement.
2. An employee who is serving on a detail continues to occupy the position from where he/she was detailed. General workforce employees detailed to Program Management Recognition System (PMRS) positions continue to be covered by the General Workforce Performance Management System during the term of the detail. General workforce employees temporarily promoted to PMRS positions are covered by the PMRS system for the period of their temporary promotion.

General workforce employees whose service is temporarily interrupted by service in any federally sponsored program (e.g., Intergovernmental Personnel Act/IPA) that calls for the employee's return to the same or like

position continues to be covered by the General Workforce Performance Management System while on the federally sponsored assignment.

### **Section 33.5 Responsibilities of Management Officials**

Specific roles and responsibilities as determined by the Agency for the Servicing HR Office, Management officials, Rating officials, and Approving officials can be located within DAO 202-430 and the Performance Management Handbook.

Violations of DAO 202-430 and this Agreement are grievable unless otherwise excluded by Article 12, Negotiated Grievance Procedure, or by law, rule, or regulation.

#### *Section 33.5.1*

The Head of the U.S. Census Bureau, DOC, or his/her designee will:

1. Ensure that the operating unit instructions on the System are consistent with current laws, applicable OPM rules and regulations, Departmental policies, and this Agreement;
2. Ensure managers and supervisors will be provided with training and guidance covering their duties and responsibilities;
3. Ensure that covered employees are informed of their rights and responsibilities under the system;
4. Ensure managers and supervisors will be provided with clear instructions on procedures for developing performance plans;
5. Communicate, in writing, the Agency's overall missions, objectives, organizational strategic goals, and plans to all levels within the organization, and ensure alignment of individual performance plans with the Agency's organizational goals, as they relate to the actual work of the Agency;
6. Ensure the opportunity exists for employee participation in the development of performance plans;
7. Ensure that performance appraisal results are used by managers and supervisors in making personnel decisions regarding training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;
8. Ensure managers and supervisors meet appraisal deadlines and responsibilities;
9. Encourage employee recognition to reward and motivate employees;
10. Monitor and evaluate the effectiveness of the program and take corrective action as warranted; and
11. Ensure the maintenance of appropriate records and submit required data and reports on the operation of the System.

*Section 33.5.2 Approving Officials Will:*

1. Review elements and standards in place in their organizations to ensure that they are integrated into the total management process and are consistent with overall organizational objectives;
2. Review, sign, approve, and date performance plans when developed to ensure equity and consistency within their organizations;
3. Resolve conflicts between rating officials and employees over the content of performance plans;
4. Review performance plans and final ratings to ensure that evaluation criteria are objective and job-related, and that actual accomplishments or deficiencies identified by the rating official support the rating, including documenting reasons for changing ratings;
5. Sign and date final performance ratings; and
6. Approve/recommend performance-related personnel actions, including awards.

*Section 33.5.3 Rating Officials (Supervisors) of General Workforce Employees Will:*

1. Inform employees of the Agency's mission and organizational strategic goals, plans, and activities of the work unit and inform employees of their duties and responsibilities;
2. Encourage employee participation in developing performance plans;
3. Provide employees with written performance plans that identify the critical elements and performance standards related to their specific duties, responsibilities, and expected levels of performance;
4. Collect data and information, and engage in ongoing dialogue with employees in an effort to ensure performance plan requirements are being met;
5. Conduct and document at least two (2) formal progress reviews (normally in February and June) during the appraisal period, additional reviews as needed, and provide written feedback to employees;
6. Modify performance plans as necessary;
7. Participate in the preappraisal meeting, if one is requested by the employee;
8. Complete appraisals, which includes determining and evaluating employees' actual performance;
9. Confer with approving officials about their organization's performance and about the ratings they plan to assign their employees, and get the approving official's approval before discussing those ratings with employees;
10. Document instances of unacceptable performance, such as missed deadlines or poor quality work products;

11. Determine ratings for employees and discuss the final appraisal with the employee;
12. Sign and date performance plans, initial and date progress reviews and performance summary ratings;
13. Provide employees with a copy of the rating of record at the end of the appraisal cycle;
14. Recommend personnel actions (including awards), performance-based actions, and/or training based on employee performance in relation to performance standards; and
15. Submit the ratings assigned to each employee within thirty (30) days of the end of the appraisal cycle to the servicing HR office for entry into the automated employee record.

*Section 33.5.4 The Servicing Human Resources Office Will:*

1. Communicate to all employees the purpose and procedures of the appraisal system and its relationship to overall personnel management;
2. Provide instructions to rating officials on how to develop critical elements and performance standards;
3. Ensure that critical elements are linked to organizational goals and objectives;
4. Provide managers and supervisors with periodic updates covering their duties and responsibilities under the 5-Level Performance Management System;
5. Provide training or orientation on the performance appraisal system for employees who are responsible for, or subject to, the System;
6. Coordinate and submit required reports;
7. Monitor, evaluate, and administer the 5-Level Performance Management System; and
8. Provide advice and assistance on the system when requested or needed.

**Section 33.6 Responsibilities of General Workforce Employees**

Employees will:

1. Be provided the opportunity to participate in developing performance plans with rating officials;
2. Perform duties and responsibilities in accordance with performance plans and position descriptions;
3. Be provided an opportunity to document accomplishments against performance standards for both the progress reviews and the final appraisals;
4. Participate in a scheduled progress review(s) and request additional review(s), as necessary;
5. Participate in the performance appraisal process with the rating official (including scheduling a preappraisal meeting if they wish);



6. Sign and date their performance plan, initial and date progress review(s) and performance summary ratings to acknowledge receipt (If the employee refuses to sign, the rating official will annotate in the employee signature block and date on the document.);
7. Prepare written comments if desired; and
8. Personally identify and request developmental opportunities/training to enhance performance.
8. In these situations or if no interim rating exists, the time remaining in the current cycle (from the date he or she signed or refused to sign the performance management record through the end of the appraisal cycle) will be incorporated into the next appraisal cycle and his or her work for that period will be evaluated at the end of the next cycle. The employee's performance plan should reflect those dates.
9. Appraisals and annual ratings of record must be completed within thirty (30) days of the end of the appraisal cycle.

### **Section 33.7 Timetable of Performance Management Activities**

1. Employees covered by this system are normally appraised annually under the following fixed appraisal cycle: October 1–September 30.
2. The minimum performance appraisal period is one hundred twenty (120) days for full-time and part-time work schedules. When an adjustment to the minimum appraisal period is needed due to an employee who is in a nonpay status for part of the appraisal cycle (e.g., LWOP, intermittent work schedules, re-employed annuitants), eighty (80) workdays are used.
3. Rating officials will strive to establish and approve performance plans within thirty (30) days of the beginning of the appraisal cycle, but in no event longer than sixty (60) days from the beginning of the appraisal cycle.
4. When an employee enters a position or changes positions after the start of the annual appraisal cycle, a performance plan will be established and approved within thirty (30) days of the effective date of the appointment to the new position, but in no event longer than sixty (60) days from the date that the employee enters the position.
5. When an employee is detailed or temporarily promoted to a position within the Agency and is expected to serve in the position for one hundred twenty (120) days or longer, an approved performance plan will be established and approved within thirty (30) days from the beginning of a detail or temporary promotion, but in no event longer than sixty (60) days from the beginning of the detail or temporary promotion.
6. Interim summary ratings are required when an employee changes positions after serving in a covered position for at least one hundred twenty (120) days, or when an employee serves on a detail or temporary promotion within the Agency of at least one hundred twenty (120) days during the appraisal cycle. The interim rating must be completed within thirty (30) days of the change of position, end of the detail, or temporary promotion.
7. When a covered employee has not served one hundred twenty (120) days of the appraisal cycle in his/her current position of record, the employee's interim rating (if one exists) becomes his/her final rating of record for the appraisal cycle (see Section 33.18.1 of this Article).

10. Newly hired employees who enter a position between June 4 and September 30 are unrateable at the end of the rating cycle as they have not served in a covered position for at least one hundred twenty (120) days. These employees must be rated within thirty (30) days after completing one hundred twenty (120) days in their position.
11. Ratings of record for employees are effective on the last day of the appraisal cycle (September 30) each year. For those employees who enter into a covered position within the last one hundred twenty (120) days of the appraisal cycle (see h. above), the rating of record is effective the first day of the first pay period after the employee completes one hundred twenty (120) days in the new position.

### **Section 33.8 Performance Appraisal Process**

The appraisal process involves three distinct stages: performance planning, progress review, and appraisal. Unless unrateable, each covered employee must receive a rating annually. The appraisal process is used to communicate the Agency's organizational strategic goals as they relate to the actual work of individuals, reinforce individual employee accountability for meeting the work requirements of the Agency, and track and evaluate individual and organizational results. In evaluating their performance, no employee will be responsible for matters beyond his/her control.

### **Section 33.9 Performance Planning**

Approximately four (4) weeks before the start of the appraisal cycle, rating officials (supervisors) and employees should begin developing written performance plans for the next appraisal cycle. The process should involve both the rating official and the employee. Performance plans must be recorded on form CD-430, "Performance Management Record." Performance plans must be completed and signed by the rating official, approving official, and employee at the beginning of the appraisal cycle, within thirty (30) days, but in no event longer than sixty (60) days from the beginning of the appraisal cycle. Management will provide a copy of the signed performance plan to the employee. If the rating official is not the same person as the supervisor or if there are any changes, the employee may request clarification.



## Section 33.10 Performance Plans

Performance plans must include:

1. Critical elements, which reflect the employee's major duties and responsibilities, and which are consistent with current job assignments and with the level of duties described in the employee's position description. (Noncritical elements are not permitted.)

Organizational objectives are included in performance plans by incorporating objectives, goals, program plans; work plans, or by other similar means that account for program results. Elements may be drawn from a number of sources including mission and functional statements, position descriptions, planning documents, operating budget justifications, and affirmative action plans.

Elements must include only those aspects of the work over which the employee has control. An objective, specifying the overall result each element is expected to accomplish, along with the major activities the employee must undertake to accomplish each element, must be communicated in writing in the employee's performance plan.

2. Weights must be assigned to each element based on its importance and significance of that task/program/project within the framework of the Agency's organizational goals as they relate to the actual work of individuals. The total weight for all critical elements must equal 100 percent with no element weighted less than 15 percent. Assigning weights to the major activities listed under an element is not permitted.
3. Performance standards must be used to evaluate levels of accomplishment for critical elements. The generic performance standards (GPS) contained in Appendix A of the CD-430 are defined at each of the five (5) required rating levels and must be used to evaluate the performance of all employees covered by this system.

Supplemental standards will be developed for each critical element. Specific quantitative, timeliness, cost effectiveness, and/or qualitative standards (if they apply to a particular critical element and if they will be used to evaluate an employee's performance) should be included as supplemental standards. If these standards are specified in operational manuals or other documents made available to the employee, those documents may simply be referenced in the performance plan.

Supplemental standards should define performance in terms of results of what is to be accomplished and how it is to be accomplished. (The results may already be expressed under the major activities listing. In such a case, they do not need to be repeated as standards since they are already specified for the employee.)

Supplemental standards need be written only at Level (3) because the GPS are written at all five (5) performance

levels and refer generically to different levels of quality, timeliness, quantity, and cost-effectiveness.

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.

## Section 33.11 Resolving Disagreement of the Performance Plan

If a rating official and covered employee disagree on the contents of the performance plan, the rating official and employee should attempt to resolve the disagreement through discussion. Management retains the right to make the final decision regarding the contents of the performance plan. The contents of the performance plan may not be grieved. However, the rating, which represents the application of standards and elements, can be challenged using the procedures in Section 33.16 of this Article.

## Section 33.12 Factors in Developing Performance Plans

When developing performance plans, the following factors should be considered:

1. Criticality/Relevance. Have appropriate critical elements been identified? Are the elements derived from the overall mission of the work unit?
2. Comprehensiveness. Does the performance plan cover all of the employee's major duties and responsibilities?
3. Clarity. Are critical elements and performance standards clearly and fully described?
4. Quantification. Can achievements be measured with the standards identified?
5. Consistency. Are performance plans for similar positions comparable in all-important aspects?

## Section 33.13 Movement From One Covered Position to Another

When an employee enters a covered position or is reassigned from one covered position to another after the start of the appraisal cycle, and when an employee serves on a detail of one hundred twenty (120) days or more, a performance plan must be established and approved for the employee, following the guidelines in this Article.

## Section 33.14 Progress Reviews

1. At a minimum, rating officials must conduct at least two (2) formal progress reviews with their employees (normally in February and June). Covered employees may also request (or rating officials may schedule) additional progress reviews.

The progress review must include discussion of the following:

- A. The employee's progress toward meeting the elements included in his or her performance plan and how that progress is measured against the achievement of the Agency's organizational goals as they relate to the actual work of individuals;
  - B. The identification of any performance deficiencies and recommendations on how to improve them by the rating official; and
  - C. The need for changes in the performance plan based on changes in responsibilities, and a discussion of developmental/training goals or objectives. A rating official must submit any recommended changes in performance plans in writing to the approving official and gain his/her approval of the change. Those changes must then be signed and dated by both officials and attached to the performance plan.
2. There must be a record of the progress review. Both the rating official and employee should date and initial the performance plan to indicate the review took place.
  3. Progress reviews should also be scheduled and conducted for employees who enter covered positions after the start of the appraisal cycle. These progress reviews should be completed near the midpoint of the shortened appraisal cycle.
  4. A progress review or deficiency notice must also be initiated by the rating official if an employee's performance on one (1) or more critical elements falls below Level (3). In either case, the rating official must discuss and outline in writing specific instances of less than Level (3) performance, and provide recommendations to the employee to improve their performance.
- B. Inform the rating official of aspects of his or her work of which the rating official may not be aware; and
  - C. Identify objectives he or she would like to include in the performance plan for the next appraisal cycle. During this preappraisal meeting, the rating official may ask questions to clarify his or her understanding of the employee's performance.
4. Once the advance notice of the formal appraisal meeting has been given and after any preappraisal meeting, the rating official (after conferring with the approving official) will prepare and discuss a written rating with the employee. This rating must be based on an assessment of the employee's performance against the standards set at the beginning of the appraisal cycle (or as modified and documented during a progress review) in the performance plan and must include a written rating for each individual performance element or an overall summary or both. Each element is evaluated and translated into a score using the following scale:
    - Level 5 = 5 points (the highest level of performance)
    - Level 4 = 4 points
    - Level 3 = 3 points
    - Level 2 = 2 points
    - Level 1 = 1 point (unacceptable performance)
  5. Each critical element must be rated using the above five-level element rating scale. Ratings of elements above and below Level 3 must be supported by a narrative justification. If an element is rated as Level 3, the rating official need only document the following in writing:
    - A. The Level 3 standards were met; and
    - B. The rating was discussed with the employee, unless the employee requests written justification of the Level 3 rating. In such a case, the rating official must provide written justification of the rating.
  6. After each critical element has been rated, multiply the score for each element by the weight assigned to it. No fractional scores or weights may be used. Example:
    - Critical Element 1 is 30% of plan  
Rated at Level 4,  $30 \times 4 = 120$  points
    - Critical Element 2 is 30% of plan  
Rated at Level 3,  $30 \times 3 = 90$  points
    - Critical Element 3 is 20% of plan  
Rated at Level 5,  $20 \times 5 = 100$  points
    - Critical Element 4, is 20% of plan  
Rated at Level 4,  $20 \times 4 = 80$  points

TOTAL 390 points

### Section 33.15 Appraisal

Every employee who occupies a covered position on the last day of the appraisal cycle and who has been in a covered position for at least one hundred twenty (120) days during the appraisal cycle must receive a rating of record, in accordance with the following:

1. Rating officials must confer with the approving official about their organization's performance and gain approval of the ratings they recommend for their employees before discussing those ratings with employees.
2. The rating official initiates the appraisal by providing advance notice to the employee of the date and time for the formal appraisal meeting.
3. The employee may schedule a preappraisal meeting with the rating official to:
  - A. Present an assessment of his or her performance achieved during the appraisal cycle;

Total the individual scores to determine the overall score. In the example above, the sum of 120 + 90 + 100 + 80 = 390

Using the ranges below, determine within what range the overall score (example 390) falls within.

#### Overall Score Summary Rating

470–500 points Level 5

380–469 points Level 4

290–379 points Level 3

200–289 points Level 2

100–199 points Level 1

This becomes the employee's summary rating for that performance appraisal cycle. In the example cited, the final summary rating would be a Level (4) since the score of 390 falls within the range for Level (4).

A summary rating of Level (1) must be assigned to any employee who is given a Level (1) rating on one or more critical elements.

7. An interim rating that was completed for an employee for service in another position should be considered when preparing the final summary rating for the position of record.
8. When an interim rating(s) and the rating for the current position are different, the current rating official must prepare a written narrative that explains/justifies the assignment of the summary rating level.
9. When an employee receives an interim rating of Level (2) or Level (1) (without further action) and then receives a Level (3) or above on a rating for another position in the same appraisal cycle, the summary rating is not reduced by the interim rating; instead, the summary rating is assigned based solely on the individual critical element ratings for the current position.
10. When an employee receives an interim rating of Level (3) or above and then receives a rating of Level (1) for another position in the same appraisal cycle, the summary rating is not raised by the interim rating; instead, the summary rating is assigned based on the individual element for the current position.
11. When an employee changes positions less than one hundred twenty (120) days before the end of the appraisal cycle, the interim rating (if one was issued) prepared becomes the rating of record for that appraisal cycle.
12. If an employee has served on a detail to another federal Agency for one hundred twenty (120) days or more during the appraisal cycle, or an assignment in a federally sponsored program, such as an IPA or Executive Exchange, the servicing HR office must make a reasonable effort to obtain an interim rating from the other

Agency on the employee's performance on the detail or on assignment.

13. If the employee transfers to the Agency less than one hundred twenty (120) days before the end of the appraisal cycle, the employee's interim rating (if prepared when he or she transferred) will become his or her rating of record for the appraisal cycle. If no interim rating can be obtained from the employee's former Agency, the employee's last rating of record becomes his or her current rating of record. If no rating can be obtained, then the employee will be considered unrateable.

### Section 33.16 Rating

1. The employee should sign the rating to indicate that it has been discussed. (If the employee refuses to sign, the rating official should so note.) A copy must be given to the employee. If the employee disagrees with the rating, or wishes to pursue the matter through the negotiated grievance procedure, he or she must first comment in writing to the rating official within five (5) business days of receipt of the appraisal and rating. If the rating official changes a rating at this point, he/she must document the reasons for the change on form CD-430 and provide a copy to the employee. The rating official must respond in writing to these comments within five (5) business days.
2. If the rating official recommends a change to the rating, he/she must communicate the planned changes to the approving official. If approved, the rating official will document the reason(s) for change and provide a copy to the employee. This documentation may also serve as his/her response to the employee's comments. If the employee is still dissatisfied with the response, he/she may pursue it through the negotiated grievance procedure starting at the appropriate step higher than the approving official. Such grievances must be filed with the servicing LRO within ten (10) business days of the receipt of the response to the employee's comments. Grievances concerning performance ratings will be processed in accordance with the procedures contained in Article 12, Negotiated Grievance Procedure.

The rating given at the end of the annual appraisal cycle, or at the end of the extended appraisal cycle, in cases where a newly hired employee has not served in a covered position for at least one hundred twenty (120) days of the appraisal cycle, becomes the employee's rating of record.

### Section 33.17 Rating—Less Than 120 Days in a Covered Position

Employees who are serving in covered positions on the last day of the appraisal cycle, but who are unrateable because they have not served for at least one hundred twenty (120) days during the appraisal cycle in a covered position (or have not received an interim rating) must be given a rating

of record in accordance with the provisions of this Article as soon as they have served the minimum period.

An employee may be unrateable because of entry into a covered position during the last one hundred nineteen (119) days of the appraisal cycle; time in a nonpay status; extended absence; long-term training; service on a federally sponsored program, such as an IPA or President's Executive Exchange assignment where appraisal information is not available; the employee's supervisor leaving the Agency where no other higher level supervisor can reasonably appraise the employee's performance; service on detail to another federal Agency where performance appraisal information is not available; or approved absence creditable under appropriate regulations.

When an employee transfers positions resulting in a new performance plan after less than one hundred twenty (120) calendar days in the previous position in the appraisal period, the employee may request that the former rating official provide an evaluation of his/or her previous performance for consideration in their final appraisal rating.

## **Section 33.18 Interim Summary Ratings**

### *Section 33.18.1 Overview*

Interim ratings are prepared during the course of an appraisal cycle when an employee has spent the minimum appraisal period (120 days) in a covered position and then changes to another position. This may happen more than once during the rating period. These ratings must be completed within thirty (30) days of the change of position and are prepared in the same manner as a summary rating. In fact, the interim rating may become the summary rating when an employee changes positions toward the end of the rating period (i.e., where the time remaining in the appraisal cycle is less than one hundred twenty (120) days).

### *Section 33.18.2 When an Interim Rating Should Be Completed*

1. After a detail which lasts at least the minimum appraisal period (one hundred twenty (120) days);
2. After a temporary promotion/assignment which lasts at least one hundred twenty (120) days;
3. When an employee changes positions after serving at least one hundred twenty (120) days;
4. When a supervisor leaves his/her position and an employee has been under a performance plan for one hundred twenty (120) days;
5. When an employee transfers from the Department to another federal Agency after serving in a position for at least one hundred twenty (120) days; or
6. After an assignment in a federally sponsored program, such as an IPA assignment.

### *Section 33.18.3 Benefits of Interim Ratings*

1. To provide input from a departing supervisor to assist a new supervisor who is preparing a final rating of record;
2. To provide a final rating of record to an employee who changes positions during the last one hundred twenty (120) days of the rating period;
3. To provide a final rating of record to an employee who moves more than once during the rating period or is on a detail; and
4. To provide appropriate performance credit for work performed on a detail or temporary promotion/assignment.

### *Section 33.18.4 Consideration of Interim Ratings When Completing Final Appraisals*

An interim rating that was completed for an employee for service in another position should be considered when you prepare the final summary rating for the position of record. If there is more than one rating:

1. When an interim rating(s) and the rating for the current position are different, the current rating official must prepare a written narrative that explains/justifies the assignment of the summary rating level.
2. When an employee receives an interim rating of Level (1) without further action and then receives a Level (3) or above on a rating for another position in the same performance period, the summary rating is not reduced by the interim rating. Instead, the summary rating is assigned in accordance with the Performance Management Handbook based solely on the individual critical element ratings for the current position.
3. When an employee receives an interim rating of Level (3) or above and then receives a rating of Level (1) for another position in the same performance period, the summary rating is not raised by the interim rating. Instead, the summary rating is assigned in accordance with the Performance Management Handbook and based on the individual element for the current position.
4. When an employee has received an interim rating that is less than Level (3), but the rating for service in the current position is Level (3) or higher, the final rating cannot be less than Level (3).
5. When an employee changes positions toward the end of the rating period (i.e., where the time remaining in the appraisal cycle is less than the minimum appraisal period), the interim rating becomes the rating of record for that appraisal period.
6. If a project is completed, or if the employee moves to another position after being on a plan for sixty (60) to one hundred twenty (120) days, the supervisor will provide written feedback to the rating official.



### *Section 33.18.5 Transfers From Other Federal Agencies*

1. If an employee has served in a position for more than the minimum appraisal period in another federal Agency that Agency should provide an interim summary rating and forward it to the Agency's employing office with the employee's OPF.
2. If the employee transfers to the Agency toward the end of the rating period (i.e., where the time remaining in the appraisal cycle is less than the minimum appraisal period), the employee's interim rating, prepared when he or she transferred, will become his/her rating of record for the appraisal period.
3. If no interim rating can be obtained from the employee's former Agency, the employee's last rating of record becomes their current rating of record. If no rating can be obtained, then the employee will be considered unrateable.

### **Section 33.19 Performance Appraisal of a Sick or Disabled Employee**

The performance appraisal and subsequent rating of a sick or disabled employee may not be lowered in the current performance cycle because the employee has been absent from work to seek medical treatment.

### **Section 33.20 Within-Grade Increases**

1. FWS. An employee who is otherwise eligible receives a WGI if his or her performance is satisfactory or above, as provided in 5 U.S.C. 5343; i.e., the employee's most recent rating of record is Level (3) or higher.
2. GS. An employee who is otherwise eligible receives a WGI when his or her performance is at Level (3) (acceptable level of competence for WGI). This means that an employee's most recent rating is at least Level (3) and that during the period of time since that rating the employee has continued to perform his or her responsibilities in a manner warranting an increase in basic pay. When an acceptable level of competence determination is not consistent with the employee's last rating of record or when an employee does not have a rating of record as recent as the completion of the latest performance appraisal cycle (as specified under 5 CFR 531), an additional and more current rating must be prepared, which becomes the rating of record only for purposes of granting or denying the WGI.
3. WGI Denials. Denials of WGI will be effected in accordance with the applicable regulations.

### **Section 33.21 Initial Appointments**

Supervisors of probationary employees serving initial appointments must determine if the probationers' performance, conduct, and general traits of character warrant retention in their positions beyond the probationary period.

### **Section 33.22 Rating Below Level 3**

When an employee is rated below Level (3), the Agency must attempt to help the employee to improve performance. Assistance may include, but is not limited to formal training, on-the-job training, counseling, and close supervision.

### **Section 33.23 Actions Based on Level 1 (Unacceptable) Performance**

1. An employee whose performance is unacceptable may be reassigned, removed, or changed to a lower grade.
2. An action based on unacceptable performance may be taken at any time, either during or at the end of the appraisal cycle, provided the requirements of Section 33.24 of this Article are met.

### **Section 33.24 Taking an Action Based on Level 1 (Unacceptable) Performance**

Before an employee may be removed or demoted for unacceptable performance under the provisions of 5 CFR, Chapter 432, the employee is entitled to the following:

1. Be informed in writing of the critical element(s) where his or her performance is unacceptable;
2. Be assisted to improve his or her performance to an acceptable level; and
3. Be given the opportunity to demonstrate acceptable performance as follows:
  - A. When a supervisor is affording an employee whose work is unacceptable an opportunity to demonstrate acceptable performance, the supervisor will meet with the employee to discuss the performance. Normally, it is at this meeting that the supervisor will provide the employee with the written notification of his/her opportunity to improve. At the employee's request, he or she may have a Union representative present at the presentation of the PIP. The supervisor will consider any comments and/or suggestions from the employee or the employee's representative on how the employee can be assisted to improve his/her performance.
  - B. The written notice must also inform the employee of the critical elements where performance is unacceptable and the performance standards required for retention. This may be done by defining a more specific set of tasks to be completed during the opportunity period with specific standards of timeliness, quantity, or quality, etc. Such standards must be consistent with and not more stringent than the standards stated in the performance plan.
  - C. When the employee is notified in writing of his or her unacceptable performance, the clock starts on the reasonable time granted to demonstrate acceptable performance, unless a later date is



specified in writing. A reasonable period of not less than ninety (90) calendar days under a PIP will be given for the employee to improve performance to an acceptable level.

D. Managers may include the following in their notices:

1. Examples arranged by performance element of past incidents (within the last year) of unacceptable performance;
2. Where relevant, a description of the negative consequences of the performance deficiencies;
3. Recommended steps the employee may take which would be expected to lead to improved performance, e.g., better work organization, time management, more thorough proofreading, more follow-up;
4. Steps the Agency intends to take (or to offer) to assist the employee to improve, e.g., to sponsor training, offer counseling or other assistance, or monitor work more closely; and
5. A statement of the possible consequences of failure to improve within a reasonable period of time, i.e., removal, demotion, or reassignment.

In all cases, the employee will receive sufficient information, guidance, and assistance necessary to improve areas of unacceptable performance.

### **Section 33.25 Reduction in Grade or Removal Based on Level 1 (Unacceptable) Performance**

If an employee's performance was unacceptable during the opportunity period, the employee may be reassigned, reduced in grade, or removed from federal service after the completion of the opportunity period. An employee who is being reduced in grade or removed under the provisions of 5 CFR, Chapter 432 is entitled to the following before being removed or reduced in grade:

1. A thirty (30) day advance written notice of the proposed action identifying specific instances of Level (1) (unacceptable) performance and the critical elements on which performance is unacceptable;
2. Seven (7) days to respond to the notice orally and/or in writing and to furnish affidavits in support of the reply;
3. To be represented; and
4. To receive a written decision specifying the reasons for the action taken.

### **Section 33.26 Record Keeping**

1. Performance appraisals and related documents (i.e., probationary certification, WGI determination) will be maintained in the employee's official Employee Performance File and in accordance with provisions of the Privacy Act, Freedom of Information Act, other legislative and regulatory requirements, and negotiated agreements.

2. Performance management records must be retained for four (4) years.
3. Performance records that are superseded, e.g., through an administrative or judicial procedure, must be destroyed in accordance with the administrative/judicial order or settlement agreement.
4. Records may be retained longer than four (4) years only for the purpose of statistical analysis. The data may not be used in any action affecting the employee when the manual record has been or should have been destroyed.
5. When an employee transfers from one Agency into another within the Department, or to another federal agency, the following performance records must be transferred with the employee's OPF:
  - A. Ratings of record that are four (4) years old or less;
  - B. The performance plan on which the most recent rating of record is based; and
  - C. The interim rating prepared when the employee changes positions.
6. Disclosure of performance-related information must be made available only as permitted by the Privacy Act and as required by 5 U.S.C. 7114(b)(4).
7. Records kept in automated systems are subject to the same requirements as outlined above.

Appraisals of Level (1) (unacceptable) performance, where a notice of proposed demotion or removal relating to the employee is issued but not effected, must be destroyed after the employee has completed one (1) year of acceptable performance following notice of the proposed removal or reduction in grade.

### **Section 33.27 Performance Awards**

All performance awards are subject to budgetary limitations and are paid at the discretion of the Agency. Performance awards, if granted, must be based on an employee's rating of record for the appraisal cycle when the award is granted. Recognizing employees with performance awards reflects the Parties' efforts to promote continuous improvement in Agency performance, motivate employees to strive for excellence, and provide high-quality public service. Performance awards are intended to ensure that links are made between individual employee contributions and the enhancement of Agency performance. Supervisors and managers will strive to utilize the full range of awards programs. Performance awards must only be paid after the end of the full annual performance appraisal cycle. Criteria for eligibility if a determination is made to provide performance awards:

1. The employee must have a current summary rating and must meet the threshold performance evaluation criteria (Level [3] or above) determined by the Agency as a prerequisite to receive a performance award.

2. The employee must be employed by the Agency on the last day of the performance appraisal cycle (currently September 30).

When employees are considered for performance awards, the relative significance and impact of their contributions will be considered. Performance awards will be processed in a timely and expeditious manner. The Agency will provide performance award recipients with written documentation that clearly articulates the specific reason(s) that the employee received the award.

Employees are encouraged to document their accomplishments when completing applications for merit promotion. Significant concerns of perceived inequity and/or unfairness in the distribution of performance awards may be referred to the servicing LRO for review and/or consideration. Definitions and criteria for performance awards will be provided by the servicing HR office including monetary limits.

### **Section 33.28 Forced Distributions**

The Agency will not prescribe a distribution of levels nor predetermined number or percentage of ratings for employees covered by this Agreement. Each employee's performance will be judged solely against his/her performance.

### **Section 33.29 Changes to the Performance Management System**

Where there is a statutory duty to bargain the impact of any changes to the Agency's Performance Management System, the Agency will provide notice and opportunity to bargain consistent with the procedures in Article 16, Mid-Term Bargaining.

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## **ARTICLE 34. TELEPHONE AND RECORDED INTERVIEW MONITORING**

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### **Section 34.1 Overview**

#### *Section 34.1.1*

Monitoring provides a uniform method for observing and evaluating the interviewers' use of the computer and application of survey concepts in actual work situations. Survey concepts include sampling, knowledge of the survey, confidentiality, interviewers' adherence to question order and wording, nondirective probing, and techniques for interviewing reluctant respondents.

#### *Section 34.1.2*

Monitoring is also a tool used for identifying improvements to training program design, development, and delivery; survey content evaluation; training evaluation; and for quality assurance in identifying individual training needs. Monitoring may be expanded to include behavioral analysis of the subjects being interviewed.

#### *Section 34.1.3*

Monitoring is normally conducted by contact center coach/monitor staff who can hear the actual interview and see the data as they are being recorded; and/or review audio/video recordings of the interview. Information from these observations can be used to provide feedback to the interviewers.

### **Section 34.2**

All telephone and recorded communication monitoring shall be conducted in accordance with applicable provisions of the Privacy Act, 18 U.S.C. 2511, the Wiretap Act, the Electronic Communications Privacy Act, and this Agreement.

### **Section 34.3**

Where monitoring is effected for the purpose of evaluating an interviewer's performance, the resulting feedback from supervisors will be in accordance with Article 33, Performance Management System, and this Article.

### **Section 34.4**

One benefit of the monitoring process is the opportunity it provides to teach and coach, providing feedback on areas needing improvement, and/or reinforcement when an interviewer has exceeded quality expectations. This helps to reinforce what was done well, as well as point out areas needing improvement.

### **Section 34.5**

Although the intent of monitoring is not for disciplinary purposes, where cause is indicated Article 28, Disciplinary and Adverse Actions applies.

### **Section 34.6**

The following three (3) categories of monitoring establish standards that address interviewer performance needs and training: Initial Status, General Performance Status (Systematic), and Interviewer Coaching Assistance (ICA). Information from these observations will be used to provide feedback to interviewers. For all employees subject to such monitoring, monitoring frequency and assessment criteria will be consistently and equitably applied.

#### 1. Initial Status

##### A. Newly Trained Interviewer

1. The Agency will work with the newly trained employees to assist their success.
2. Initial monitoring is conducted for new employees and for experienced employees when they are trained to begin working on a new survey.
3. Mock sessions will be conducted with newly trained employees as final preparation before they begin working on the production floor.

4. An employee's status is classified as "Initial" until he/she has demonstrated a level of performance consisting of three (3) consecutive fully successful monitoring sessions passing all elements.
5. Employees can expect to be monitored more frequently while in Initial status, a minimum of twelve (12) sessions within sixty (60) days. This timeframe may be extended based on employee absences and/or a lack of work. Monitors will give Initial status cases first priority when scheduling monitoring sessions. Employees will be advised of the frequency and duration of monitoring while in initial status.

If the interviewer on Initial status does not achieve Systematic status within sixty (60) days, he/she will receive refresher training. Following refresher training, the interviewer will be given an additional sixty (60) days to achieve Systematic status.

#### B. Experienced Interviewer

If the employee is experienced and in the process of cross-training for new surveys, one (1) fully successful monitoring session is required to advance to systematic status. However, if the cross-trained employee cannot obtain one (1) fully successful monitoring session passing all elements in three (3) attempts, he/she will be provided refresher training and given an additional opportunity to advance to systematic status.

#### 2. Systematic Monitoring Status

An interviewer is considered to be in "Systematic" status once he/she has advanced from Initial status. Employees will be advised of the frequency and duration of monitoring while in Systematic status, normally at least one (1) session per month per survey.

#### 3. ICA Status

When an experienced employee, who has achieved "Systematic" status in a specific survey fails three (3) consecutive fully successful monitoring sessions passing all elements, he/she will normally be placed on ICA.

- A. Sessions will be monitored by different coaches/monitors in order to provide an objective evaluation and feedback. It is recommended that the employee's immediate supervisor monitor or observe at least one (1) session during this assistance period to obtain first-hand knowledge of the employee's performance.
- B. Placement in ICA status will not negatively impact the employee's eligibility to participate in any other projects, surveys, or opportunities afforded to other employees.

- C. Employees are never placed on ICA from "Initial" status.
- D. Management will work with the interviewer's immediate supervisor and coach/monitors to allow appropriate time to assist and coach the interviewer during this period of time.
- E. The employee's immediate supervisor will be informed, if not already aware, of the employee's need for improvement. The supervisor will review the sessions with the employee and advise him/her on the monitoring criteria requirements.
- F. Appropriate documentation should be maintained by Management during the course of the ICA period.
- G. Three (3) consecutive fully successful monitoring sessions passing all elements is required to return to Systematic status in a specific survey.
- H. Monitors will give ICA status cases second priority when scheduling monitoring sessions. (Initial status cases take first priority)

### **Section 34.7 General Monitoring Audio Video Interview Recordings**

#### *Section 34.7.1*

Monitoring is not only for evaluating interviewer performance, but also to ensure that complete and accurate information is captured; to enhance service quality, accuracy, and proficiency; that customer service is courteously provided; and to determine training requirements.

#### *Section 34.7.2*

Sessions will be monitored by different coaches/monitors in order to provide an objective observation.

#### *Section 34.7.3*

With a goal of providing timely, constructive, and productive feedback, cases that are less than six (6) days old and at least five (5) minutes in duration will be given highest priority for coach/monitor observation/evaluation purposes.

#### *Section 34.7.4*

Employees will be allowed to submit previous monitoring evaluations that benefit their progress reviews and or preappraisal meetings to their supervisor regarding their performance plan.

#### *Section 34.7.5*

The Agency will make a timely decision regarding the use of employee recordings for the purposes of counseling and or disciplinary actions, normally within thirty (30) days of initial recording and evaluation. This time period may be extended only for extenuating circumstances.

#### *Section 34.7.6*

Complaints/issues regarding the application of the monitoring process are eligible for resolution under Article 12, Negotiated Grievance Procedure.

### **Section 34.8 Monitoring Scorecard Guidelines**

Updated copies of the scorecard and guidelines will be maintained in Appendix A. Any changes to the scorecard will be in accordance with Article 16, Mid-Term Bargaining. The scorecard may also be changed through mutual agreement of the Parties.

#### *Section 34.8.1*

Unusual circumstances or difficult situations will be considered on a case-by-case basis when scoring interviews, i.e., respondent hostility, verbal abuse, profanity, interviews conducted by proxy, foreign language barriers, etc.

### **Section 34.9 Feedback**

#### *Section 34.9.1*

The Agency agrees to provide feedback for positive reinforcement of skills exceeding quality expectations and suggestions for those areas that need improvement. Feedback will be given at the earliest opportunity after a monitor evaluation has been completed according to scorecard guidelines. In order to maintain the confidentiality of employees, formal monitoring feedback will be done in private.

#### *Section 34.9.2*

During feedback sessions, monitors will provide the employee with relevant information and/or materials as appropriate, in addition to a copy of their signed and completed monitoring report.

#### *Section 34.9.3*

Employees may sign the report at the conclusion of their feedback. Signing the document does not indicate that the interviewer agrees or disagrees with the score. It is only to record the fact that the monitoring results were reviewed and discussed with the individual. Employees may note supporting comments on the documents.

#### *Section 34.9.4*

Fully successful monitoring sessions passing all elements normally do not require formal feedback. However, the coach/monitor will provide employees with a notice of a fully successful session in the employee's mailbox folder or via e-mail normally within twenty-four (24) hours.

#### *Section 34.9.5*

Sessions deserving praise/recognition or those marginal areas needing improvement normally require formal feedback from coach/monitor staff.

#### *Section 34.9.6*

Any employee may ask a supervisor at any time, if he/she has been monitored and if so, will receive the results of the session(s).

### **Section 34.10 Changes to Monitoring Procedures**

If the Agency elects to change monitoring procedures, the Union shall be notified in accordance with Article 16, Mid-Term bargaining.

### **Section 34.11 Calibrations**

Calibration sessions are for coach monitors and supervisors across all contact centers to meet and share monitoring evaluations, standardize the process of scoring, and to insure consistent feedback for all employees. Calibrations should be scheduled at least monthly. Two (2) monitors and two (2) supervisors will be selected from each facility on a rotational basis. The Union will be notified of the meeting and are authorized one (1) representative to attend from each facility.

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## **ARTICLE 35. MERIT PROMOTION**

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### **Section 35.1 Purpose**

#### *Section 35.1.1*

The purpose and intent of this Article is to ensure that merit promotion principles are applied in a consistent manner and that all employees receive fair and equitable consideration.

In accordance with 5 U.S.C. 2301 and 5 CFR 335 and other applicable laws, rules, and regulations, personal actions taken under the merit promotion regulations including the identification, qualifications, and selections of candidates shall be made without regard to political, religious, or labor organization affiliation or nonaffiliation, race, color, national origin, sex, marital status, age, sexual orientation, or disability and shall be based solely on job-related criteria.

#### *Section 35.1.2*

Where there is a statutory duty to bargain the impact of any changes to the Agency's merit promotion program, the Agency will provide notice and an opportunity to bargain consistent with the procedures in Article 16, Mid-Term Bargaining.

#### *Section 35.1.3 Coverage*

Merit promotion applies to all promotions GS-1 to GS-15 or assignments to positions with known promotion potential and other personnel actions involving advancement in competitive service positions and accepted service positions (Schedule A appointments under CFR, Section

213.3101). A promotion is a change of position to a higher grade or to a position with a higher known promotion potential. At the discretion of the Agency, vacancies that are not subject to the merit promotion program may be made subject to merit promotion procedures to allow for increased competition or publicity.

### **Section 35.2 Personnel Actions Covered by Merit Promotion**

Competitive procedures shall apply to all promotions under 5 CFR 335.102 and to the following:

1. Time-limited promotions for more than one hundred twenty (120) days to higher graded positions (prior service during the preceding twelve (12) months under noncompetitive time-limited promotions, and non-competitive details to higher graded positions counts toward the one hundred twenty (120) day total);
2. Details for more than one hundred twenty (120) days to a higher graded position or to a position with more promotion potential than a position previously held on a permanent basis in the competitive service (prior service that counts toward the one hundred twenty (120) day total is the same as described in A);
3. Selection for any training that is required before an employee may be considered for a promotion. Such training includes any part of an upward-mobility training agreement or any other training agreement that leads to promotion under 5 CFR part 410;
4. Reassignment or demotion to a position with more promotion potential than a position previously held on a permanent basis in the competitive service, except as permitted by RIF regulations;
5. Transfer to a position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service; and
6. Reinstatement to a permanent or temporary position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service.

### **Section 35.3 Personnel Actions Not Covered by Merit Promotion**

Competitive procedures do not apply as follows:

1. 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 an initial classification error;
2. A position change permitted by RIF regulations, adverse action decisions, or legal settlement agreements;
3. A promotion of an employee who was appointed to a position that was intended to prepare the employee for promotion, commonly referred to as a career ladder promotion. The intent should be documented in the

vacancy announcement and annotated on the Standard Form (SF)-50, Notification of Personnel Action.

Noncompetitive promotions in career ladder positions are management decisions based on a prior record demonstrating the promotion potential of the position and the manager's determination that the incumbent has demonstrated the ability to perform at the higher grade level;

4. A promotion resulting from an employee's position being classified at a higher grade because of additional duties and responsibilities;
5. A temporary promotion or detail to a higher grade position or a position with known promotion potential of one hundred twenty (120) days or less;
6. Promotion to a grade previously held on a permanent basis in the competitive service (or in another merit system where the OPM has an interchange agreement) from which an employee was separated or demoted for other than performance or conduct reasons;
7. Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no higher than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service (or in another merit system where OPM has an interchange agreement) and did not lose because of performance or conduct reasons;
8. Consideration of a candidate not given proper consideration in a prior competitive promotion action; and
9. Selection from a Reemployment Priority List for a vacant position at the same or lower grade level with no higher promotion potential, with the same type of work schedule, and in the same commuting area of the position from which separated, after clearing a Career Transition Assistance Program (CTAP).

### **Section 35.4 Details to Time Limited Promotions**

#### *Section 35.4.1*

Details to higher graded positions for more than thirty (30) days will be accomplished by time-limited (temporary) promotions. Details among qualified employees will be accomplished without favoritism and for legitimate business reasons.

#### *Section 35.4.2*

In accordance with the provisions of 5 CFR 335.103, employees will not be detailed or temporarily promoted to higher graded positions for more than a cumulative total of one hundred twenty (120) calendar days during any twelve (12) month period without the use of competitive procedures.



### *Section 35.4.3*

Details to higher graded positions will not be interrupted solely for the purpose of avoiding time-limited promotions.

## **Section 35.5 Vacancy Announcements**

### *Section 35.5.1*

Vacancy announcements shall be processed in accordance with applicable laws, rules, regulations, and this Agreement. The Agency will post vacancy announcements on the federal jobs Web site and the Agency's division bulletin boards, message of the day announcements, etc., as appropriate.

1. The Agency will ensure that all employees, who do not have a computer assigned to them to perform their regularly scheduled duties, will be provided access to a computer and printer in order for them to have access to all vacancies announced on the Agency's or federal jobs Web sites.
2. At duty locations that have more than five (5) employees who do not have a computer assigned to them to perform their regularly scheduled duties, Agency vacancy announcements will be made available through their servicing HR office or their respective administrative areas.

### *Section 35.5.2*

At a minimum, announcements will include position title, pay plan, grade, promotion potential, occupational series, duties, a brief description of the qualification requirements including any ranking factors used, bargaining unit status, work schedule, appointment duration if other than full-time permanent, the area of consideration, a statement concerning the receipt of applications from veterans in accordance with the Veterans Employment Opportunity Act of 1998, if applicable, open and closing dates, the announcement number, how to apply, a clear statement of equal employment opportunity, and RA language. Announcements may also contain information regarding conditions of employment, such as security clearance, licensure requirements, alternate flexible schedule, telework, part-time, or job sharing, etc., and the method of evaluating candidates, as appropriate.

### *Section 35.5.3*

Announcement for competitive vacancies will generally be open for a minimum of six (6) workdays.

### *Section 35.5.4*

Each bargaining unit vacancy will be advertised in a geographical/organizational area broad enough to ensure the availability of a reasonable number of diverse, well-qualified candidates.

### *Section 35.5.5 Open Continuous Announcements*

Open continuous announcements and announcements for standing registers may be used when advertising positions.

When a sufficient number of candidates submit applications for consideration, a certificate of eligible candidates may be established.

### *Section 35.5.6 Amending Vacancy Announcements*

If a vacancy announcement has been posted and any information is later found to be in error or subsequently changed (e.g., area of consideration, duty station, grade change, or career ladder of the position) the announcement may be amended or reposted. If there is a change in the factors by which the candidates will be evaluated, the announcement will be cancelled and reposted. When necessary, the reposted announcement will indicate if the original applicants need to reapply in order to be considered. The servicing HR office will determine if it is necessary to amend or repost the vacancy announcement on a case-by-case basis.

### *Section 35.5.7 Cancellation*

Notice of cancellation of vacancy announcements will be posted in the same areas as the announcements.

## **Section 35.6 Application Process**

### *Section 35.6.1*

All application materials must be received online by the closing date of the announcement. If evidence supports that the Web site was not accessible or failed at the time of the vacancy announcement closing (11:59 p.m. eastern time on the closing date), the servicing HR office will review the circumstances and may extend the open period as appropriate.

### *Section 35.6.2 Electronic Application*

The Agency will provide employees' access so they may use Agency computers to complete automated applications under this Article. Employees may engage in these activities only during nonduty time (breaks and meal periods).

Employees may consult with their servicing HR office when they have questions about a job application or the application process.

### *Section 35.6.3 Absence During Posting Period*

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

1. Approved leave;
2. Details;
3. Training courses;
4. Official business;
5. Military service;
6. Compensable injury;

7. Service in public international organizations; and
8. IPA assignments.

#### *Section 35.6.4 Multiple Applications*

When an employee applies for more than one (1) announcement, full consideration will be given for each vacancy, regardless of selection to one or more vacancies.

### **Section 35.7 Evaluating Candidates**

#### *Section 35.7.1*

A rating guide shall be based on a job analysis to identify the competencies needed for successful job performance. Competencies will differentiate superior candidates from other employees or applicants.

#### *Section 35.7.2*

The Agency will determine that all applications received are screened to ensure they meet the minimum OPM qualification standards including any selective placement factors (e.g., language proficiency, typing skills, etc.). The evaluation to determine whether candidates are minimally qualified will be performed through the automated hiring system.

#### *Section 35.7.3*

The automated system will rank the candidates based on their self-assessment of requirements identified in the vacancy announcement. The Agency will further evaluate candidates identified for certification who meet the minimum qualifications against the Knowledge, Skills, and Abilities (KSAs) or job elements identified in the vacancy announcement using a documented crediting plan.

#### *Section 35.7.4*

The servicing HR office decides how many candidates to refer by considering their scores, the break points, or gaps between scores.

#### *Section 35.7.5*

All candidates whose scores are above the natural or established break point will be referred to the selecting official in alphabetical order. When a tiebreaker is necessary, other selecting criteria may be used as a determining factor. When there is an insufficient number of candidates, additional candidates may be referred. The referral instructions provided to the selecting official will communicate that the selecting official may choose among any of the applicants without regard to order.

### **Section 35.8 Establishing the Best Qualified List**

#### *Section 35.8.1*

To be eligible for promotion or placement, candidates shall meet the minimum qualification standards prescribed or approved by OPM, and selective placement factors

identified as essential for successful performance by the closing date of the announcement.

#### *Section 35.8.2*

Assessment criteria used to evaluate candidates must be fair, job related, and applied equitably.

#### *Section 35.8.3 Development of Assessment Criteria*

1. A job analysis must be conducted to determine the competencies required for the position. This may include the KSAs, other characteristics, and selective factors (if applicable) required to identify the best-qualified candidates for the position to be filled. Job analysis requirements shall conform to the Uniform Guidelines on Employee Selection Procedures at 29 CFR 1607 and 5 CFR 300, Subpart A.
2. All assessment criteria necessary for selection will be established by the selecting official. The selecting official will communicate to the assessment panel (if an assessment panel is convened) any factors that should be considered important for the position to be filled. The assessment panel will determine how to incorporate these factors into the assessment criteria.

#### *Section 35.8.4*

When an assessment panel is used, the following conditions will apply:

1. Panel members must be at or above the grade level of the position being filled, should know the requirements of the position being filled, may not be applicants for the position, and may not be in the direct line of supervision of the job to be filled.
2. Panel members must not be related by blood, adoption, or marriage to any applicants considered for the position.
3. Panel members will be instructed on procedures for rating and ranking applicants; and procedures will be reviewed for consistency and for current use of the crediting plan.

### **Section 35.9 Selection Process**

#### *Section 35.9.1*

1. The Agency has the right to select or nonselect from a group of properly evaluated and certified candidates or to select from other appropriate sources, such as re-employment priority lists, reassignment candidates, Veterans Readjustment Act candidates, or those within reach on an OPM certificate.
2. The selecting official will determine whether interviews will be conducted and whether or not to utilize a selection panel in the interview process. The selecting official may interview some, none, or all the candidates referred and shall document the basis for this decision.

3. The selecting official will ask valid job-related questions that allow for an objective evaluation of the candidate's competencies as they relate to the position being filled.
4. When a face-to-face interview is not possible, a telephone interview may be acceptable.

#### *Section 35.9.2*

Employees selected for promotion or placement under merit promotion procedures should be released as soon as possible, normally allowing a full pay period for a promotion or to a position with higher promotion potential, or two (2) full pay periods if not for a promotion.

### **Section 35.10 Employee Information**

#### *Section 35.10.1*

Upon request from an employee not selected for a vacancy, the servicing HR office will provide the following information:

1. Whether or not the employee met minimum qualification requirements;
2. The employee's ranking score;
3. The cutoff score;
4. Whether or not the employee was on the Best-Qualified List; and
5. The name of the employee placed in the position.

#### *Section 35.10.2*

The servicing HR office will provide the above information to the employee in a reasonable period of time.

#### *Section 35.10.3*

An employee, who is certified by a selecting official for promotion consideration for a bargaining unit position but is not selected, can request to meet with the selecting official for the purpose of discussing how the employee can develop for future consideration. If the employee and the selecting official are not in the same location, the meeting will be conducted telephonically or by Video Teleconference (VTC).

### **Section 35.11 Priority Consideration Before Using Competitive Procedures**

#### *Section 35.11.1*

Priority consideration will be given to an employee as a result of a previous failure to properly consider the employee for selection because of procedural, regulatory, or program violation. Employees will receive priority consideration for a same or similar position where they qualify at the same grade level, with no greater promotion potential, same type of work schedule (e.g., full-time to full-time, part-time to part-time), same appointment type, and in the

same commuting area of the position for which they did not receive appropriate consideration.

#### *Section 35.11.2 Involuntarily Demoted Employees*

Employees who are involuntarily demoted without cause or who are in grade retention status are entitled to consideration for repromotion for positions in the commuting area before using the competitive procedures. This applies to positions at the employee's former grade or at any intervening grades that are to be filled under competitive procedures. The right to this consideration does not apply to a position with promotion potential higher than that of the position held at the time of the change to the lower grade.

### **Section 35.12 Career Ladder**

#### *Section 35.12.1 Policy*

It is the policy of the Agency to provide appropriate opportunities for employees to develop and advance in their careers.

#### *Section 35.12.2 Opportunity for Progression*

1. Employees in career ladder positions will be given opportunity to reach the full promotion potential within their career ladders. The supervisor will discuss the job requirements and expectations for the employee to reach the next higher level. The supervisor will hold these discussions at each level of the employee's progression within the career ladder.
2. At the time the employee reaches his or her earliest date of promotion eligibility, the Agency will decide whether to promote the employee. Beginning sixty (60) days prior to the employee's promotion eligibility and anytime thereafter, the employee may request written notification from the supervisor. The notice will state what the employee needs to do to meet the promotion criteria.
3. While promotions within career ladders are not automatic, career advancement is the intent and expectation in the career ladder system.
4. An employee is eligible for a career ladder promotion provided all of the following conditions have been met, in the supervisors' judgment:
  - A. The employee has demonstrated the ability to perform the higher grade level duties;
  - B. The employee's current written performance appraisal is acceptable; and
  - C. The employee has met the minimum time-in-grade qualifications and other regulatory requirements.
5. The Agency shall make prompt determinations regarding career ladder promotions of employees.
6. If an employee is not meeting the criteria for promotion, the supervisor will discuss the expectations

for advancement with the employee during progress review and performance appraisal meetings.

7. Any time a supervisor and/or employee recognize the employee's need for assistance in meeting the career ladder advancement criteria, upon the employee's request, the supervisor and employee will develop a plan tailored to assisting the employee in meeting the criteria. The plan should include applicable training, as well as any other appropriate support.
8. In the event that the employee met the promotion criteria and the promotion was approved, but the promotion action was delayed due to administrative or clerical error, the promotion will be retroactive to the beginning of the first pay period after the pay period in which the requirements were met.

### **Section 35.13 Compensation/Records Retention**

#### *Section 35.13.1*

An employee's level of compensation upon promotion shall be set in accordance with applicable law and regulations.

#### *Section 35.13.2*

In accordance with 5 CFR 335.103, a file sufficient to allow for reconstruction of the competitive action will be kept for two (2) years unless there is a grievance or complaint pending the particular promotion action. In that case, the file will be kept pending final decision of the grievance or complaint.

### **Section 35.14 Job Opportunities**

The Career Opportunities site is a resource on the intranet for employees who are interested in being reassigned to positions at the grade level they currently hold and with the same promotion potential as the job they currently hold.

### **Section 35.15**

A promotion resulting from the application of a new classification standard or correction of a classification error will normally be effected no later than the beginning of the second pay period following the Agency's decision to promote the incumbent, provided he or she meets all applicable qualifications for the position in question.

### **Section 35.16 Notice of Ineligibility**

The Agency agrees that notices of ineligibility under the merit promotion will be prepared and distributed promptly and will normally be issued before the issuance of a certificate. Employees who believe the notice is in error should immediately contact the appropriate staffing specialist.

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## **ARTICLE 36. DETAILS, REASSIGNMENTS, AND VOLUNTARY CHANGES**

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### **Section 36.1 Details**

#### *Section 36.1.1 Definition*

A temporary assignment of an employee to a different position or unclassified set of duties for a specified period of time with the expectation that the employee will return to his or her former position at the end of the assignment.

#### *Section 36.1.2 Appropriate Use of Detail*

Details shall be used to meet temporary needs of the Agency's work requirements. Details will be driven by operational needs and may be used to help provide career development opportunities for employees. Assignments to details will be done in a fair and equitable manner. Details may be directed, solicited, or requested by an employee as appropriate. When the Agency solicits volunteers, the process defined in Section 36.1.7 of this Article applies.

#### *Section 36.1.3 Documentation*

Details in excess of thirty (30) days will be documented on a Standard Form 50 (SF 50) and maintained in the employee's OPF. This will not preclude employees from updating their OPF in accordance with OPM guidelines.

#### *Section 36.1.4*

In contemplating the detail of an employee serving as a Union Official, the Agency will consider his or her request not to be detailed when it would directly interfere with performing representational functions.

#### *Section 36.1.5 Higher Graded Duties*

Details to higher graded positions or to positions of known promotion potential will be accomplished in accordance with 5 CFR 335 and the procedures contained in Article 35, Merit Promotion.

#### *Section 36.1.6 Lower Graded Duties*

Performance of lower graded duties officially assigned by the Agency shall not be the basis for a lower evaluation of the employee; nor will it adversely affect the employee's ability to compete and be considered for a position for which the employee would have been eligible had the employee not been assigned to those duties.

#### *Section 36.1.7*

The following will apply when soliciting volunteers for details in excess of thirty (30) calendar days:

1. The Agency will determine the required qualifications, specialized skill sets, as well as the position description or unclassified set of duties to be performed.

Only job-related duties will be applied under these procedures.

2. The Agency will determine the area of solicitation. Solicitation will be done electronically or on unit bulletin boards, whichever is available to employees in the area.
3. Solicitation normally will be for five (5) business days to allow employees the opportunity to volunteer.
4. After solicitation, the Agency will list the volunteers in descending order of seniority. Seniority will be determined by Entrance on Duty (EOD).
5. If there are more than a sufficient number of qualified volunteers, the Agency will select the most senior employee(s) who volunteered.
6. If there are an insufficient number of qualified volunteers, the Agency will accept those qualified employees who volunteered and then use inverse seniority for the selection from among qualified employees within the area of solicitation.

### **Section 36.2 Reassignments**

1. A noncompetitive reassignment is the change of an employee from one position to another without promotion or demotion and without any change in promotion potential.
2. Reassignments of employees to different positions shall be effected by the appropriate personnel action.
3. Where possible, employees reassigned at the direction of the Agency will be given three (3) business days advance notice.
4. Reassignments involving a physical move will be subject to the provisions set forth in Article 22, Physical Relocations.
5. Where operational need and time allows, the Agency will solicit volunteers for reassignment utilizing Section 36.1.7 (2) through (6) of this Article. However, these procedures do not apply to employee requested reassignments, Agency directed individual employee reassignments, or group reassignments where all qualified employees within a work unit are being reassigned.

#### *Section 36.2.1*

An employee physically relocated from their usual worksite because of a directed detail or reassignment will be given written notification at least three (3) scheduled workdays in advance. If an employee establishes that as a result of the relocation his or her transportation arrangements will have to be changed, the employee will normally be given up to five (5) additional workdays to make those arrangements. If an employee is unable to report to their new location within the five (5) workday period, the employee will be permitted to use leave, as appropriate.

#### *Section 36.2.2*

When reassigned to a different position, the employee will be given a reasonable period to become proficient. If for any reason the employee wishes to return to the previous position, he/she may make a request in accordance with Section 36.3 of this Article.

#### *Section 36.2.3*

In contemplating the reassignment of an employee serving as a Union official, the Agency will consider the request not to be reassigned when the reassignment would directly interfere with performing representational functions.

#### *Section 36.2.4*

Upon request, in accordance with Article 6, Union Rights, Section 6.8 Right to Information, the Union will be provided a listing of all employees reassigned or detailed.

### **Section 36.3 Employee Initiated Voluntary Changes**

Employees may request a detail or reassignment at any time. These requests must be made in writing. Approvals of such requests are at the Agency's discretion and will be considered by the Agency balancing the needs of the employee with the Agency's program needs. Any changes will be processed in accordance with applicable laws, rules, regulations, and this Agreement.

### **Section 36.4 Relocation Expenses**

Employees affected by a change in duty station may be entitled to relocation expenses in accordance with applicable laws, rules, and regulations.

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## **ARTICLE 37. POSITION CLASSIFICATION**

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### **Section 37.1 General**

1. The Parties agree that PDs shall accurately describe the principal duties and responsibilities of the position.
2. PDs will be current, accurate, and classified to the proper occupational title, series, and grade in accordance with Chapters 51 and 53 of Title 5 U.S.C. and OPM regulations.
3. The Agency will apply newly issued OPM classification and job grading standards within the timeframes established by OPM. Standards are available to the Union through the OPM Web site. In cases where it is not available to the Union through OPM, the Agency will make it available.
4. Normally, PDs will be provided or made available to employees at the time of assignment, but not later than thirty (30) days after assignment.



5. The phrase “other related duties as assigned” and other phrases having similar meaning as used in position descriptions, means duties related to the basic duties of the position. Such phrases will not be used to regularly assign work that is not reasonably related to the duties listed in the position description.

### **Section 37.2 Position Description Review**

1. While classification actions are in process, the Agency will not reassign duties for the sole purpose of avoiding review of the current duties of the position.
2. When an employee has a question concerning the proper classification of his or her position, the employee will discuss the situation with his/her supervisory chain of command. If the matter cannot be resolved to the employee’s satisfaction, the employee may request a position review through the appropriate servicing classification specialist within HR or file a classification appeal in accordance with Section 37.3 of this Article.
3. Whether or not a position review is determined to be appropriate, the employee will be notified within five (5) days of the receipt of the request. If the review is determined to be appropriate, the employee will be provided the results of the position review upon completion normally within thirty (30) business days. However, this timeframe may need to be extended during periods of heavy workload, such as during the Agricultural, Economic, or Decennial Census Operations.
4. Upon request, the employee or his/her designated representative will be provided a copy of all official information, including all relevant facts concerning the position and the Agency justification for its classification decision.
5. Where there is a statutory duty to bargain the impact of classification activity on employee(s), the Agency will provide notice and an opportunity to bargain consistent with the procedures in Article 16, Mid-Term Bargaining.
6. New and Upgraded Classifications
  - A. Changes to employee classification standards rendered by the Agency or OPM, having the effect of establishing a grade level that did not previously exist within an occupational series, will be forwarded by the Agency to the Union with the basis for that decision.
  - B. Promotion(s) resulting from the application of a new classification standard or correction of a classification error will normally be effective no later than the beginning of the second pay period following an Agency decision to promote the incumbent(s), provided they meet any applicable qualification, performance, or other requirements for the position in question.

7. Downgrades

- A. An employee whose position is reclassified to a lower grade, which is based in whole or in part on a classification decision, is entitled to a prompt written notice from the Agency. This notice will be issued to affected employees within five (5) business days of the decision. This includes employees who are eligible for retained grade or pay. The notice will explain:
  1. The reasons for the reclassification action;
  2. The employee’s right to appeal the classification decision to the DOC or to OPM as provided by regulations, if such appeal has not already been made;
  3. The time limits within which the employee’s appeal must be filed in order to preserve any retroactive benefits under 5 CFR 511.703 and 5 CFR 532.703; and
  4. Any other appeal or grievance rights available under applicable law, rule, regulation, or this Agreement.
8. Employees who have been downgraded as a result of a classification action and are receiving grade and pay retention shall be entitled to priority referral for noncompetitive consideration for permanent promotion prior to a vacancy being filled by competitive promotion under Article 35, Merit Promotion.

### **Section 37.3 Classification Appeals**

1. An employee who files a classification appeal to DOC or OPM is entitled to a copy of all official information relating to the classification of the position.
2. Employees shall have the right to Union representation in all phases of the classification process, including desk audits, covered by this Agreement.
3. If the employee wishes to pursue the matter further, he/she may file a grievance as appropriate, or file a classification appeal in accordance with this Section of this Article and applicable regulations.
4. Classification appeals will be processed in accordance with 5 CFR Part 511, Subpart F, for GS employees; 5 CFR Part 532, Subpart G, for FWS employees; and the provisions of this Agreement, as appropriate. The Agency will provide employees and their designated representatives with copies of procedures for filing classification appeals through the Agency and OPM channels upon request.

### **Section 37.4 Effective Date**

Increases in grade level based on reclassification will be effective no later than the second pay period following final approval of the action.

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## **ARTICLE 38. WITHIN-GRADE INCREASES**

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### **Section 38.1 Within Grade Increase**

A WGI is an increase in an employee's rate of pay from one step within his/her grade to the next. Eligibility for a WGI is based on length of service and performance.

### **Section 38.2 Eligibility for a WGI**

Permanent positions are eligible for WGIs. A permanent position is a position filled by an employee whose appointment is not designated as temporary by law and does not have a definite time limit of one (1) year or less. A permanent position includes a position to which an employee is promoted on a temporary or term basis for at least one (1) year.

### **Section 38.3**

WGI will be considered and processed in accordance with OPM regulations. It is the Agency's responsibility to track the timeframes for receiving a WGI; however, all employees are encouraged to track their individual WGI timeframes. The decision to grant or withhold a WGI must be supported by the employee's most recent rating of record.

### **Section 38.4 Waiting Period for a WGI**

A waiting period commences on the day of first appointment regardless of tenure; the date of last equivalent increase; or after a period of nonpay status or a break in service (alone or in combination) in excess of fifty-two (52) calendar weeks, unless the nonpay status or break in service is creditable service under 5 CFR 531.406.

### **Section 38.5 Length of Waiting Periods**

Waiting periods for WGI are as follows:

For a full-time or part-time employee with a scheduled tour of duty, the waiting periods in all GS grades are:

Steps 2-3-4.....52 weeks of creditable service

Steps 5-6-7.....104 weeks of creditable service

Steps 8-9-10....156 weeks of creditable service

For an employee without a scheduled tour of duty (intermittent), the waiting periods are:

Steps 2-3-4.....260 days of creditable service in a pay status over a period of not less than 52 calendar weeks

Steps 5-6-7.....520 days of creditable service in a pay status over a period of not less than 104 calendar weeks

Steps 8-9-10.....780 days of creditable service in a pay status over a period of not less than 156 calendar weeks

Part-time employees are treated as full-time employees for purposes of completing a waiting period, i.e., a full-time and a part-time employee hired on the same day will complete a waiting period on the same date even though a part-time employee works fewer hours.

Intermittent employees get one (1) day credit for every day paid even if they only work an hour. Service creditable toward completing required waiting periods is counted in days: two hundred sixty (260), five hundred twenty (520), and seven hundred eighty (780) days respectively.

Waiting periods for wage grade step increases are as follows:

Step 2.....26 weeks of creditable service.

Step 3.....78 weeks of creditable service.

Step 4-5.....104 weeks of creditable service.

### **Section 38.6 Creditable Service**

1. Civilian employment in the federal government.
2. Periods of leave with pay (annual, sick, court, military, administrative, advanced annual and sick, etc.).
3. Service under a temporary appointment—if the employee is converted to a permanent appointment at the same grade level, the time worked under the temporary appointment counts toward the completion of the WGI waiting period requirement.
4. Time in nonpay status for employees with a schedule tour of duty not exceeding the allowable amounts as follows: two hundred sixty (260) days equals one (1) calendar year.

### **Section 38.7 Requirements**

To receive an automatic WGI, the following requirements must be met:

1. The employee has completed the required waiting period.
2. The employee has performed at an acceptable level of competence. This is determined by the employee's most recent rating of record.
3. The employee has not received an equivalent increase during the waiting period.

### **Section 38.8 WGI Effective Date**

WGIs are effective on the first day of the first pay period following the completion of the required waiting period.

### **Section 38.9 WGI Denials**

If at the end of the required waiting period, the employee's performance is not at an acceptable level of competence for the purpose of approving the WGI, the employee will be given written notice, as soon as possible which will include:

1. A statement that the employee's work has been reviewed;
2. A statement that the employee's work has been determined to be of less than an acceptable level of competence;
3. A statement identifying the performance elements in which the employee's performance was less than an acceptable level of competence;
4. An explanation of how the employee's performance specifically failed to meet the acceptable level for that particular performance element;
5. A statement that the employee has the right to request, in writing a reconsideration of the negative determination, provided the request is made within fifteen (15) days of the employee's receipt of the negative determination;
6. The name and title of the reconsideration official to whom the employee may submit a request for reconsideration;
7. A statement that the employee may have a Union representative in presenting a request to the reconsideration official;
8. A statement that the employee may have a reasonable amount of official time to review the materials relied upon in reaching the negative determination and to prepare a response; and
9. An explanation that the employee will be considered for a WGI at any time once the employee demonstrates an acceptable level of competence.

### **Section 38.10**

A decision on reconsideration will be made within fifteen (15) days from the date of the written request to the reconsideration official. If the reconsideration official determines that the employee has met an acceptable level of competence, the WGI will be effective as of the first day of the first pay period after that determination.

### **Section 38.11**

If the reconsideration official upholds the negative determination, the employee may file a grievance under Article 12, Negotiated Grievance Procedure.

### **Section 38.12**

After a WGI has been withheld, the Agency may grant the WGI once the employee has demonstrated sustained performance at an acceptable level of competence. In such cases, the WGI will become effective the first day of the first pay period after the acceptable determination is made.

### **Section 38.13**

Denial of a WGI is not to be used as a punitive measure or for an act of misconduct in lieu of appropriate disciplinary actions.

### **Section 38.14**

A notice of proposed adverse/disciplinary action that is not based on performance is not a bar against a favorable determination of acceptable level of competence for purposes of WGI.

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## **ARTICLE 39. TRANSIT SUBSIDY**

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All employees are eligible to receive a subsidy through participation in the Transit Benefit Program. The amount of subsidy each employee may receive for commuting to work is dependent upon location and mode of transportation that is approved in accordance with the Transit Benefit Program, not to exceed the employee's actual allowable commuter expenses or the maximum level allowed by law, whichever is less.

The provisions of the Transit Benefit Program will be administered in accordance with law, this Agreement, and Agency policy. Any changes to existing policy will be handled in accordance with Article 16, Mid-Term Bargaining.

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## **ARTICLE 40. AWARDS**

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### **Section 40.1 Purpose**

The awards program is intended to motivate and reward employees to continuously strive for excellence. The use of both monetary and nonmonetary awards has a significant effect on employee morale, motivation, and performance. In this regard, the Union and Agency agree to continue examining opportunities for improving the Awards Program and further agree that nothing contained herein shall prevent the Agency from implementing opportunities designed to improve the Awards Program.

#### *Section 40.1.1*

Performance awards, Gainsharing awards, Incentive awards, Recognition awards, Internal Census Bureau awards, and honorary awards are granted by the Agency based on merit, and within applicable budget limitations, to individuals or groups. Such awards will be granted in a fair, consistent, and objective manner.

For information that is more detailed regarding awards in the above categories, see the Census Bureau quick reference guide in Addendum C, Awards Overview.

### *Section 40.1.2*

When the Agency establishes budgets for employee awards, it will inform the Union of those budgets and the amounts to be allocated.

### *Section 40.1.3*

Should the Agency determine, at any time during the life of this Agreement, the need to modify its annual awards budget (should one exist) and/or award programs, it shall give the Union formal notification in advance of its intention to do so in accordance with Article 16, Mid-Term Bargaining.

### *Section 40.1.4*

The Agency will provide the Union, upon written request, all reasonable and necessary information regarding awards granted to employees covered by this Article in accordance with Article 6, Union Rights, Section 6.8, Right to Information.

### *Section 40.2 Performance Awards*

Performance awards are cash awards based upon performance as reflected in the employee's most recent summary rating of record.

#### *Section 40.2.1*

Performance awards for bargaining unit employees will be allocated and distributed in accordance with Section 40.1.1 of this Article.

#### *Section 40.2.2*

All awards recommended under this Article shall be subject to review and approval in accordance with 5 CFR 451 and DOC regulations. Such approval shall not be withheld unless the decision is based on criteria that are uniformly applied to all similarly situated employees. Notices of disapproval must be in writing and explain the reason(s) for the disapproval.

## **Section 40.3 Quality Step Increases**

### *Section 40.3.1*

A quality step increase (QSI) is an additional WGI used to recognize and reward GS employees at any grade level who display outstanding performance. A QSI has the effect of moving an employee through the GS pay range faster than periodic step increases.

To be eligible for a QSI, employees must meet the following criteria:

1. Be below step 10 of their grade level;
2. Have received the highest rating of record available under the performance management program;
3. Have demonstrated sustained performance of outstanding quality;

4. Not have received a QSI within the preceding fifty-two (52) consecutive calendar weeks; and
5. Occupy a permanent position.

### *Section 40.3.2*

If the Agency decides to grant the employee the QSI, the employee will have the option of electing the QSI or the applicable performance award. The election need not be made until the amount of the performance award has been determined.

## **Section 40.4 Gainsharing Awards**

Gainsharing is a reward program that distributes cash payments to employees on a periodic basis (i.e., monthly, quarterly, etc.). The amount of the payments is based on a quantitative formula that measures specific performance levels in such areas as quality, efficiency, and productivity and compares actual performance to the pre-established performance goals of the Agency.

For Contact Center survey specific criteria, refer to Addendum C.

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## **ARTICLE 41. OVERTIME**

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### **Section 41.1 General**

#### *Section 41.1.1*

Overtime for employees is governed by the Fair Labor Standards Act (FLSA), 5 U.S.C. 5542 (Title 5 Overtime) and this Agreement.

#### *Section 41.1.2*

All bargaining unit positions will be determined to be FLSA "exempt" or "nonexempt" at the time the position is classified. When classification actions are performed and results in a change to the FLSA determination, the changed FLSA determination for the affected employees will be made available to the employees.

#### *Section 41.1.3*

When overtime work is directed, employees will be compensated for overtime hours worked in accordance with applicable laws and regulations. When overtime work is covered by more than one (1) statutory authority applicable to the employee, the employee shall be paid under the authority providing the greater overtime pay entitlement in the workweek.

#### *Section 41.1.4*

Overtime will not be distributed or withheld as a reward or penalty.

## **Section 41.2 Overtime Pay**

### *Section 41.2.1*

Overtime pay for FLSA nonexempt employees is equal to one and one-half (1½) times the employee's hourly rate of pay.

### *Section 41.2.2*

Overtime pay for FLSA exempt employees will be paid in accordance with 5 CFR 550.113 and applicable government-wide rules, laws, and regulations.

## **Section 41.3 Types of Overtime**

### *Section 41.3.1 Regular Overtime*

Any overtime work scheduled in advance of the administrative workweek as part of an employee's regularly scheduled workweek is considered regular overtime. An employee shall be compensated for every minute of regular overtime work in accordance with the provisions of OPM regulations. Employees who work beyond a quarter-hour (¼) increment of regularly scheduled overtime will be paid to the next quarter-hour (¼) increment.

Any employee covered under a flexible work schedule program established under Article 42, Work Schedules, may request compensatory time off in lieu of overtime premium pay for regular overtime work. Employees not covered by a flexible work schedule program must receive overtime pay for regular overtime work and cannot receive compensatory time. Additional provisions for earning and receiving compensatory time are found in Section 41.8 of this Article.

### *Section 41.3.2 Irregular or Occasional Overtime*

Overtime work that was not scheduled in advance and made a part of an employee's regularly scheduled workweek is considered irregular or occasional overtime.

Irregular or occasional overtime work is paid in the same manner as regular overtime work, except that the employee may request compensatory time off in lieu of overtime premium pay in accordance with Section 41.11.1 of this Article. A quarter-hour (¼) shall be the largest fraction of an hour used for crediting irregular or occasional overtime work. When irregular or occasional overtime work is performed in other than the full fraction, odd minutes shall be rounded up or rounded down to the nearest full quarter fraction of an hour. Eight (8) or more minutes will be rounded up to the next quarter-hour (¼), and less than eight (8) minutes will be considered part of the previous quarter-hour (¼).

## **Section 41.4 Call Back**

Call-back overtime is a form of irregular or occasional overtime work performed by an employee on a day when work was not scheduled for the employee, or when he/she is required to return to his/her place of employment

after having already concluded his/her tour of duty and/or departed the work site. In all call-back situations, the employee will be paid a minimum of two (2) hours of overtime or for the duration of the overtime assignment, whichever is longer.

## **Section 41.5 Distribution**

### *Section 41.5.1*

Employees within an organizational unit will be offered or assigned overtime on a rotating basis in accordance with their particular skills. This will not necessarily result in everyone having the same number of overtime hours worked. At the discretion of the Agency, overtime shall be made mandatory or offered on a voluntary basis. In the case of voluntary overtime where there are an insufficient number of qualified volunteers for overtime work, the Agency may direct overtime.

### *Section 41.5.2*

All existing overtime rotation lists will become null and void upon the implementation of this Agreement. New rotation lists will be established as overtime is assigned or offered.

The Agency may develop an availability list for each employee to indicate his/her availability (yes/no) in order to determine employee interest for an overtime opportunity.

When there is a limited need for eligible employees, overtime rotation lists will be established at the lowest supervisory level applicable to the overtime being worked. At the time the rotation list is initially established, all qualified employees will be listed on the rotation lists in order of their EOD date (from most to least senior).

When multiple employees have the same EOD date, Service Computation Date (SCD) will be utilized (from most senior to least senior). In the event that EOD and SCD (or if SCD is not available) are the same, the order will be determined alphabetically by last name. Employees new to a work area will be listed at the bottom of the established rotation lists in the same order identified above. The overtime rotation lists will be made available to the employees upon request.

Rotation lists will be labeled voluntary overtime and mandatory overtime, as applicable, and will be maintained as appropriate. Separate lists will be maintained for weekdays and weekends.

Rotation lists will be established for "call-back overtime" as needed.

### *Section 41.5.3 Rotational Overtime Procedures*

Once an employee has been offered or assigned an overtime assignment, he/she will be treated as "having worked" for purposes of future selection from the rotation list. The selection continues beginning with the next employee on the list.



If an employee is detailed or otherwise temporarily assigned outside of his or her supervisor's work unit, the employee shall still be considered available for overtime assignment under the losing supervisor's overtime rotation lists for the duration of such temporary assignment, provided that the employee is reasonably able to be present for the overtime assignment.

Supervisors may skip someone on the rotation lists when it is determined that the particular employee does not possess all the qualifications to perform the particular overtime assignment. In such cases, the employee retains his or her position on the rotation lists for the next assignment. Supervisors will provide skipped employees an explanation for why they were skipped, upon request.

#### *Section 41.5.4*

When appropriate, a supervisor may require an employee to complete an assigned task on the job that he/she was already performing that may require the employee to work overtime.

### **Section 41.6 Records**

Overtime records maintained by the Agency may be reviewed by the Union, upon request, in accordance with Article 6, Union Rights, Section 6.8, Right to Information.

### **Section 41.7 Disputes**

The negotiated grievance procedure is the exclusive remedy for the resolution of disputes concerning overtime.

### **Section 41.8 Notice**

#### *Section 41.8.1 Voluntary Overtime*

If the offer of overtime is on days outside of the employee's basic administrative workweek, the Agency will notify the affected employee as early as practicable, except in cases of unforeseen work requirements.

If an employee volunteers for an overtime assignment, he/she is expected to report for and work for the duration of the overtime assignment accepted. If an employee is unable to report for the overtime work, he/she is expected to call within one (1) hour after their report time.

#### *Section 41.8.2 Mandatory Overtime*

For the purposes of mandatory overtime, employees will be given as much advance notice as possible. When practicable, notice will be at least one (1) day. The Agency agrees to consider the following:

1. Excusing employees from overtime assignments for:
  - A. Bona fide medical reasons, supported by documentation acceptable to the Agency; or
  - B. Extreme personal hardship in terms of the employee's religious, parental, or civic responsibilities; and

2. Flexible scheduling of required overtime hours in order to accommodate employee hardship.

In any event, should mandatory overtime not meet the Agency's needs or cause undue hardship on employees, the employees may be assigned from other areas to accomplish the work.

Employees are required to call within the first hour if they are unable to report for overtime work. Failure to do so could result in a recommendation for appropriate administrative action.

#### *Section 41.8.3 Holiday Overtime*

When either voluntary or mandatory overtime is to be performed on a holiday, normally at least one (1) day advance notice will be given to the employees affected, except in cases of unforeseen work requirements.

### **Section 41.9 Impact on Leave**

#### *Section 41.9.1 Mandatory Overtime*

Employees in a paid leave status will not be assigned overtime until they return to duty status, unless they are needed for work requirements.

#### *Section 41.9.2 Voluntary Overtime*

Each time an employee is going to be out on annual leave or Alternate Work Schedule (AWS) day, and wishes to be considered for overtime opportunities, the employee must notify their supervisor prior to the first day of leave status. The employee must provide a phone number and will receive one (1) courtesy call.

#### *Section 41.9.3*

Leave use history or balance will not be a factor in offering or assigning employees overtime. Overtime in conjunction with paid leave usage in the same pay period is permitted.

#### *Section 41.9.4*

Employees on military leave under 5 U.S.C. 6323(a) or court leave under 5 U.S.C. 6322 are entitled to the same compensation they would have otherwise received but for their absence on military or court leave. If such leave is taken at a time when the employee would otherwise be required to perform regularly scheduled overtime, the employee must be compensated at the overtime rate of pay.

### **Section 41.10 Preshift and Post-Shift Activities**

If the Agency reasonably determines that a preshift or post-shift activity is closely related to an employee's principal activities, is indispensable to the performance of principal activities, and the total time spent in that activity is more than ten (10) minutes per daily tour of duty, the Agency shall credit all of the time spent in that activity, including the ten (10) minutes, as hours of work.

## **Section 41.11 Compensatory Time in Lieu of Overtime Pay**

### *Section 41.11.1*

Compensatory time is time off from work that may be granted to an employee in lieu of payment for irregular and occasional overtime. Compensatory time earned is equal to the amount of time spent in overtime work, e.g., one (1) hour and fifteen (15) minutes of overtime work yields one (1) hour and fifteen (15) minutes of compensatory time. The following pertain to such compensation for overtime work:

1. FLSA Nonexempt Employees: Except as provided in Section 41.11.2 of this Article, the Agency will normally provide overtime pay for all overtime work performed by nonexempt employees. After considering work requirements, the Agency may grant an employee's request for compensatory time off for overtime work performed, but nonexempt employees may not be required to accept compensatory time off in lieu of payment for overtime work performed.
2. FLSA Exempt Employees
  - A. FLSA exempt employees may request to receive compensatory time off in lieu of overtime pay for irregular or occasional overtime. Such requests will normally be granted, subject to work requirements. If the employee does not make such a request, or if the Agency does not approve that request, the employee is entitled to compensation in accordance with Section 41.11.3 of this Article.
  - B. The Agency may require that employees whose rate of pay exceeds the maximum rate for GS-10, Step 10 be compensated for irregular or occasional overtime with compensatory time in lieu of overtime pay.

### *Section 41.11.2*

The Agency may announce in advance of offering overtime that it will only compensate employees with compensatory time when overtime pay will not be available. In that case, an employee who is FLSA nonexempt may decline the offer of overtime. Such declination will not be held against the employee and the declination will not affect eligibility for future offers of overtime.

### *Section 41.11.3*

Compensatory time in lieu of overtime earned must be used by the end of the twenty-sixth (26th) pay period after the pay period that it was earned; otherwise, it will be converted to overtime pay computed using the employee's rate of pay at the time the overtime pay was earned.

## **Section 41.12 Stand by Duty**

An employee will be considered on duty and time spent on standby shall be considered hours of work if:

1. The employee is restricted to the Agency's premises, or so close thereto that the employee cannot use the time effectively for his/her own purposes; or
2. The employee, although not restricted to the Agency's premises:
  - A. Is restricted to his/her living quarters or designated post of duty or approved telework location;
  - B. Has his/her activities substantially limited; or
  - C. Is required to remain in a state of readiness to perform work.

Employees who are required to remain in standby status will receive appropriate compensation, in accordance with applicable government-wide rules, laws, and regulations.

## **Section 41.13 On-Call**

Time spent in an on-call status is not considered hours of work if the employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted; even though the employee is required to remain within a reasonable call-back radius, or if the employee is allowed to make arrangements such that any work that may arise during the on-call period will be performed by another person.

## **Section 41.14 Compensatory Time for Religious Observances**

See Leave Article 46, Section 46.18, Accommodation for Religious Observances.

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## **ARTICLE 42. WORK SCHEDULES**

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### **Section 42.1 Purpose**

This Article shall be administered in accordance with Title 5, U.S.C., Chapters 61; Title 5, CFR, Parts 610, and this Agreement. The purpose of this Article is to prescribe the policies covering hours of work for all employees in accordance with applicable law and regulation.

### **Section 42.2 Definitions**

1. Administrative workweek will be a period of seven (7) consecutive days beginning on Sunday.
2. Adverse Agency impact, for the purpose of this Article, is the condition for which the Agency may cancel an alternative work schedule, or exclude some positions or employees from any particular alternative work schedule. Adverse Agency impact means a reduction of the productivity of the Agency, a diminished level of services furnished to the public by the Agency, or an increase in the cost of Agency operations (other than a

reasonable administrative costs relating to the process of establishing a flexible or compressed schedule.)

3. Alternative work schedule (AWS) means a flexible or compressed work schedule.
4. Basic work requirement means the number of hours, excluding overtime hours, an employee is required to work or to account for by charging leave, credit hours, excused absence, holiday hours, compensatory time off, or time off as an award. For full-time employees, the basic work requirement is eighty (80) hours per biweekly pay period. A part-time employee's basic work requirement is thirty-two (32) to sixty-four (64) hours in a biweekly pay period unless the employee is on a mixed tour.
5. Biweekly pay period means the two- (2-) week period for which an employee is scheduled to perform work.
6. Compressed work schedule (CWS) means:
  - A. In the case of a full-time employee, a fixed eighty (80) hour biweekly basic work requirement that is scheduled by the Agency for less than ten (10) workdays; and
  - B. In the case of a part-time employee, a biweekly basic work requirement of less than eighty (80) hours that is scheduled by the Agency for less than ten (10) workdays and that may require the employee to work more than eight (8) hours in a day.
7. Core Hours means the time periods during the workday, workweek, or pay period that are within the tour of duty during which a regular day shift employee is required to be present for work. Normally all regular day shift employees must be at work during core hours unless they are in an approved leave status or have been approved to use credit hours. The established core hours are from 10:00 a.m.–3:00 p.m. Monday through Friday, with the exception of the thirty (30) minute lunch period. Core hours do not apply to part-time employees.
8. Credit hours means any hours within the flexi time schedule that are in excess of an employee's basic work requirement, and that the employee elects to work to vary the length of a workweek or a workday. Employees must have prior supervisory approval to earn and use credit hours.
9. Entrance on Duty (EOD) means the effective date of current continuous employment with the Agency without a break in service.
10. Flexible work schedule (FWS) means a work schedule established under 5 U.S.C. § 6122, that:
  - A. In the case of a full-time employee, has an eighty (80) hour biweekly basic work requirement that allows an employee to determine his or her own schedule within the limits set by this Agreement; and
  - B. In the case of a part-time employee, has a biweekly basic work requirement of less than eighty (80)

hours that allows an employee to determine his or her own schedule within the limits set by this Agreement.

11. Tour of duty means the hours of a day and the days of an administrative workweek that constitute an employee's regularly scheduled administrative workweek. Tour of duty under a flexible work schedule means the limits set by this Agreement within which an employee must complete his or her basic work requirement. Under a compressed work schedule or other fixed schedule, tour of duty is synonymous with basic work requirement.
12. Mixed tours of duty is where an employee may be assigned to a full-time, part-time, or intermittent tour of duty as needed to permit flexibility and allow the best utilization of the employee based on the work requirements of the organization. Employees hired to work a mixed tour as a condition of employment are exempt from the sixteen (16) to thirty-two (32) hour per week part-time employment requirement.
13. Intermittent work in accordance with 5 CFR 340.403 is appropriate only when the nature of the work is sporadic and unpredictable so that a tour of duty cannot be regularly scheduled in advance.
14. SCD is the date on which an employee would have entered the federal service had his/her service been continuous up to the present time. The date is determined by adding all creditable service and subtracting the total from the present date. The SCD referenced in this Agreement is the SCD for leave used in the decision regarding a RIF.
15. Part-time career employment is regularly scheduled work from sixteen (16) to thirty-two (32) hours per week or thirty-two (32) to sixty-four (64) hours during a biweekly pay period in the case of a flexible or compressed work schedule in either the permanent competitive or excepted service. Employment on a mixed tour, term, temporary, or intermittent basis is not included. However, the actual work hours can be increased to more than thirty-two (32) hours per week for a limited period of time to meet heavy workloads, etc.

### **Section 42.3 General Provisions**

The Parties agree that these procedures allow for the best utilization of employees based on the project goals of the Agency. Work requirements and employee preferences will be considered in making assignments to work schedules. With this understanding, the following guidelines apply:

1. Normally, work shall be scheduled Monday through Friday in conjunction with biweekly pay periods. Exceptions may occur when work requirements make it necessary to include Saturdays and/or Sundays as part of the basic workweek for certain employees. For the contact centers, most work schedules are variable and hours may be scheduled utilizing a blend of full-time,

part-time, intermittent, seasonal, and mixed-tour employees. Mixed tours of duty may be utilized as appropriate. Scheduled hours can vary from pay period to pay period, week-to-week, and day-to-day.

2. For the contact centers, work schedules may include at least one (1) weekend day (Saturday and/or Sunday) based on project/survey needs. Mixed-tour employees may be scheduled anywhere from two (2) to eighty (80) hours per pay period. Work permitting, contact center employees may be scheduled an average of work twenty-five (25) hours per week. The basic part-time weekly work requirement for employees performing interviewing work at the JCC is twenty-five (25) hours per week.
3. Normally, an employee's workweek shall not extend for more than five (5) days of the period Sunday through Saturday. Effort will be made to avoid scheduling contact center employees for more than six (6) consecutive days, and will include not fewer than four (4) days off during a pay period. In the event that contact center employees are scheduled for more than six (6) consecutive days, effort will be made to schedule two (2) consecutive days off, when workload permits. Nothing in this section should be interpreted as prohibiting a contact center employee from receiving two (2) consecutive days off or from picking up additional hours through the trade/giveaway board, where applicable, that could result in an employee having less than four (4) days off during a pay period.
4. Generally, all employees scheduled to work five (5) or more hours in a day shall be granted, on a nonpaid basis, a meal period of at least thirty (30) minutes each day. Regular day shift lunch periods will be between 11:00 a.m. and 2:00 p.m. or near the mid-point of the shift or tour of duty for employees other than regular day shift. Supervisors may approve exceptions for unforeseen circumstances. Lunch periods may not be used in combination with paid breaks or as a means to modify an employee's arrival or departure time. Contact Center employees will follow the provisions of Section 42.3(7) of this Article.
5. A paid break or rest period of fifteen (15) minutes will be provided to all employees for each four (4) hours of scheduled work. The rest period normally will occur in the middle of each four (4) hour work period. Employees may leave the immediate worksite area but not the Agency premises during a break. Breaks may not be used as a means to modify an employee's arrival or departure time, and must not occur immediately before or after lunch periods.
6. A rest period of ten (10) minutes duration will be allowed to each employee during each period of extended shift overtime of at least two (2) hours duration. On days when all work is overtime (including compensatory time) and/ or credit hours, rest period of fifteen (15) minutes will be allowed for each period

of four (4) hours worked. Rest periods will not be appended to periods of leave, the beginning, or end of the employee's work shift or at the beginning or end of overtime.

7. The Agency agrees to authorize breaks for contact center employees as follows:

Less than 4 hours of work	No break
4 hours of work	One 15-minute break
5 hours of work	One 15-minute break
6 hours of work	Two 10-minute breaks or One 20-minute break
7 hours of work	Two 15-minute breaks
Over 7 hours of work	Two 15-minute breaks plus 30 minutes unpaid meal break

Employees may leave the immediate worksite area, but not the Agency premises, during a break. Breaks may not be used as a means to modify an employee's arrival or departure time, and must not occur immediately before or after lunch periods.

8. Supervisors may designate specific times for meal and break periods consistent with (3) through (7) of this section if it is determined that lack of such designation could negatively impact the work unit's operation. Such designations will not be arbitrary or capricious.
9. Contact center employees are scheduled through the IEX system (or equivalent system) taking into consideration employee schedule preferences, availability, the current work needs, sponsor requirements, employee qualification skills, and seating capacity. In the case of limited work, when there are more equally qualified employees on the same tour available to perform the same work than is needed during the same scheduled timeframe, an employee's EOD will determine the schedule assignment by most senior EOD.
10. Certain alternative work schedules may not be suitable and, therefore, may not be permitted for some operations where the ability to perform one's own job is directly affected by the absence of another employee, such as shift work, around the clock operations, or team-based production work. In such circumstances, employees may be limited to specific AWS schedules or may be required to work a regular work schedule (neither flexible nor compressed).
11. If a holiday falls on a full-time employee's nonworkday, the employee is entitled to an "in lieu of" holiday. In such cases, the employee's holiday will normally be the preceding workday. Supervisors have the discretion to deviate from this procedure on a case-by-case basis where there would not be sufficient office coverage.
12. Part-time employees are entitled to all federal holidays, declared by law or Executive Order when the holiday



falls on a day they are required to work. Some employees may be required to work on holidays, thus entitling them to holiday pay. Part-time employees must not be required to move their regularly scheduled days off solely to avoid payment of holiday premium pay or reduce the number of holiday hours included in the basic work requirement. When a holiday falls on a non-workday of a part-time employee, that employee is not entitled to an "in lieu of" day for that holiday.

13. A full-time employee on a flexible schedule who is relieved or prevented from working on a day designated as a holiday is entitled to his/her rate of basic pay on that day for eight (8) hours. A full-time employee on a compressed schedule who is relieved or prevented from working on a day designated as a holiday is entitled to his/her rate of basic pay for the number of hours scheduled on that day.
14. Other schedules, such as but not limited to weekend work and hours of work other than those mentioned in this Article, may be constructed to accommodate special work requirements. Special scheduling arrangements in effect prior to the implementation of this Agreement will remain in place.
15. Management may require employees to report for work at certain times or adjust their hours as needed for work-related requirements, such as press releases, attendance at meetings, conferences, and training. Such instances shall be infrequent, isolated, and short term.
16. Supervisors may assign employees new to the Agency or new to a work area to a particular schedule as appropriate for training and development, usually for no more than six (6) months. Afterwards, the employee may request a different schedule consistent with the procedures of this Article.
17. Only the employees who work the flexi time schedule are eligible to earn credit hours.
18. Telework will not, in and of itself disqualify employees from a particular work schedule.
19. An employee may submit a request for a schedule change to pursue self-development activities. Such requests will be processed in accordance with Section 42.6 of this Article.
20. The Agency may assign employees performing below a Level (3) in their overall performance to particular schedules, as appropriate, for such purposes as meeting with supervisors, mentors or other designated staff, attending specific training, and development activities in order to improve their performance consistent with the Performance Management System. Afterwards, employees may request a different schedule consistent with Section 42.6 of this Article.
21. The Agency may assign employees exhibiting attendance problems to a particular schedule as appropriate,

to assist the employees in correcting attendance issues. After demonstrating improvement, employees may request a different schedule consistent with Section 42.6 of this Article.

22. Employees may be required to use either automated time recording equipment or sign-in/sign-out sheets, but not both.

#### **Section 42.4 Regular Day Shift Schedule (neither flexible or compressed)**

1. The regular schedule consists of a five- (5-) day, forty- (40-) hour workweek. The workday is 8½ hours Monday through Friday that includes a noncompensable thirty- (30-) minute lunch.
2. Employees select a starting time between 6:30 a.m.–10:00 a.m. for HQ; and 6:30 a.m.–9:00 a.m. for the NPC. These starting times are specifically for day shift. Starting times will vary for other shifts throughout the day/evening. Employees may not deviate from their established starting and ending time.

#### **Section 42.5 Alternative Work Schedules**

The Parties recognize that the use of alternative work schedules can improve productivity and morale and provide greater service to the public. Therefore, full-time employees may select from the following work schedules in accordance with this Article, with supervisory approval.

1. Flexi Time Schedule
  - A. The flexi time schedule is a flexible schedule that consists of a five- (5-) day, forty- (40-) hour workweek. The workday is 8½ hours that include a non-compensable thirty- (30-) minute lunch.
  - B. Core hours for regular day shift employees are from 10:00 a.m.–3:00 p.m., Monday through Friday, with the exception of the thirty- (30) minute lunch period. All employees must be present at work during core hours, unless otherwise approved for leave, credit hours, or compensatory time off.
  - C. Employees select a starting time between 6:30 a.m.–10:00 a.m. for HQ; and 6:30 a.m.–9:00 a.m. for the NPC. Starting and ending times may vary for contact center employees and employees on shift work.
  - D. Employees may deviate up to thirty- (30-) minutes on either side of their established starting or ending time without prior supervisory approval, as long as all hours of work fall between 6:30 a.m.–6:30 p.m. at HQ; and 6:30 a.m.–5:30 p.m. at NPC. Hours of work may vary beyond these times for contact center employees. An employee voluntarily flexing past 6:00 p.m. is not entitled to night differential pay.
  - E. Credit hours: Credit hours may be earned, worked, or used as time off in no less than fifteen- (15-) minute increments when employees meet the basic daily



work requirement through work, approved leave, earned credit hours, or compensatory time off.

1. Credit hours require supervisory approval before they can be worked or used. Requests will be approved or denied by the supervisor as soon as practicable, normally within one (1) business day. In rare instances where unforeseen circumstances warrant, the earning of credit hours may be approved retroactively at the discretion of the supervisor.
2. Credit hours cannot be used in the same pay period in which they are being earned. Working credit hours is voluntary on the part of the employee, and does not confer an entitlement for overtime.
3. If credit hours are approved and overtime is subsequently made available prior to the working of the credit hours, the employee will be afforded the opportunity to elect to work the overtime.
4. Employees may carry over a maximum of twenty-four (24) credit hours from one (1) pay period to the next.
5. Employees are responsible for monitoring their credit hours, ensuring they are not earned without supervisory approval, and that the maximum carry over balance is not exceeded. Credit hours in excess of the maximum carry over allowance are forfeited and do not confer any entitlement to pay.
6. All credit hours, earned and used, must be recorded using sign-in/sign-out sheets or an electronic timekeeping system. Unofficially maintained balances and arrangements "off the record" are prohibited.
7. An employee may use earned credit hours for all or any part of any approved leave. Credit hours must be earned before they may be used.
8. Time spent in nonpay status, such as Absence Without Leave (AWOL) or LWOP will not count toward the basic work requirement for the purpose of accumulating credit hours.

## 2. 5-4/9 Compressed Schedule

The 5-4/9 schedule is a type of compressed work schedule that allows employees to work eighty (80) hours a pay period over nine (9) days during the regular pay period and have the tenth (10th) day of the regular pay period off.

- A. Employees select a set schedule of consecutive hours to work between 6:00 a.m. and 7:00 p.m. at HQ (exception: the eight- (8-) hour day cannot begin until 6:30 a.m.); and 6:30 a.m. and 5:30 p.m. at NPC

for each of nine (9) days. The latest arrival times are 9:30 a.m. at HQ (exception: the latest arrival time for the eight- (8-) hour day is 10:00 a.m.) and 8:00 a.m. at NPC. These starting times are specifically for day shift. Starting times will vary for other shifts throughout the day/evening.

- B. Employees will work 9½ hours a day for eight (8) days and 8½ hours for one (1) day during the pay period, unless otherwise on approved leave. This includes a thirty-(30-) minute noncompensable lunch period.
- C. Employees will normally have their day off on a Monday or a Friday, unless otherwise approved by the supervisor. Employees may also choose to split the day off into two (2) half-days during the pay period.

## 3. 4/10 Compressed Schedule

The 4/10 schedule is a type of compressed work schedule that allows employees to work forty (40) hours per week over four (4) days during the regular workweek with one (1) day of the regular workweek off.

- A. Employees select a set schedule of consecutive hours to work between 6:00 a.m. and 7:00 p.m. at HQ; 6:30 a.m. and 5:30 p.m. at NPC for each of the four (4) days. The latest arrival time will be 8:30 a.m. at HQ; and 7:00 a.m. at NPC.
- B. Employees work ten and one-half (10½) hours a day for the four (4) days during the workweek. This includes a thirty- (30-) minute noncompensable lunch period.
- C. Employees will normally have their day off on a Monday or a Friday, unless otherwise approved by the supervisor.

## Reopener

The Parties, through mutual agreement, may reopen the provisions of this Section at any time following the effective date of this Agreement. Otherwise, either party may reopen the provisions of this section at any time after twenty-four (24) months following the effective date of this Agreement. Such negotiations shall be conducted in accordance with Article 16, Mid Term Bargaining.

## Section 42.6 Requests for Change of Work Schedule

1. Employees may request to change their schedule at any time throughout the calendar year. Such requests should be submitted as far in advance as possible, and will be processed on a first-come, first-served basis. Any remaining conflicts will be resolved in favor of the most senior employees, based on EOD. Employees do not need to provide a business justification for the schedule change. Schedule change requests should occur infrequently.

2. Additionally, NPC employees may request a schedule change during the period that coincides with the health benefits open season. When requests for a work schedule preference cannot be accommodated, approvals will be based on most senior EOD. All schedule changes under this provision will be processed by the end of the calendar year. These new schedules go into effect the first pay period of the following calendar year.
3. Employees who are requesting a particular work schedule must indicate which schedule they are requesting, which day(s) is (are) requested as the nonworkday(s) and in the case of the 5-4/9 schedule, which day is requested to be the eight- (8-) hour day and which days are requested to be the split day. Employees must also select a starting and stopping time within the arrival and departure time bands for each day of the pay period.
4. Except for changes requested under Item (2) of this section, if a supervisor denies an employee's request for a particular work schedule or proposes to terminate an individual employee's participation in an alternative work schedule, he or she will notify the employee in writing, normally within seven (7) days, provide the basis for the denial or termination, and provide an alternate schedule to the employee. The supervisor may deny an employee's request for or propose to terminate an employee's participation in a particular work schedule if the supervisor determines that the employee's participation could negatively impact the work unit's coverage requirements or the need to respond to the public. Denials of requests to work a particular schedule will not be arbitrary or capricious.

### **Section 42.7 Temporary Suspension of Work Unit Work Schedules**

1. Occasions may arise when certain work schedules must be temporarily suspended as a result of unusual workload or operational demands. The Agency shall make a reasonable effort to avoid suspension of an employee's participation in these work schedules.
2. Individual exceptions to, or personal needs resulting from a temporarily suspended work schedule will be considered on a case-by-case basis.
3. If the circumstances requiring the suspension of schedule permit, the Agency will provide the employee with advance notice of at least one (1) pay period.
4. If an employee's flexible work arrangement is suspended, it will automatically be restored the next pay period after the reason for the suspension needs has been met.
5. The Agency will limit the suspension to as short a timeframe as necessary to meet the workload or operational demands. Such instances shall be infrequent, isolated, and short term.

6. Notices of any temporary suspensions will be provided to the Union before implementation.
7. If the Agency believes that the "temporary suspension" will extend beyond two (2) pay periods, the Agency will notify the Union in accordance with Article 16, Mid-Term Bargaining.
8. Decisions on temporary suspensions of any work schedule for any employee will not be arbitrary or capricious, and will be based on work requirements.

### **Section 42.8 Exclusions**

1. If the Agency determines that certain positions and/or employees in certain organizational units are not eligible for a particular work schedule, the Agency will provide the Union with a list of those positions and organizational units and indicate which schedules are inappropriate, along with the reasons for the determination for each, within sixty (60) days of the effective date of this Agreement.
2. At the Union's request, the Parties will negotiate over the Agency's proposed exclusions, if any, under the provisions of Article 16, Mid-Term Bargaining. If the Parties are unable to agree, the impasse will be resolved under the provisions of law. Pending a final decision on an impasse, the employee(s) or position(s) will remain eligible for the AWS option in question.

### **Section 42.9 Termination of Alternative Work Schedules**

1. If the head of the Agency finds that a particular alternative work schedule has had an "adverse agency impact," as defined in 5 U.S.C. 6131 (b), the Agency must promptly provide notice to the Union of its desire to reopen the Agreement to seek its termination.
2. Upon demand by the Union, the Parties will then negotiate over the Agency's proposal.
3. If an impasse results, the dispute will go to the FSIP, which will determine within sixty (60) days whether the Agency's determination is supported by evidence.
4. The alternative work schedule may not be terminated until agreement is reached or the FSIP acts.

### **Section 42.10 Shift Work and Other Hours of Work**

#### *Section 42.10.1 General*

When the accomplishment of the Agency's work requires that there be more than one (1) shift with a full-time basic work requirement over the course of a day, the Agency will determine which positions are required to be on duty for more than one (1) shift.

Consideration will be given to provide the same flexibilities to shifts other than the regular day shift, while minimizing any negative impact to the flexibilities provided for the regular day shift.

### **Section 42.11 Assignment to Different Shifts**

Employees who are scheduled to work more than two (2) consecutive work shifts within any seven (7) consecutive day period will be compensated with overtime or compensatory time off in accordance with law.

### **Section 42.12 Off-Duty Time**

Except those designated as Emergency Response Group, Continuity of Operations members, or essential personnel under emergency conditions, employees should not normally be required to report to work unless they have had at least ten (10) hours off-duty time between nonovertime work tours. Contact center employees will be deemed to have waived this provision by expanding their availability in the automated system according to Section 42.18 of this Article.

### **Section 42.13 Requests for Adjustment of Work Schedules for Religious Observances**

Employees should submit a written request for an adjusted work schedule for religious observances. When the accommodation request itself does not provide enough information to enable the Agency to make a determination, and the Agency has a bona fide doubt as to the basis for the accommodation request, employees may be required to provide acceptable documentation of the need to abstain from work. At the Agency's discretion, an employee's self-certification may be considered acceptable documentation.

When deciding whether an employee's request for an adjusted work schedule should be approved, a supervisor should not make any judgment about the employee's religious beliefs or his or her affiliation with a religious organization.

When an employee's request is approved, a supervisor may determine whether the alternative work hours will be scheduled before or after the religious observance.

An employee should be allowed to accumulate the number of hours of work needed to make up for previous or anticipated absences from work for religious observances.

If an employee is absent when he or she is scheduled to perform work to make up for a planned absence for a religious observance, the employee must take paid leave, credit hours, request LWOP, or be charged AWOL, if appropriate.

The Agency may disapprove an employee's request only if it would cause undue hardship on the Agency's business. Disapprovals will be given to the employee in writing within five (5) days of the request.

### **Section 42.14 Temporary Assignments and AWS Schedules**

Where possible, effort will be made to allow employees temporarily assigned or detailed to other parts of the organization to remain on the schedule they worked prior to the temporary assignment or detail. However, nothing precludes an employee from requesting a change of schedule in accordance with Section 42.15.1 of this Article.

### **Section 42.15 Night Differential**

#### *Section 42.15.1*

All GS employees, working any schedule, and scheduled to work between the hours of 6:00 p.m. and 6:00 a.m. are entitled to night shift differential equal to ten (10) percent of their basic rate of pay. Employees are not entitled to night pay for voluntarily working flexible hours between 6:00 p.m. and 6:00 a.m., including the earning of credit hours.

#### *Section 42.15.2*

All FWS employees are entitled to a night shift differential of 7.5 percent of their scheduled rate of pay for regularly scheduled nonovertime work, when a majority of the hours occur between 3 p.m. and midnight; and a night shift differential of ten (10) percent of their scheduled rate of pay for regularly scheduled nonovertime work, where a majority of the hours occur between 11 p.m. and 8 a.m.

#### *Section 42.15.3*

No employee may receive night differential pay when engaged in training, except when the training takes place during hours in that employee's regular tour of duty that otherwise qualify for night differential.

### **Section 42.16 Sunday Differential**

A full- or part-time employee who performs regularly scheduled nonovertime work, a part of which is performed on a Sunday, is entitled to their regular rate of pay plus premium pay at a rate equal to 25 percent of their rate of basic pay for the entire daily tour of duty, not to exceed eight (8) hours.

### **Section 42.17 Notification of Schedules for Contact Center Employees**

1. The Agency will strive to notify employees of their schedule fourteen (14) days in advance of the administrative workweek, although not always possible. There may be unforeseen circumstances, such as late notice workload adjustments or system limitations that could impact the posting of employees' schedules.
2. In the rare event of a management-initiated schedule change after posting, the Agency will make every effort to notify employees as far in advance as possible. If the employee has a prior commitment during the newly scheduled work hours, an effort will be made to accommodate that commitment, including:

- A. Not applying the schedule change;
- B. Applying the change to alternate staff; or
- C. Providing alternate work hours to the affected employee where applicable, to prevent a loss in the number of scheduled weekly work hours.

If none of the above are possible, the employee may be required to work the scheduled change.

- 3. If an employee is not scheduled to work or is absent during the days prior to the schedule change, the Agency will attempt to contact the employee. In the event of a lack of verbal confirmation, the employee will be placed in a "schedule interruption" status until he/she makes contact with the facility scheduler or returns to work.

- B. For multiple, frequent, or lengthy absences (three [3] consecutive days or more), the Agency may request documentation to support the absence.
- C. Requests for time off will be processed on a first-come, first-serve basis and will be approved or denied based upon operational needs.

- 1. Before denying such a request, the Agency will attempt to fill the need with current staff.
- 2. Approval/denial decisions will be made in writing within seven (7) calendar days of receipt. Denials also will include the specific operational reason(s).
- 3. Employees may request higher-level management review of denial decisions.

- 2. After the schedule is posted:

- A. The "Trade Board" was initiated to help employees swap or give away their shifts after a schedule has been posted. Employees can pick up available shifts, swap/trade, or give away shifts on the Trade Board. The Trade Board only applies to posted schedules.
- B. Swap and giveaway requests may be submitted via the interviewer's work station.
- C. Notification of status for swaps and giveaway requests will be delivered to the employee via the interviewer's work station.
- D. Swap and giveaway requests will be approved or denied based upon operational needs within twenty-four (24) hours following receipt by the scheduler or supervisor. All denials will be justified in writing. Employees may request higher-level management review of denial decisions.
- E. If the denial is upheld and the requested change involves an absence during scheduled time, the employee may request appropriate leave, where applicable.

### **Section 42.18 Employee Requests for Changes in Availability for Contact Center Employees**

- 1. Changes to employee availability or changes to scheduling preferences will require a written request to be submitted personally or electronically for approval. The request must include the following information:
  - A. The effective date;
  - B. The duration or ending date (where applicable); and
  - C. The new days and hours of availability.
- 2. In order to ensure full consideration of approving a request for a change in availability, employees should submit such requests at least three (3) weeks before the scheduled posting date.
- 3. The Agency agrees to consider an employee's request for a change in availability. Preference will be given to the most senior EOD.
- 4. Changes in availability will be approved or denied based upon operational needs.
  - A. Before denying such a request, the Agency will attempt to fill the needed availability with current staff.
  - B. Approval/denial decisions will be made in writing within seven (7) calendar days of receipt. Denials also will include the specific operational reason(s).
  - C. Employees may request higher-level management review of denial decisions.

### **Section 42.19 Employee Request for Schedule Modification for Contact Center Employees**

- 1. Prior to the schedule being posted:
  - A. Employees should submit requests for time off in person or electronically at least three (3) weeks prior to the schedule posting date to ensure full consideration of approving the request.

### **Section 42.20 Self-Studies/Monthly Memos for Contact Center Employees**

Most employees should complete their self-study prior to the first day of the project/survey production. The exceptions to this will be for employees who are not scheduled, or who are on the schedule and due to an illness were incapacitated, and unable to work during the week prior to the beginning of the survey/project. Those employees will be permitted to do the self-study at the beginning of their work schedule on their first scheduled production day.

Monthly memos are normally completed at the beginning of the employees work schedule on their first scheduled production day.

Time allowed to complete the self-study/monthly memo will be limited to sponsor recommendations.



### **Section 42.21 Staff Updates, Worksite Prep, and Related Activities for Contact Center Employees**

The Agency will schedule meetings, regularly, or as necessary, during employees' scheduled duty time for purposes such as informing employees of unit goals and progress, for sharing and exchanging information, and possible improvements relevant to the work being performed.

Employees will receive a reasonable amount of duty time to clean and disinfect their workstation at the beginning of their shift. This is for work-related preparatory activity and is not an authorized break. The Agency will supply cleaning supplies for this purpose. If more time is needed, the employee should seek assistance from their supervisor.

### **Section 42.22 Voluntary Reduction in Work Assignments for Contact Center Employees**

The Agency agrees to consider an employee's request to be removed from a project/survey. This does not preclude assigning the employee to other projects/surveys. Before denying such a request, the Agency will attempt to fill the needed availability with current available staff. Employees may request higher-level management review of denial decisions.

### **Section 42.23 Extra Hours for Contact Center Employees**

The dates and timeframes of the extra hours offered will be based on project/survey needs. Once the Agency determines that extra hours are required, volunteers will be solicited. Extra hours will be offered to all qualified employees. However, JCC extra hours will first be offered to part-time employees, not to exceed thirty-two (32) hours, before offering to intermittent employees. If there is an inadequate number of qualified volunteers, the Agency will solicit additional volunteers including making calls to off-duty staff. If there is an excess of equally qualified volunteers with the appropriate skill set, selection will be made by EOD with the most senior being selected first.

It is the employee's responsibility to ensure current and accurate contact information is provided. The Agency agrees to take all possible actions to eliminate barriers to employees volunteering for extra hours.

Employees who are not already on the work schedule, but are volunteering extra hours, must be available to work a minimum of two (2) hours. Employees who are already on the work schedule, and are volunteering extra hours, must be available to work a minimum of one (1) hour. When offering extra hours on multiple projects/surveys, management will determine which project/survey the employee will be assigned to work.

Situations may arise that the Agency can waive the minimum one (1) hour requirement for work-related reasons.

The Union will be notified in advance of the opportunity for extra hours.

### **Section 42.24 Slack Work for Contact Center Employees**

Slack work occurs when work for a particular survey or project is reduced thus having an impact on staff currently scheduled and working on that assignment. Reductions in staff hours during periods of slack work will be determined by specific survey or project needs. In such instances, the Agency will apply the following guidelines when reducing staff in this sequential order:

1. Assign other work or training to affected employees if such work or training is available;
2. Solicit volunteers;
3. If there are not enough volunteers the least senior by EOD within that period will be required to leave first;
4. Employees with refusal/bilingual skills will be slacked by survey needs;
5. Employees assigned to work surveys/projects not experiencing slack work will not be affected; and
6. The Union will be notified in advance of the need to slack.

The above provisions of this section do not apply to part-time employees in the JCC.

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## **ARTICLE 43. OTHER THAN FULL-TIME**

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### **Section 43.1 Part-Time Permanent Employment**

The following applies to all employees serving on part-time permanent work schedules with the exception of those assigned to a mixed tour of duty.

1. In accordance with the provisions of 5 CFR 340.202, the tour of duty for part-time employees shall be between sixteen (16) and thirty-two (32) hours per week.
2. Employees may request to change the number of hours to be worked within the sixteen- (16-) to thirty-two- (32-) hour range.
3. Upon request from a bargaining unit employee, the servicing HR Office will provide pertinent information regarding the personnel effects of changing to and from part-time permanent positions. Such information may include, but is not limited to pay, benefits, time-in-grade requirements, within grade increases, accumulation of leave, and changes in competitive levels in the event of a RIF.



## Section 43.2 Intermittent Work Schedule

1. Appropriate Use
  - A. An intermittent work schedule is appropriate only when the nature of the work is sporadic and unpredictable so that a tour of duty cannot be regularly scheduled in advance.
  - B. When the Agency is able to schedule work in advance on a regular basis, it has an obligation to document the change in work schedule from intermittent to part-time or full-time to ensure proper service credit.
  - C. Intermittent employees serving under career appointment may move to other positions in the same way as other regular career employees.
2. Employee Notification (Except Contact Center Employees)

The procedures for contact center employees are contained in Article 42, Work Schedules, Section 42.17 Notification of Schedules for Contact Center Employees.

  - A. Supervisors will make every effort to inform intermittent employees as soon as possible if they need to report to duty the following workday.
  - B. The Agency will make every reasonable effort to fill unscheduled intermittent hours on a fair and equitable basis among equally qualified intermittent employees.
  - C. Rotation of hours (if offered) will be by EOD. After the first rotation, hours offered will be made available to the employee with the lowest accumulated hours. Refusal or failure to work offered hours will be treated as hours worked.
  - D. Supervisors will make every effort to inform intermittent employees prior to the end of the workday if they will be needed the following workday.
3. The Agency agrees that if an intermittent employee is called in for work, the employee will be assigned/compensated for a minimum of two (2) hours work if the employee reports for work at the time designated by the Agency.
  - A. If an employee is not called to duty in a six- (6-) month period, consideration will be given to reassigning the employee to a unit where work, for which the employee is qualified, is more regularly available.
  - B. Upon request, the Union will be provided with a record of hours worked by intermittent employees in accordance with Article 6, Section 6.8, Right to Information.

## Section 43.3 Temporary and Term Staffing Options

All temporary and term staffing within the bargaining unit will be done in accordance with applicable laws, government-wide regulations (5 CFR 316), and this Agreement.

Temporary appointments are for short-term needs that are not expected to last longer than one (1) year when the need for the employee is not permanent. This appointment may be extended up to a maximum of one (1) additional year (twenty-four [24] months of total service).

Term appointments are for more than one (1) and up to four (4) years when the need for the employee's services is not permanent.

## Section 43.4 Conversions and Promotions for Mixed-Tour Contact Center Employees

The Agency will consider the following criteria when reviewing eligibility for conversions and promotions.

### *Section 43.4.1 Conversion From Permanent-Intermittent to Part-Time*

1. Must work on one or more current (ongoing) surveys.
2. Must not have an NTE (Not To Exceed date).
3. Must have two (2) quarters of at least one hundred fifty (150) hours worked as available, per quarter in the last twelve (12) months (Quarter = 13 weeks period of time).
4. Must foresee the interviewer will be able to meet one hundred fifty (150) hours per quarter in the future.
5. Must have two (2) quarters of at least one hundred fifty (150) hours worked as available, per quarter in the last twelve (12) months of acceptable performance. The Agency will follow the provisions set forth in Article 33, Performance Management System, if an employee's performance falls below a level 3 during this period.

### *Section 43.4.2 Conversion to Intermittent Status*

Changes to the status of a mixed-tour employee from full-time or part-time to intermittent may occur when the employee fails to meet the criteria indicated in Section 43.4.1(4) and (5) for more than two (2) quarters. In those instances, the employee will be notified two (2) weeks in advance regarding the possibility of the status change.

### *Section 43.4.3*

If you are appointed at the grade 2 level, you are eligible for promotion to the grade 3 level after working a total of three (3) months (or 521.75 hours) in that position. If you are appointed at the grade 3 level, you are eligible for

promotion to the grade 4 level after working six (6) months (or 1043.5 hours) in that position. In addition, you must be performing at a fully successful level or better to be recommended for promotion. In some cases, you may be eligible for promotion to a grade 3 or 4 after ninety (90) days.

### **Section 43.5 Seasonal**

If the Agency chooses to hire using a Seasonal Work Schedule in accordance with 5 CFR 340, the Union will be notified in accordance with Article 16, Mid-Term Bargaining.

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## **ARTICLE 44. PROBATIONARY/TRIAL-PERIOD EMPLOYEES**

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### **Section 44.1**

The term “probationary period” applies to career or career-conditional appointments; the term “trial period” applies to term or accepted service appointments.

### **Section 44.2**

An employee under an initial appointment to the competitive service must serve a probationary period when the employee:

1. Was appointed from a competitive list of eligible candidates; or
2. Was reinstated, unless the employee completed a probationary period under a previous appointment.

The probationary period of employees appointed under 5 CFR Sec. 315.802 is one (1) year and may not be extended.

### **Section 44.3**

For employees serving a probationary period under 5 CFR 315.801, prior federal civilian service counts toward completion of probation when the prior service:

1. Is in the same Agency;
2. Is in the same line of work (determined by the employees’ actual duties and responsibilities); and
3. Contains or is followed by no more than a single break in service that does not exceed thirty (30) calendar days.

### **Section 44.4 Excepted Service Employees**

Employees appointed under the provisions of 5 CFR 213 Excepted Service, will serve a trial period of two (2) years. The trial period for preference eligibles (veterans) under an excepted service appointment is one (1) year. According to 5 CFR 213.3102(u)(6), the Agency may noncompetitively convert a handicapped employee to the competitive service, when he/she has completed two (2) years of satisfactory service in a nontemporary appointment under this authority.

### **Section 44.5 Temporary Employees**

All temporary appointments within the bargaining unit will be made in accordance with applicable laws and government-wide regulations (5 CFR 316 et. al.). Temporary appointments will be used only to meet legitimate nonpermanent staffing needs.

When it is determined that a temporary employee is to be separated prior to the end of their “Not to Exceed” date, the employee will be given two (2) weeks notice. This provision may not apply to separations based on conduct or performance.

### **Section 44.6 Term Employees**

1. Consistent with applicable laws, regulations, and this Agreement, employees serving on term appointments shall be afforded the same opportunities, rights, and remedies as career employees for the duration of their term.
2. In accordance with 5 CFR 316.304, the first year of service of a term employee is a trial period, regardless of the method of appointment. Prior federal civilian service is credited toward completion of the required trial period in the same manner as prescribed in Section 44.3 of this Article.

### **Section 44.7**

Probationary and trial-period employees will be provided performance plans for their job in accordance with the Article 33, Performance Management System.

### **Section 44.8**

During the probationary or trial period, the Agency evaluates the employees’ conduct and performance in the actual duties of their positions to assess fitness and qualifications for continued employment.

### **Section 44.9**

The Agency will consider employees’ specific requests for assistance to improve his/her performance. Where performance deficiencies are reported, the employee and the supervisor will explore courses of action that may be taken to overcome them, and the supervisor will provide appropriate assistance.

Any official forms used to document performance or conduct problems will be shared with the employee.

### **Section 44.10**

The Agency may terminate an employee who fails to demonstrate fitness or qualifications for continued employment at any time during the probationary or trial period. The employee shall be notified in writing as to why he/she

<b>ANNUAL LEAVE ACCRUAL</b>			
<b>Employee type/service</b>	<b>Less than 3 years of service</b>	<b>3 years but less than 15 years of service</b>	<b>15 or more years of service</b>
Full-time employees	½ day (4 hours) for each pay period	¾ day (6 hours) for each pay period, except 1¼ day (10 hours) in last pay period	1 day (8 hours) for each pay period
Part-time employees	1 hour for each 20 hours in a pay status	1 hour for each 13 hours in a pay status	1 hour for each 10 hours in a pay status
<b>SICK LEAVE ACCRUAL</b>			
Full-time employees	1/2 day (4 hours) for each biweekly pay period		
Part-time employees	1 hour for each 20 hours in a pay status		

is being terminated and the effective date of the action. At a minimum, the information in the notice shall consist of the conclusions as to the inadequacies of the employee's performance or conduct.

### **Section 44.11**

If the probationary employee is removed for conditions arising before appointment, the employee has a right to advance notice of separation, the reason for the separation, an opportunity to provide an answer, and supporting affidavits, and any applicable appeal rights, in accordance with 5 CFR 315.805. The Agency shall consider the answer in reaching its decision, which shall be provided to the employee at or prior to the effective date of the decision.

### **Section 44.12**

The termination of an employee while serving a probationary/trial period is not subject to the grievance procedure, but may be subject to MSPB proceedings in accordance with MSPB rules and procedures.

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## **ARTICLE 45. TELEWORK**

The Parties agree that a successful telework program is innovative and cost-effective; and benefits the Agency, its employees, and the public by providing increased productivity, reduced absenteeism, greater employee retention, and expanded recruitment opportunities. The Parties also agree that telework will provide continued operation of services during periods of emergency conditions, reduced costs for real estate and facility maintenance, and an enhanced public image.

The Parties are confident that a robust telework program will afford greater job satisfaction for employees by providing flexibility in managing one's time and activities. Telework may improve morale by reducing stress in balancing work and home obligations, and saving both time and money in costly daily commutes. Telework will also

promote a cleaner environment, decreased traffic congestion, and decreased pollution and energy consumption.

The provisions of the Telework Program will be administered in accordance with law and the Agency Telework Policy, dated October 2015, as contained in Addendum D of this Agreement.

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## **ARTICLE 46. LEAVE**

### **Section 46.1 Purpose**

The purpose of this Article is to prescribe the policies and procedures covering the various types of leave.

This Article shall be administered in accordance with Title 5, U.S.C., Chapter 63; Title 5, CFR, Parts 630, and this Agreement.

Eligible employees will be entitled to accrue and use leave.

### **Section 46.2 Definitions**

1. Accrued leave means the leave earned by an employee during the current leave year that is unused at any given time in that year.
2. Accumulated leave means the unused leave remaining to the credit of an employee at the beginning of a leave year.
3. Excused absence (Administrative leave) is an approved absence from duty without loss of pay and without charge to leave.
4. Family member for the purpose of annual and sick leave means an individual with any of the following relationships to the employee:
  - A. Spouse, and parents thereof;
  - B. Sons and daughters, and spouses thereof;
  - C. Parents, and spouses thereof;
  - D. Brothers and sisters, and spouses thereof;

- E. Grandparents and grandchildren, and spouses thereof;
  - F. Domestic partner and parents thereof, including domestic partners of any individual in b through e of this definition; and
  - G. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
5. Leave year means the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.
  6. Medical certificate means a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.
  7. Annual leave is a period of approved absence with pay from official duties. It is intended to allow the employee vacation, rest, and recreation. It is also intended for the employee's use in attending to personal or emergency business, to extend the time available to the employee under some other leave programs, and for use with specific military entitlement.
  8. Sick leave is a period of approved absence with pay from official duties. It is intended to allow the employee time for physical or mental incapacitation and medical, dental, and optical examinations and/or treatment. It is also intended for the employee's use in family medical situations, bereavement, and for adoption purposes, in accordance with applicable law, rules, regulations, and this Agreement.
  9. LWOP is a temporary nonpay status and absence from duty for a specific period of time, which may be granted to an employee in accordance with applicable law, rules, regulations, and this Agreement.
  10. AWOL is a period of absence without pay for which the employee did not obtain approval or for which a request for leave is denied.

### **Section 46.3 Leave Earnings**

1. Full-time employees earn leave during each biweekly pay period while in a pay status or in a combination of a pay status and a nonpay status, except as noted in (3) below.
2. Part-time employees earn leave according to their leave category and hours in pay status. Hours in a pay status in excess of their basic working hours are disregarded in computing leave earnings.

3. The accumulation of nonpay status hours during a leave year can affect the accrual of annual leave and sick leave. For example, when a full-time employee with an eighty- (80-) hour biweekly tour of duty accumulates a total of eighty (80) hours of nonpay status from the beginning of the leave year (either in one (1) pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period in which that eighty- (80-) hour accumulation is reached.

### **Section 46.4 Annual Leave**

The Parties agree that the use of accrued annual leave is the right of the employee, not a privilege, and that annual leave requests will be granted in accordance with the provisions and procedures below.

#### *Section 46.4.1*

1. The use of annual leave is subject to approval by the supervisor and will be approved and scheduled according to the needs of the work unit and the desires of the employee. Annual leave should be planned and requested with sufficient advance notice to permit careful scheduling of leave for all employees.
2. Leave requests must be made in writing using the U.S. OPM Form OPM/SF-71, Request for Leave or, as required, in the electronic time and attendance system (WebTA).
3. Employees who become ill while on annual leave, LWOP, or compensatory time may have the time of illness changed to sick leave provided the employee notifies the supervisor on the first day of illness, has sufficient sick leave to cover the requested time off, and otherwise complies with the requirements of this Article.

#### *Section 46.4.2*

Annual leave may be requested and charged in fifteen (15) minute increments.

#### *Section 46.4.3 Scheduling Annual Leave*

1. All requests for annual leave should be submitted at least twenty-four (24) hours in advance, unless requested pursuant to Section 46.4.7, Unscheduled Annual Leave.
2. Leave requested in advance normally will be granted, except where there are conflicts of scheduling, the absence would be detrimental to the efficiency of the work unit, or an inability to maintain minimal staffing requirements.
3. Employees will be informed of whether their requests for leave have been approved in a timely manner, normally within five (5) business days. When requests are

made to use leave on the following day, the response will be made as soon as possible, but no later than the end of the employee's work shift provided the employee allows sufficient time for management to make a decision on the leave request. Response to same-day requests to use leave will be made promptly.

4. Approval will be granted on a first-come, first-serve basis and conflicts will be resolved by EOD. Priority may be given to those employees in jeopardy of leave forfeiture.

#### *Section 46.4.4 Cancellation of Preapproved Leave*

Management will make a reasonable effort to arrange for accomplishing the employee's work prior to rescinding preapproved leave that would result in the loss of personal expenses to the employee.

#### *Section 46.4.5 Timely Arrival for Work (Tardiness)*

Employees are expected to report to work on time in accordance with their approved work schedule. Brief and occasional periods of absence of an employee reporting late to work due to factors beyond the employee's control may be excused. When the reasons are determined not to be justifiable, the absence may be handled administratively in any of the following ways:

1. If appropriate, requiring the employee to make up the time equivalent to the period of absence or tardiness as long as the extension would not result in the employee's entitlement to premium pay where he or she would not have otherwise been entitled;
2. Charging the absence against any compensatory time that the employee may have to his or her credit;
3. Charging the absence against annual leave at the employee's request;
4. Placing the employee on LWOP at the employee's request; or
5. Recording the absence as absence without leave.

#### *Section 46.4.6 Advanced Annual Leave*

The Agency is under no obligation to advance employees annual leave. If a supervisor is contemplating an employee's request for advanced annual leave, the following (although not all-inclusive) will be taken into consideration:

1. The employee is eligible to earn annual leave;
2. The amount of annual leave that may be advanced is limited to the amount of annual leave an employee would accrue in the remainder of the leave year;
3. There is no reason to believe the employee will not return to work for a sufficient period of time to repay the advanced leave after having used the leave;
4. The employee is not subject to leave restriction or has a satisfactory leave usage record; or

5. The employee has demonstrated a history of responsible leave usage.

If an employee has been granted advanced annual leave and separates from the federal service, he/she must repay the advance by subsequent leave accruals, a cash payment (arranged with and agreed upon by the Agency), or a deduction from any subsequent pay due.

#### *Section 46.4.7 Unscheduled Annual Leave*

1. In the occasional event that the need for leave cannot be reasonably anticipated, the employee shall attempt to contact the immediate supervisor or designated official(s) to request leave for the unscheduled absence by telephone as soon as possible, but no later than within one (1) hour after the start of the employee's normal workday.
2. If the supervisor or designated official(s) are not available, the employee may utilize voice mail or e-mail, as determined by the supervisor, to notify them of the need for unscheduled leave.
3. The submission of an e-mail or voice mail request for leave does not constitute approval of the employee's absence. The request must be approved by the supervisor or designated official.
4. If the employee's request for leave cannot be granted, the supervisor or designated official(s) will provide such notification. In these instances, the provisions in section 46.4.3 of this Article apply.

#### *Section 46.4.8 Annual Leave for Religious Observance/Holidays*

Upon advance notice, an employee may be granted annual leave for religious observances and/or holidays.

### **Section 46.5 Sick Leave**

The Parties agree that the use of sick leave is a benefit provided to the employee and should be used by employees in accordance with proper leave procedures and pursuant to 5 CFR 630.401.

#### *Section 46.5.1*

Sick leave may be requested and granted in fifteen- (15-) minute increments.

#### *Section 46.5.2 Scheduling Sick Leave in Advance*

1. An employee must submit a request for sick leave using the U.S. OPM Form OPM/SF-71, Request for Leave, or as required, in the electronic time and attendance system (WebTA). The employee must request advance approval for sick leave for the purpose of receiving medical, dental, or optical examination or treatment, and to the extent possible, for the purposes described in 5 CFR 630.401 (a), (3), (4), and (6).



2. Sick leave requests not submitted at least twenty-four (24) hours in advance, will be processed pursuant to Section 46.5.3(2), *Unscheduled Sick Leave*.

#### *Section 46.5.3 Unscheduled Sick Leave*

1. If the need for leave cannot be anticipated, the employee shall attempt to contact the immediate supervisor or designated official to request unscheduled (sometimes called emergency) sick leave by telephone as soon as possible, but no later than one (1) hour after the start of the employee's normal workday.
2. If the supervisor or designated official(s) are not available, the employee may utilize voice mail or e-mail, as determined by the supervisor, to notify them of the need for unscheduled sick leave. Failure to give notice of an unanticipated need for sick leave within one (1) hour of the time established to report for duty will not, in itself, be a reason to deny sick leave if the employee is otherwise entitled to such leave.
3. Employees have the responsibility to ensure the supervisor is notified of their need for unscheduled sick leave. In rare situations, another person may contact the supervisor on behalf of the employee.
4. With supervisory approval, when an employee is on extended sick leave, arrangements may be made so the employee is not required to call in daily. If arrangements are not made and approved by the supervisor, the employee is responsible for contacting the supervisor on each day that they are requesting leave, in accordance with this section. An employee who expects to be absent for more than one (1) day will inform the supervisor or designated official(s) of the expected date of return to duty or of any change.

#### *Section 46.5.4 Approval*

In accordance with applicable law, regulation, and this Agreement, the Agency will approve an employee's request for sick leave when the employee:

1. Receives medical, dental, or optical examination or treatment;
2. Is incapacitated for the performance of his or her duties by physical or mental illness, injury, confinement, pregnancy, or childbirth;
3. Provides care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment;
4. Provides care for a family member with a serious health condition;
5. Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;

6. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or
7. Must be absent from duty for purposes relating to his or her adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

#### *Section 46.5.5 Medical Evidence*

1. A medical certificate will not ordinarily be required of an employee absent on sick leave for three (3) days or less, unless the supervisor suspects the employee is engaging in abuse of such leave. Medical documentation will normally be required for leave usage in excess of three (3) days. However, if actual medical attention was not required, the supervisor(s) may accept a written statement from the employee in lieu of such a certificate.
2. Any medical documentation must include the following details, at a minimum:
  - A. Certification that the employee was incapacitated for duty, or words to that effect;
  - B. Documentation stating the employee (or family member) was under the care/treatment of a physician, authorized practitioner, other authorized health care provider, or attending a medical examination/appointment;
  - C. Date(s) of the absence;
  - D. A return to duty date; and
  - E. A "wet" signature or stamp, and date.Any additional documentation, if necessary, will be handled on a case-by-case basis.
3. The Agency will treat as confidential any medical information provided by an employee to any agent or representative of the Agency in support of a request for sick leave. The Agency may disclose such information only for purposes of making informed management decisions, and only to individuals who have a need to know for purposes consistent with applicable laws, rules, regulations, and this Agreement.
4. An employee with a chronic medical condition that does not require medical treatment, but does result in periodic absences from work, should not be required to furnish a health care provider certificate on a continuing basis if the employee is:
  - A. Not on leave restriction;
  - B. Requesting leave in accordance with the provision of this article; and

- C. Provides, if requested, an administratively acceptable medical certificate every year that clearly states the continuing need for periodic absences.

Supervisors may periodically require further medical certification to substantiate that the condition still exists or a particular absence is related to the condition.

#### *Section 46.5.6 Substitution of Sick Leave*

An approved absence, which would otherwise be chargeable to sick leave, may be charged to annual leave or compensatory time off if requested by the employee and there is no just cause for the Agency to deny such a request. At the supervisor's discretion, an absence that would otherwise be chargeable to sick leave may be charged to LWOP. Only sick leave may be used for leave requests under Federal Employee Family Friendly Leave Act.

#### *Section 46.5.7 Advanced Sick Leave*

1. Up to two hundred forty (240) hours of sick leave may be advanced by the Agency to a full-time employee (pro-rated for part-time employees) as follows:
  - A. Who is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;
  - B. For a serious health condition of the employee or a family member;
  - C. When the employee would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;
  - D. For purposes relating to the adoption of a child; and
  - E. For the care of a covered service member (provided the employee is exercising his or her entitlement to Family and Medical Leave Act (FMLA) leave to care for a covered service member).
2. Advances for general family care or bereavement are limited to one hundred four (104) hours per leave year as follows:
  - A. To a full-time employee (prorated for a part-time employees) when he or she is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;
  - B. For a serious health condition of the employee or a family member;
  - C. When the employee would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;
  - D. For purposes relating to the adoption of a child; and

- E. For the care of a covered service member (provided the employee is exercising his or her entitlement to FMLA leave to care for a covered service member).

All requests for advanced sick leave must be submitted to the Servicing Employee Relations Branch.

3. The Agency is under no obligation to advance employees sick leave. If a supervisor is contemplating an employee's request for advanced sick leave, the following (although not all-inclusive) should be taken into consideration:
  - A. The employee is eligible to earn sick leave;
  - B. The employee's request does not exceed two hundred forty (240) hours (for temporary employees only the amount to be earned during the period of temporary employment if appropriate);
  - C. There is no reason to believe the employee will not return to work after having used the leave for a sufficient period to repay the advanced leave;
  - D. The employee has provided acceptable medical documentation of the need for advanced sick leave that covers the entire period where advanced sick leave is requested;
  - E. The employee is not subject to leave restriction and has a satisfactory leave usage record; and
  - F. The employee has demonstrated a history of responsible leave usage.

## **Section 46.6 Leave for Family Purposes**

### *Section 46.6.1 Parental Leave*

1. Consistent with applicable law and regulation:
  - A. Sick leave may be used for the time due to delivery, child birth, and recuperation, in accordance with applicable laws, rules, regulations, and other provisions of this Article.
  - B. Annual leave, LWOP as approved, or accrued compensatory time may be requested and used by the employee for a period of adjustment or to arrange for child care.
  - C. Requests for leave under the FMLA will be processed in accordance with Section 46.6.2.
2. Normally, no later than thirty (30) days in advance of expected use, the employee is responsible for requesting parental leave, including the type of leave, approximate dates, and anticipated duration.
3. The Agency will normally provide leave approvals/denials requested pursuant to this section within ten (10) working days after receipt of the request.

### *Section 46.6.2 Family and Medical Leave Act (FMLA)*

1. In accordance with 5 CFR Part 630, Subpart L, employees are entitled up to a total of twelve (12)

administrative workweeks of unpaid family medical leave during any twelve- (12-) month period for (a) birth of a son or daughter and care of the newborn; (b) the placement of a son or daughter with the employee for adoption or foster care; (c) the care of a spouse, or a son, daughter, or parent with a serious health condition; (d) a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position; or (e) any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

2. To be eligible for leave under this section, employees must have completed at least one (1) year of civilian service with the government. The twelve (12) months of service to qualify need not be recent or consecutive. Temporary and intermittent employees generally are excluded from the coverage (See Section 46.7 of this Article). The law prohibits any interference with the employee's right to take leave through coercion, intimidation, or threat.
3. The employee may offset unpaid leave approved under FMLA by substituting annual leave, sick leave, or accrued compensatory time.
4. When leave is being requested for a serious health condition or to care for a seriously ill child, spouse, or parent, the employee may request to take leave intermittently and/or on a reduced leave schedule. When a reduced leave schedule would be of benefit to an employee with a serious medical condition, the employee should discuss this with the immediate supervisor.
5. If an employee takes leave intermittently or on a reduced leave schedule that is foreseeable based on planned medical treatment or recovery from a serious health condition, the Agency may place the employee temporarily in an available alternative position for which the employee is qualified and that can better accommodate recurring periods of leave pursuant to 29 CFR 825.204.
6. An employee using unpaid leave under this section is entitled to return to the same or equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. Under the law, this use of leave may not result in the loss of any employment benefit accrued before leave began.
7. To apply for FMLA the following procedure must be followed:
  - A. An employee may invoke his or her entitlement to leave under FMLA by submitting a completed U.S. OPM Form OPM/SF-71, Request for Leave, or as required, in the electronic time and attendance

system (WebTA), to their immediate supervisor or designee.

- B. The employee must then submit a completed form WH380E for a serious health condition for the employee, or WH380F for a serious health condition for a family member, to their servicing Employee Relations Office, within fifteen (15) days of invoking FMLA.
  - C. The employee will be notified by their supervisor or his or her designee if their request for FMLA is approved or if there are any deficiencies with regard to their request.
8. Approval or disapproval letters will be given to the requesting employee normally within five (5) working days, but no more than ten (10) calendar days, of the receipt of a properly completed request. The letter will include:
    - A. If FMLA request is approved or disapproved. If disapproved, the reasons for disapproval will be provided.
    - B. Confirmation of timeframes for FMLA entitlement (twelve [12] months from the invocation date or exhaustion of up to four hundred eighty (480) hours of leave), whichever comes first.
    - C. If FMLA leave is intermittent or continuous, include the estimated frequency and duration if for intermittent usage and the dates if for continuous usage.

### **Section 46.7 Intermittent Absence Program**

1. The Agency recognizes that serious personal and family health conditions may affect any employee, regardless of his/her leave-earning status. The employees at NPC understand that employees who are classified as "Intermittent" do not earn leave, are not eligible for leave, and are not eligible for entitlements under the FMLA.
2. Employees working an intermittent work schedule will be allowed to apply for an excused absence due to a serious health condition for themselves or a family member. A serious health condition is an illness, injury, impairment, or physical/mental condition that makes an employee unable to perform any one or more of the essential functions of his/her position. A family member is defined as the son, daughter, spouse, or parent of the employee. This practice will be referred to as the Intermittent Absence Program (IAP).
3. An employee must have accrued at least twelve (12) months, one (1) year, of federal service. In addition, there will not be a minimum hours worked requirement in order to receive approved absences under this program.
4. Employees with qualifying circumstances and health conditions may apply and be accepted into the IAP. The

Certification of Health Care Provider, NPC-1185 (IAP), or equivalent form, and any supporting documentation are filtered through the servicing Employee Relations Office.

5. Once IAP certified, employees do not need to provide medical certification/documentation for each instance of absence requested under the IAP. A Form NPC-1184-IAP, or equivalent form, must be submitted for each period of absence. The supervisor will sign these forms, return a copy to the employee, and retain the original for record-keeping purposes.
6. The branch will authorize absences during scheduled work hours for employees with IAP-certified and IAP-approved conditions and circumstances.
7. IAP-certified employees must identify each qualifying absence as an IAP absence at the time of the occurrence for the absence to be approved under the IAP.
8. The total amount of excused hours an employee is granted during a specified time-frame (not to exceed four hundred eighty (480) hours) will be prorated based on the employee's average number of hours worked per week from the previous fiscal year. For example, if an employee worked twenty (20) hours per week on average during the previous fiscal year, then the employee would be granted  $[(20/40) \times 480] = 240$  hours.
9. Management will make every effort to modify an employee's biweekly hours of work, without reducing the number of hours an employee is normally scheduled. Such modifications should be done prior to releasing the final schedule to accommodate routine, recurring appointments, treatments, etc.; for IAP-certified employees to not create an additional hardship for the employee. Where such modifications cannot be made because of specific workload requirements, and an employee's individual recurring absence causes significant hardship on the operations within the branch, every effort will be made to provide the IAP-certified employee alternate duties during the employee's IAP certification period.

## **Section 46.8 Leave Without Pay**

### *Section 46.8.1*

LWOP must be requested in the same manner as annual leave and sick leave. The decision to approve or disapprove LWOP is at the sole discretion of the Agency. However, nothing precludes an employee from requesting LWOP for any purpose.

### *Section 46.8.2*

The employee may request short periods of LWOP not to exceed eighty (80) hours in the leave year, without the requirement to exhaust accrued leave. The Agency may grant longer periods of LWOP; however, the employee may be asked to exhaust his or her appropriate existing leave first.

Requests for LWOP will be given serious consideration and will not be denied arbitrarily. Denials of requests for LWOP will be provided to the employee in writing.

### *Section 46.8.3*

An employee in a LWOP status for the last hour of the workday immediately before a holiday and in the first hour of the workday immediately following a holiday is not entitled to regular pay for the holiday.

### *Section 46.8.4*

In accordance with applicable laws, rules, and regulations, approval of LWOP is mandatory for the following:

1. Disabled veterans are entitled to LWOP, if requested, for medical treatment;
2. Members of the armed forces reserves and National Guard are entitled to LWOP, if requested, when ordered to military training duties if the absence is not covered by military leave;
3. Employees are entitled to twelve (12) administrative workweeks of LWOP under FMLA, if supported by administratively acceptable evidence;
4. Employees receiving compensation payments/benefits under the OWCP; and
5. An employee who returns to duty after LWOP will be returned to the position held or a similar position.

### *Section 46.8.5*

The Agency agrees to consider LWOP, for duration up to one (1) year, for a bargaining unit employee selected to a full-time position of the AFGU Union. LWOP may be renewed, at the discretion of the Agency, upon request in writing from the employee that he/she wishes to continue in a LWOP status. Upon return to duty, the employee will be restored to a job in his/her permanent grade and pay for which he/she qualifies. Any employee who is placed on LWOP under this provision remains a federal employee and is bound by all federal ethics restrictions.

## **Section 46.9 Funeral Leave/Bereavement**

Upon request, an employee may be granted annual and/or sick leave during workdays to arrange for or attend the funeral or memorial service, or to mourn the death of a family member. The leave need not be consecutive, but the employee shall provide the supervisor justification for the requested nonconsecutive days.

## **Section 46.10 Leave for Bone Marrow and Organ Donation**

### *Section 46.10.1*

Upon request, subject to certification by a physician, leave-approving officials will approve bone marrow or organ donor leave for employees who serve as living



donors for bone marrow, organ and tissue donation, and transplantation. The use of bone marrow or organ donor leave can cover time off for activities, such as donor screening, the actual medical procedure, and recovery time. Leave approving officials will approve:

1. Up to seven (7) workdays of absence without charge to leave or loss of pay for each donation by employees participating as living bone marrow donors.
2. Up to thirty (30) workdays of absence without charge to leave or loss of pay for employees participating as living organ or tissue donors.

#### *Section 46.10.2*

The length of absence from work can vary depending on the medical procedure involved in the donation. Therefore, for longer periods of incapacitation, leave approving officials should normally approve annual and/or sick leave or LWOP in combination with the maximum amounts of excused absence specified in the above Section 46.10.1 (1) and (2).

### **Section 46.11 Blood Donations**

Excused absence for blood donation must be approved in advance. An employee may be granted a reasonable amount of time up to two (2) hours of excused absence for purposes of donation and recuperation associated with giving blood, upon the discretion of the supervisor. The donation of blood is not to be used as a means for early release from duty without supervisory approval. Additional administrative leave for this purpose may be approved in unusual circumstances, if needed.

### **Section 46.12 Court Leave**

1. In accordance with laws and regulations, a leave-earning employee is entitled to court leave for the following:
  - A. Jury duty in a federal, state, or municipal court; or
  - B. Serving as a witness, in a nonofficial capacity, for the United States, the District of Columbia, or a state or local government.
2. It is mandated by statute that the compensation of an employee shall not be reduced because of jury duty. Employees granted leave for jury duty are entitled to the same compensation they would otherwise have received including any premium pay and differentials. A night-shift employee who performs jury duty during the day is entitled to receive payment of night differential for his or her regularly scheduled night tour of duty.

An employee serving on a jury for five (5) weekdays, with a regular tour of duty or schedule that includes Saturdays, Sundays, or both, may be granted court leave and paid premium pay and differentials for the weekend days that are a part of his or her regular tour of duty.

In addition, an employee should not be expected to perform regular duties on weekends while on jury duty for five (5) weekdays. However, if an employee is excused from jury duty on a weekday, he/she should work a weekend day in place of excused jury duty.

3. An employee on court leave who is excused from court prior to the end of his/her scheduled workday may continue on court leave if expense, distance, or time involved in travel creates a hardship for the employee to return to duty.
4. Employees may keep reimbursements received for mileage, parking, or required overnight stay to the extent consistent with laws and regulations.
5. If an employee is on annual leave when called for jury service, court leave may be substituted for the annual leave.
6. The employee must furnish the supervisor with a copy of the summons/order.

### **Section 46.13 Voting and Voter Registration**

The Agency agrees that employees may be excused to register or vote in national, state, local elections, or referendums for periods necessary to ensure an opportunity to vote in accordance with OPM regulations.

In locations where polls are not open at least three (3) hours before or after an employee's regularly scheduled hours of work, up to three (3) hours of excused absence may be granted so that the employee has a minimum of three (3) hours to vote. Excused absence may be permitted at either the beginning or end of the daily tour of duty depending on which time period requires less excused absence. For example, if an employee is scheduled to work from 8:00 a.m. to 4:30 p.m. and the employee's polling place is open from 7:00 a.m. to 8:00 p.m., the employee may not be granted excused absence for voting because there is a minimum of three (3) hours after the end of the work schedule to vote.

However, if an employee is scheduled to work from 8:00 a.m. to 4:30 p.m. and the employee's polling place is open from 7:00 a.m. to 7:00 p.m., the employee may be granted one-half (½) hour of excused absence from 4:00 p.m. to 4:30 p.m., if requested. Because the employee would need two (2) hours in the morning to meet the three (3) hour threshold, the lesser amount of one-half (½) hour of excused absence in the afternoon is appropriate.

Under exceptional circumstances where it is necessary to enable the employee to vote, a greater amount of excused absence may be granted, but not to exceed a full day.

In jurisdictions where registration in person is required and registration cannot be accomplished on a nonworkday, an employee may be granted up to a full day of excused absence in order to register.



## Section 46.14 Military Leave

Military leave will be granted in accordance with 5 U.S.C. 6323. Additional information can be located at OPM.gov.

The Agency will comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301.

## Section 46.15 Emergency-Related Absences

For emergency situations, the Agency will follow the policies and procedures as prescribed by the OPM.

Administrative leave may be granted in situations that prevent significant numbers of employees from reporting for work on time or that require closing all or part of Census Bureau activities. Other emergency situations may occur resulting in unscheduled leave, telework, early dismissal, staggered departure, or closure.

Designated emergency employees may be required to report to work even when a broader administrative leave authorization is issued.

If an excused absence is authorized in an emergency situation at a time when an employee is already in some other pay status (sick leave, annual leave, etc.), the employee's time may be converted to the excused absence when appropriate.

## Section 46.16 Voluntary Leave Transfer Program

The Voluntary Leave Transfer Program is a program where employees may voluntarily donate annual leave to other employees to help offset hardships resulting from medical emergencies affecting the employee or a family member of the employee. Section 46.16(10) of this Article details additional situations where the Voluntary Leave Transfer Program is appropriate.

1. The Agency and Union agree to follow OPM regulations, procedures, and definitions that authorize a leave transfer program, as well as applicable public laws, regulations, DOC policies, and this Agreement.
2. In order to be a leave transfer recipient, an employee's unpaid absence because of a medical emergency must be or anticipated to be at least twenty-four (24) work hours in duration. The unpaid absence does not have to be continuous. For a part-time employee or an employee on an uncommon tour of duty, the period of absence should be at least thirty (30) percent of the average number of hours worked in the employee's biweekly scheduled tour.
3. Medical emergencies of an approved recipient must meet minimum criteria established in OPM regulations.
4. Employees who wish to be leave recipients must complete the appropriate application form (OPM 630) and submit it through their servicing HR office. If an

employee is incapacitated and cannot submit an application, a personal representative, designated in writing, may do so on his or her behalf.

5. Leave-transfer recipients or their designated representative may sign a release authorizing the servicing HR office to publicize their need for donations. If authorized, the servicing HR office will maintain a record that potential donors can review. The servicing HR office will post the recipient's name and other authorized information at a designated location on the appropriate bulletin boards or on the Census Bureau internal Web site.
6. If the recipient's application is approved, the servicing HR office will notify the applicant of the approval within ten (10) workdays or less of receipt and inform the recipient that approved donors may transfer annual leave to the recipient's leave account.
7. If the recipient's application is disapproved, the servicing HR office will notify the applicant in writing of the disapproval within ten (10) workdays or less of receipt and any reasons for disapproval.
8. Employees who wish to donate leave (leave donor) to a recipient must donate a minimum of two (2) hours of annual leave, but cannot donate more than one-half of the amount of annual leave they would be entitled to accrue during the leave year when the donation is made. Leave donated must be in whole-hour increments.
9. Leave transfer recipients and/or their representatives are entitled to a reasonable amount of time (consistent with workload requirements) to find donors, with prior supervisory approval.
10. An employee, who is being involuntarily separated due to a RIF, a transfer of function, or an adverse action resulting from the employee's decision to decline relocation, may use donated annual leave to remain on the Agency's rolls to establish initial eligibility for immediate retirement (including discontinued service or voluntary early retirement) and for continuance of health benefits. Operating units have the authority to approve the use of any or all donated annual leave made available to the employee, as of the effective date of the RIF or relocation, for the above purposes.
11. The Agency will maintain strict confidentiality of all files in accordance with law, rule, or regulation.

### *Section 46.17 Visit to the Onsite Health Unit*

Where the employee's facility has an on-site occupational Health Unit and it becomes necessary for an employee to use their services, the employee may be excused for up to one (1) hour without charge to leave, with supervisory approval. It will be the determination of the Health Unit professional(s) as to the amount of time that may be needed. When the absence exceeds one (1) hour, the employee must contact his/her supervisor

immediately to request additional time to cover the additional absence.

## **Section 46.18 Accommodation for Religious Observances**

### *Section 46.18.1*

The Agency will make every effort to accommodate the practice of religious beliefs by individual employees consistent with Agency needs. An employee whose personal religious beliefs require the abstention from work during certain periods of the workday or workweek, may request to work extra hours and accumulate them so that he/she can use them later without using personal leave. The extra hours can be earned before or after the time off is taken.

If you accumulate religious compensatory time and do not use it, you will not be paid at the overtime rate for it.

If you leave the Department, you will be paid at your base rate for unused religious compensatory time hours.

## **Section 46.19 Other Circumstances**

The above reasons for granting leave are not all-inclusive and there may be other situations supporting a request for the granting of such leave. Such requests shall be considered based on the reasons presented at the time. The Agency may require documentation as appropriate to support the reasons for and/or the duration of such leave requests.

## **Section 46.20 Absence Without Leave**

AWOL is based on the supervisor's determination that no form of leave (annual, sick, LWOP, etc.) has been or should be approved for the absence based on existing evidence. AWOL can be converted to appropriate leave when a supervisor receives and is satisfied with documentation justifying the absence. AWOL is not disciplinary in nature, but may be the basis for disciplinary action.

When the Agency determines that it will charge an employee AWOL, it will notify the employee either verbally or in writing. The notification will be issued to the employee as soon as possible, include the reason for charging AWOL, and the date and time period in question.

## **Section 46.21 Leave Abuse**

Where the Agency has sound reason to believe that an employee is abusing the use of sick leave, unscheduled annual leave, or other forms of leave as provided for within this Article, the employee shall be counseled concerning such abuse. If such counseling is unsuccessful and the employee continues to abuse the specified leave, the employee may be placed on leave restriction.

Leave restriction is a written notice issued to the employee that all subsequent specified leave absences must be supported by credible evidence justifying such absences.

The leave usage of all employees under leave restriction will be reviewed at least every ninety (90) days and a written decision made to either continue or lift the restriction. If the review shows improvement, the supervisor will normally lift the restriction.

The use of leave for scheduled medical appointments caused by recurring and previously documented medical conditions normally will not be considered a leave pattern that indicates an abuse of leave.

Leave balances should not be the sole factor for determining leave abuse.

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## **ARTICLE 47. FURLOUGH**

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### **Section 47.1**

This Article applies only to those employees covered under 5 CFR 752.401(c).

Except as provided for under 5 CFR 752.404(d)(2), the Agency will take no action to furlough bargaining unit employees until the Union has been notified of the proposed furlough.

The Parties agree that furloughs of more than thirty (30) consecutive calendar days or more than twenty-two (22) discontinuous workdays shall follow the provisions of Article 48, Reduction in Force.

### **Section 47.2**

An employee will be given a furlough notice of at least thirty (30) days in advance of the effective date of a furlough. Advance written notice and an opportunity to answer are not required for a furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.

The furlough notice will:

1. State the specific reason for the proposed furlough;
2. Inform the employee of his or her right to review the material, which is relied upon to support furlough notice; and
3. Inform the employee of his or her appeal rights according to applicable laws, rules, statute, and the terms of this Agreement and their right to respond.

### **Section 47.3 Volunteers**

When it is necessary to furlough some, but not all employees in an organizational segment, the Agency, may solicit volunteers at the affected work site. The volunteers may request LWOP for the furlough days. If a sufficient number of volunteers do not come forth, then the Agency will select employees for furlough utilizing lowest SCD. Employees not furloughed must be qualified to perform the

functions (as determined by the Agency) that are to continue to be performed during the period of furlough.

### **Section 47.4 Scheduling Furlough Days**

When the Agency has made a decision to furlough employees for a specified number of days during a specified period of time, employees may be provided an opportunity to submit a schedule identifying their preferences in accomplishing the necessary number of days off. Scheduling conflicts amongst employees will be resolved by utilizing seniority.

These schedules may be accommodated, as much as possible, giving due consideration to workload and staffing requirements. The Agency's operational needs will take precedence.

### **Section 47.5**

The employee will have seven (7) days to respond to the furlough notice.

#### *Section 47.5.1*

Once the employee has submitted a written and/or oral reply, the Agency will issue a decision in writing. The written decision will be delivered to the employee on or before the effective date of the furlough.

### **Section 47.6 Service Credit**

An employee will not lose service credit for furlough time of less than thirty (30) days.

### **Section 47.7 Employee Compensation During Lapse of Appropriation**

Employees (including intermittent employees only for the time they were scheduled) who are furloughed because of a lapse of appropriations shall be retroactively paid and/or otherwise compensated in accordance with law and regulation and the availability of funds if Congress so determines.

### **Section 47.8 Leave During Lapse of Appropriation**

In accordance with appropriate regulations, when an employee is designated to go into furlough status, any annual or sick leave that has been approved is canceled. Canceled or interrupted annual or sick leave is not forfeited, but may be used at a later date.

### **Section 47.9 Employee Benefits During a Furlough**

#### *Section 47.9.1 Continuous Furlough*

Health insurance coverage will continue in a nonpay status. The government contribution will continue. The employee

will be responsible for their share of any missed premium(s). Upon return to pay status, each pay period, one missed premium along with the employee current premium will be collected from the salary payment until the employee has paid all missed premium(s).

An employee may request, to the servicing HR Office, a repayment agreement so a lesser amount may be deducted for the missed premium portion.

Dental and/or vision insurance, BENEFEDS will generate a bill to employees for premiums when no payment is received for two (2) consecutive pay periods. In order for the employee to continue dental and/or vision coverage, the employee must make payments while in a nonpay status.

Life insurance coverage continues without cost to the employee or Agency. The premium will automatically be deducted, as before, when the employee returns to pay status.

Retirement coverage continues with no cost to the employee.

Flexible Spending Account (FSA) account will be frozen if in a nonpay status for greater than a pay period. The enrollee will be notified by FSA when their account is frozen. The account will be activated when you return to pay status and you will be notified of the adjusted amount to be withheld to account for any missed payments.

Federal Long Term Care Insurance Program (FLTCIP) deductions cease if there are insufficient funds to cover the premium(s). In order for the coverage to continue, the enrollee must make payments directly to FLTCIP.

Thrift Savings Plan (TSP) contributions (and the Agency contributions, if you are a FERS employee) will stop until the employee is receiving pay once again. If the employee has an outstanding loan, the repayment period will be extended by the number of nonpay pay periods. Employees may make loan payments from their own funds directly to the TSP to avoid additional interest.

#### *Section 47.9.2 Discontinuous Furlough*

Health insurance coverage will continue in a nonpay status. The government contribution will continue. The employee will be responsible for their share of any missed premium(s). Upon return to pay status, each pay period, one missed premium along with the employee current premium will be collected from the salary payment until the employee has paid all missed premium(s).

Life insurance and retirement coverage continues with no cost to the employee.

Dental and/or vision, FSA, FLTCIP, and TSP benefits shall continue during discontinuous furloughs. The contributions by the employee shall continue if there are sufficient funds to cover the cost of the benefits.

### *Section 47.9.3 Conditions of Employment*

No changes to conditions of employment will be implemented in the bargaining unit during a furlough, except as agreed to, by the parties, consistent with Article 16, Mid-Term Bargaining.

### **Section 47.10 Performance-Related Actions**

Allowances for the effects of a furlough on employees (including part-time and intermittent employees) regarding assigned work will be made when applying the performance appraisal system.

### **Section 47.11 Notification to Employees**

The Agency normally will provide sufficient notice of expected return to duty to employees to avoid any instances of employees losing pay and/or being placed in an AWOL status. However, these notices advising employees when they should return to work at the conclusion of a shutdown or furlough would have to be tailored to the specific situation, which may include advising employees to monitor OPM's Web site ([www.opm.gov](http://www.opm.gov)), and media outlets for notification that a continuing resolution or appropriation has been signed by the President.

### **Section 47.12 Pay for Excepted Employees**

For the purposes of this Article, the term Excepted refers to employees who are excepted from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations.

Employees who are required to report for duty during a lapse of appropriations shall be fully compensated after a new appropriation measure or continuing resolution is enacted in accordance with law and regulation.

Normally within seven (7) days of the enactment of new appropriation, excepted employees shall be made whole for anytime working during a funding gap.

#### *Section 47.12.1 Use of Agency E-mail During Furloughs*

The Parties agree that although employees are not permitted to work during the time of a furlough, they may continue the use of the Agency e-mail systems, if it is available, solely as a means of communication.

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## **ARTICLE 48. REDUCTION IN FORCE**

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### **Section 48.1 General**

#### *Section 48.1.1*

The provisions of this Article establish or specify the procedures that apply to the implementation of any Agency decision when a RIF is necessary, and specify actions the Agency will take to assist bargaining unit employees who are impacted.

#### *Section 48.1.2*

A RIF occurs with the release of an employee from his or her competitive level as follows:

1. Furlough of over thirty (30) consecutive calendar days;
2. More than twenty-two (22) discontinuous workdays within one (1) year from the beginning of a furlough, separation, demotion, or reassignment requiring displacement when the release is required because of the following:
  - A. Lack of work;
  - B. Shortage of funds;
  - C. Insufficient personnel ceiling;
  - D. Reorganization;
  - E. The exercise of reemployment right or restoration rights; or
  - F. Reclassification of an employee's position due to erosion of duties when such action will take effect after the Agency has formally announced a RIF in the employee's competitive area and when the RIF will take effect within one hundred eighty (180) days.

#### *Section 48.1.3*

RIF's will be accomplished in accordance with all applicable provisions of Title 5 U.S.C., Title 5 FR, departmental policy, and the provisions outlined in this Agreement.

#### *Section 48.1.4*

In accordance with Section 48.1.3 of this Article, excepted service employees cannot be assigned to a position in the competitive service and competitive service employees cannot be assigned to a position in the excepted service.

### **Section 48.2 Avoidance of RIF**

#### *Section 48.2.1*

To the extent that is practicable and not prohibited by law and without interfering with the accomplishment of the Agency's mission, the Agency will resort to a RIF after all other means of managing the cause for considering a RIF have been considered.

#### *Section 48.2.2*

To minimize the adverse impact on employees and prior to specific notices being issued, the Agency shall (whenever possible) accomplish the goals otherwise achieved by a RIF through attrition, placement of employees in funded vacant positions, and other cost-reduction efforts before abolishing positions.

## **Section 48.3 Information to Be Provided to the Union**

The Agency will notify the Union of any RIF as far in advance of notification to affected employees as is possible. The information to be provided to the Union will include the following:

1. The specific reasons why the Agency considers a RIF to be necessary;
2. The competitive area in which the RIF will be conducted;
3. The competitive levels to be initially affected;
4. The number and work location of employees involved;
5. The proposed effective date;
6. All actions considered (including a cost study), adopted, or rejected before deciding to conduct a RIF, and the reasons for the adoption or rejection;
7. Information regarding surplus positions as soon as practicable, but not later than ten (10) workdays prior to employees' receiving a specific RIF notice;
8. On a continuing basis, provide the Union with the latest information available regarding any applicable action(s). This shall include at least a weekly briefing session. The information provided shall be that information available to the Agency at the time, which has a reasonable bearing on the impact and/or implementation of any RIF; and
9. In addition to information relating to the Agency's reasons for the RIF, the following information will be provided to the Union as far in advance of the issuance of specific notices to affected employees:
  - A. RIF implementation plan;
  - B. Organizational components and competitive levels affected; and
  - C. Effective dates of each action.

## **Section 48.4 Employee Information**

The Agency shall provide complete information needed by employees to fully understand the RIF and why they are affected. Specifically, the Agency shall:

1. Inform affected employees of any RIF. Specifically, the Agency shall inform all affected employees of plans or requirements it is acting upon, the extent of the affected area, the regulations governing the planned action, and the kinds of assistance provided for affected employees;
2. Establish a RIF Information Center to facilitate the dissemination of information of value to affected employees. The center's hours of operation shall be established to accommodate any off-shift employees who may be affected by the RIF. Any employee affected by a RIF shall be allowed a reasonable amount of time to visit the RIF

Information Center and use its facilities. Each employee receiving a specific RIF notice will be notified of the center's existence and the services offered;

3. Offer each affected employee a personal interview with a personnel specialist at the center. First priority, however, will be given to those receiving specific notice of separation. The purpose of such interviews shall be to treat each affected employee as an individual to the extent possible, to resolve special problems, to refer the employee to the appropriate office, and to give special assistance in the completion of necessary forms, updating of resumes, or other matters;
4. Provide general information concerning the conversion of insurance policies through the RIF Information Center. Any employee involved in a RIF shall be allowed a reasonable amount of time to visit HR Division or the RIF Information Center, whichever is appropriate, for the purpose of consultation on the subject of his/her rights regarding conversion of insurance policies in accordance with the provisions of 5 CFR 351;
5. Maintain information assembled by the Outplacement Committee (referenced in Section 48.10.1 of this Article) on job opportunities outside this Agency. Sources of placement information, (e.g., other agencies, trade associations, job banks, etc.) will be placed in the RIF Information Center and employees will be allowed a reasonable amount of time to make use of the information; and
6. Upon request, the Agency agrees to schedule meetings of affected employees (generally on a division-wide basis) to explain the contents of this Article and to answer questions concerning it. The Union will be given at least twenty-four (24) hours notice of such meetings and the Agency will make a reasonable attempt to stagger the scheduling of the meetings. Affected employees, for purposes of this section, means those who receive specific RIF notices or reassignment letters.

## **Section 48.5 Notice**

### *Section 48.5.1*

The Agency will provide to affected employees a specific written notice at least sixty (60) full days before the effective date of release. The Agency also intends to notify those employees who will be reassigned without release from their competitive levels no later than the issuance of specific notices.

### *Section 48.5.2*

The specific notice shall state the following:

1. The action to be taken, the reasons for the action, and its effective date;



2. The employee's competitive area, competitive level, subgroup, service computation date, and three most recent ratings of record received during the last 4 years;
3. The place where the employee may inspect the regulations and records pertinent to his/her case;
4. Any offer of assignment, including the grade, job series, and name of the organizational unit (below the division level) of the new assignment offer;
5. The reasons for retaining a lower-standing employee in the same competitive level; under 5 CFR 351.607, Permissive continuing exceptions; and 351.608, Permissive temporary exceptions;
6. Information on special selection priority and reemployment rights with the Agency, as pertinent; and
7. The employee's right, as applicable, to appeal to the Merit Systems Protection Board (MSPB) under the provisions of the Board's regulations, or to grieve according to Article 12, Negotiated Grievance Procedure.

The employee will be provided with an extra copy of the specific notice for possible referral to the Union or other employee representative. This copy will be titled Official Representative's Copy.

#### *Section 48.5.3*

The Agency will advise all employees affected by a RIF to update their resume on a timely basis. This advice will be provided no later than the time at which the specific notice is issued and will explain the possible consequences of not having an updated resume in the employee's OPF.

#### *Section 48.5.4*

Specific RIF notices will provide employees with ten (10) workdays within which to accept or decline an offer of continuing employment. The Agency will consider requests for additional time, as needed, on a case-by-case basis.

### **Section 48.6 Retraining and Performance Standards**

#### *Section 48.6.1*

Employees assigned to other positions as a result of any RIF will be counseled individually by their new supervisor(s). Supervisors will discuss training needs with the employee(s) on a continuing basis and will provide, to the maximum extent practicable, on-the-job training necessary for the employee to perform the new job in a satisfactory manner within one hundred twenty (120) days.

#### *Section 48.6.2*

Employees who have duties different from those previously performed will receive first consideration in any

Agency-sponsored training course when such training can be reasonably related to the employee's new position.

#### *Section 48.6.3*

New work performance appraisal plans of not less than one hundred twenty (120) days duration will be constructed for all employees affected by reassignment or displacement. At the employee's request, these plans may be accompanied by IDPs containing a citation of training needs of the employee so that he/she may perform the new job in a satisfactory manner. Special attention will be focused on training that addresses the critical aspects of the new job and on scheduling such training expeditiously.

#### *Section 48.6.4*

The Agency will make available, to employees receiving specific notice of separation, reasonable in-house training resources in fields where outside employment prospects appear encouraging and where it is practical for the Agency to provide such training.

### **Section 48.7 Competitive Area**

#### *Section 48.7.1*

The Agency will set the competitive area in accordance with 5 CFR 351.402. A competitive area is an area where employees compete for retention. A competitive area must be defined solely in terms of the Agency's organizational unit(s) and geographical location, and it must include all employees within the competitive area as defined.

#### *Section 48.7.2*

The Agency will not assign employees into or from the competitive area for the purpose of coercing any employee's resignation or retirement.

#### *Section 48.7.3*

To the maximum extent that can be avoided or delayed; no transfers or details will be made into or out of a competitive area (if the transfer or detail affects in any way a competitive level involved in the RIF or other applicable action) until after an announced RIF or other applicable action is completed.

### **Section 48.8 Competitive Levels**

#### *Section 48.8.1 Criteria Used for Establishing Competitive Levels*

A competitive level consists of all the positions in a competitive area that are in the same grade (or occupational level) and classification series, and are similar enough in duties, qualification requirements, pay schedules, and working conditions so that an Agency may reassign the

incumbent of one position to any of the other positions in the level without undue interruption.

#### *Section 48.8.2 Undue Interruption*

Undue interruption is a degree of interruption that would prevent the completion of required work by the employee ninety (90) days after the employee has been placed in a different position. The ninety (90) day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands.

However, a work program would generally not be unduly interrupted, even if an employee needed more than ninety (90) days after the RIF to perform the optimum quality or quantity of work. The ninety (90) day standard may be extended if placement is made under this part to a low-priority program or to a vacant position.

#### *Section 48.8.3 Qualification Considerations*

Competitive level determinations are based on each employee's official position, not the employee's personal qualifications.

#### *Section 48.8.4*

As soon as practicable following a request, the Union will be furnished a copy of the documentation that defines affected competitive levels; an employee may also request and receive information pertinent to his/her case.

#### *Section 48.8.5*

No later than ten (10) workdays from the time an employee receives a specific RIF notice, the employee may review a listing of the competitive level in which he/she has been placed, consistent with the Privacy Act, as well as an explanation of the competitive level structure.

### **Section 48.9 Retention Registers**

Upon twenty-four (24) hour's notice, employees who have been affected by a RIF and their respective representatives will be given the opportunity to review competitive level (retention) registers, regulations, or other records pertaining to their respective cases. Requests to review such information should be directed to the designated Agency representative. Employees will be considered to have been affected at the time they receive their specific RIF notice.

#### *Section 48.9.1*

The employee may review retention registers listing the following:

1. Employees in his/her competitive level;
2. Employees in competitive levels who may be reasonably entitled to displace him/her;

3. Employees in competitive levels to which he/she reasonably may have assignment (bump/retreat) rights; and
4. Other competitive levels, if any, reasonably related to the employee's situation.

Retention registers may be redacted in accordance with applicable privacy laws.

#### *Section 48.9.2*

Following receipt of a specific notice, an affected employee may request and be provided the full bump/retreat chain pertaining to his/her situation according to 5CFR 351 Subpart (G).

### **Section 48.10 Assignment**

#### *Section 48.10.1*

The parties agree to establish an Outplacement Committee whose functions shall be to monitor the subsequent assignment of employees affected by one of the actions covered by this Article and to recommend settlements of problems where appropriate.

#### *Section 48.10.2*

The committee's function with respect to a given employee(s) shall cease six (6) months from the effective date of the action affecting him/her.

#### *Section 48.10.3*

The agency will designate a management official with sufficient authority to secure necessary information to chair the committee. Each party shall designate two (2) additional members.

The committee members, or other designees, shall meet weekly for ninety (90) days and biweekly thereafter for a ninety (90) day period, unless a majority of members agrees to an alternate arrangement.

#### *Section 48.10.4*

The committee will be kept advised of vacancies that the Agency is seeking to fill. The committee will be advised of the Agency's action with respect to all assignment actions (i.e., position changes, details, etc.) as soon as practicable. The committee will also be advised of any employee requests under Section 48.10.7 of this Article and the action taken by the Agency. The committee is intended as a good faith attempt by both Parties to study and recommend, in an expeditious manner, reasonable and acceptable solutions to problems that have arisen.

#### *Section 48.10.5*

The committee may note any problems it perceives and make its recommendation(s) for addressing such problems.

Such recommendation(s) shall not be construed to prejudice the respective position of either party, or the employee(s) involved, grievance(s), or appeal(s) that may ensue.

#### *Section 48.10.6*

The parties recognize that an employee may be dissatisfied with his/her offer of assignment. Where the employee accepts the offer, but remains dissatisfied following a reasonable trial period of at least thirty (30) days, the employee may forward a written request for reassignment to the Chief, HR Division, who will forward it to the Assignment Review Committee in accordance with Section 48.10.5 of this Article. The employee may request to discuss the matter orally with the committee, indicating the reasons for such request. The Agency will (for a period of six [6] months) give serious consideration to any such request prior to considering other reassignment eligible, except as may otherwise be authorized by regulation.

#### *Section 48.10.7*

In order to minimize displacement actions that would result from a RIF, the Agency will, to the maximum extent feasible, assign an affected employee to any position for which the employee:

1. Meets the OPM standards and requirements for the position (including any minimum educational requirement) and any selective placement factors established by the Agency;
2. Is physically qualified, with RA where appropriate, to perform the duties of the position;
3. Meets any special qualifying condition that OPM has approved for the position; and
4. Has the capacity, adaptability, and special skills needed to satisfactorily perform the duties of the position without undue interruption.

#### *Section 48.10.8 Waiving Qualifications*

At its discretion, the Agency will waive position-specific Agency requirements for the positions as long as:

1. The employee meets the minimum OPM qualification requirements, mandatory education requirements, and the security requirements of the positions; and
2. The Agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

If the Agency determines not to place an employee in a particular vacant bargaining unit position, the Agency will provide, upon request, a written explanation for not waiving the nonmandatory Agency-specific requirement that was not waived and the reasons why.

#### *Section 48.10.9*

During a RIF, the Agency will (to the maximum extent feasible given mission requirements) freeze promotions and transfers in the affected competitive levels within the same competitive area until the RIF has been completed.

### **Section 48.11 Outside Hiring**

To the extent practicable, the Agency will first consider employees facing separation in a RIF prior to posting vacancies open to the public.

### **Section 48.12 Transfer of Function**

#### *Section 48.12.1 Definition*

In accordance with 5 CFR 351.301, a transfer of function (TOF) means the work of one (1) or more employees is moved from one (1) competitive area to another, regardless of whether or not the movement is made under authority of a statute, executive order, reorganization plan, or other authority. In a TOF, the function must cease in the losing competitive area and continue in an identical form in the gaining competitive area (i.e., in the gaining competitive area, the function continues to be carried out by competing employees rather than by noncompeting employees).

For the purposes of this Article, a TOF applies to transfers of the performance of continuing functions outside of the Agency or the local commuting area.

#### *Section 48.12.2*

When the Agency determines that a TOF is necessary, the Agency will inform the Union as far in advance as practicable, 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.

#### *Section 48.12.3*

The Agency will identify positions that will transfer with the function in accordance with OPM regulations in effect as of the effective date of this Agreement.

#### *Section 48.12.4*

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 his or her position.

The notice will further state the following:

1. The name and location of the new work site;
2. The complete address of the new work site;
3. The applicable salary, including locality pay, of the employee's position at the new work site;

4. That the employee is free to decide whether to accept the offer of the opportunity to volunteer for transfer with his or her position;
5. That should the employee be selected to transfer with his or her position within the Agency, the Agency will pay moving expenses and pay for house-hunting trips in accordance with statute and government-wide regulation;
6. That it is possible that not all volunteers will be able to transfer with their position;
7. That should the employee choose not to transfer with his or her position, or if the employee is not selected to transfer despite having volunteered, the employee may be separated from his or her current position by adverse action procedures; and
8. The deadline for responding to the offer of transfer; provided that this date will be no less than thirty (30) days from the date of the notice.

#### *Section 48.12.5*

If there are not enough qualified volunteers from those affected employees, the Agency will solicit qualified volunteers from the rest of the affected competitive area(s).

#### *Section 48.12.6*

If the total number of qualified employees who volunteer for transfer exceeds the total number of employees required to perform the function in the gaining competitive area, preference will be given to the volunteers with the highest retention standing. In the event there are not enough qualified volunteers for the transfer, qualified employees with the lowest retention standing will be selected for involuntary transfer.

### **Section 48.13 Grade/Pay Retention and Severance Pay**

#### *Section 48.13.1 Grade Retention*

Under Title 5, CFR, Part 536, an employee who is downgraded due to a RIF is entitled to retain the same grade for two (2) years if the employee held the position under permanent appointment, held the position for at least one (1) year, and the employee did not decline an offer of an equivalent position. The employee's retained grade is considered for most purposes (including pay and pay administration, retirement, life insurance, and eligibility for training, promotions, WGIs, but not for future RIF competition) as the grade of the position held before downgrading resulting from a RIF.

A GS or WG employee receiving grade retention gets WGIs and one hundred (100) percent of any across-the-board nationwide pay increases. After grade retention ends, the employee is eligible for pay retention. In addition, an employee who is not eligible for grade retention (having

served less than fifty-two (52) weeks at the higher grade) may be eligible for pay retention.

#### *Section 48.13.2 Pay Retention*

Under Title 5, CFR, Part 536, a demoted employee is eligible for pay retention. Pay retention applies when the basic rate of pay the employee held prior to the RIF exceeds the basic rate of pay for the highest step or band limit of the lower-graded position held by the employee after the RIF. The employee is placed in the lower-graded position, but retains his or her former basic rate of pay up to a maximum of one hundred fifty (150) percent of the maximum payable rate of basic pay rate of the lower-graded position (5 CFR 536.304(b)).

An employee's pay is converted to a retained rate that includes locality pay. Employees under GS who are at the maximum rate of pay for their position are entitled to fifty (50) percent of the increase in that maximum rate subject to the pay limitations in 5 CFR 536.306. This continues to apply until the employee's retained rate becomes equal to or lower than the maximum rate of the highest applicable rate range for the employee's position.

#### *Section 48.13.3 Severance Pay*

Eligible employees who are separated as a result of the RIF will be paid severance pay in accordance with applicable rules and regulations.

### **Section 48.14 Employment Assistance**

#### *Section 48.14.1*

An Outplacement Committee will be activated as soon as practicable consisting of a qualified management employee to act as head of this committee with two (2) additional members appointed by management and two (2) employees appointed as members by the Union. The purpose of this committee will be to review and monitor all activities under Section 48.14.1 Employment Assistance of this Article. For a period of six (6) months after the effective date of a RIF, the committee shall meet weekly unless a majority of committee members agrees to alternate scheduling.

#### *Section 48.14.2*

The Agency will provide selection priority for internal vacancies through the CTAP to current eligible employees. Priority consideration will be provided in other federal agencies for displaced employees through the Interagency Career Transition Assistance Plan (ICTAP). Employees seeking priority consideration under the CTAP and ICTAP must apply for a specific vacancy, and must be considered well qualified for the vacancy.

Eligible applicants who are deemed well qualified will receive priority consideration for selection. In addition, the Agency will assist eligible employees in registering under the Reemployment Priority List and the Agency's Priority

Placement Program. Information and assistance on each of these programs will be made available to employees through the RIF Information Center.

#### *Section 48.14.3*

The acceptance of temporary employment will not affect an employee's continuing right to be considered for permanent or nontemporary employment under the above programs.

#### *Section 48.14.4*

At their request, all employees receiving specific notice of separation will be scheduled for seminars on job searching, personal marketing, interviewing skills, resume preparation, and stress management. The purpose of these sessions shall be to help affected employees assess themselves in terms of the contemporary labor market, to build job-seeking skills, and to reduce stress.

The Union may designate an official to attend such seminars. Employees will be provided assistance in obtaining copies of performance evaluations and will be granted a reasonable amount of official duty time to visit interagency job centers or attend job interviews. To the extent permitted under law and regulation, the Agency will continue to extend the services to employees after the date of the employee's separation.

#### *Section 48.14.5*

The Agency also agrees to canvas affected employees for interest and to offer sufficient additional seminars as needed. A record will be maintained for the Outplacement Committee of the announced days and times of the meeting and the employees who attend.

#### *Section 48.14.6 Unemployment Compensation*

The agency will request to have representatives of the Unemployment Insurance Agencies, from all states where employees would file claims, come to the agency and make presentations regarding benefits, eligibility requirements, and application procedures. A reasonable amount of duty time will be provided to attend these presentations.

### **Section 48.15 Details**

The retention standing of all employees on detail will be based on their permanent positions, not on the positions to which they were detailed.

### **Section 48.16 Records**

#### *Section 48.16.1*

The Agency will maintain all registers and records relating to the retention standing of affected employees intact for at least two (2) years, or until such time as all grievances or other litigation concerning the RIF or other applicable action have been concluded. Current and former

employees will be granted full, complete, and unabridged access to such records relating to their respective cases. Release of information to Union officials and/or employees will be granted in accordance with the Freedom of Information Act, Privacy Act, and in accordance with Article 6, Union Rights, Section 6.8, Right for Information.

#### *Section 48.16.2*

The Union and the Agency will protect the confidentiality of any Privacy Act information available under this Article and take sufficient precautions to secure such information from unauthorized disclosure.

### **Section 48.17 Repromotion**

Employees who are downgraded through a RIF are entitled to priority placement consideration for repromotion.

### **Section 48.18 Rating of Record**

#### *Section 48.18.1*

In a RIF, an employee will receive service credit based on an average of the employee's three (3) most recent ratings of record received during the four- (4-) year period prior to the date of the issuance of a specific RIF notice (or an officially designated performance credit cut-off date).

Service credit shall be computed as follows:

Level 5—20 years

Level 4—16 years

Level 3—12 years

Level 2—0 years

Level 1—0 years

#### *Section 48.18.2*

An employee who does not have a rating of record will be assigned a modal rating. A modal rating is the summary rating level assigned most frequently within the employee's actual ratings of record given that are:

1. Assigned under the same summary pattern that applies to the employee's position of record on the date of the RIF;
2. Given within the same competitive area or, at the Agency's option, within a larger subdivision of the Agency or Agency-wide; and
3. On record (issued to the employee with all appropriate reviews and signatures) for the most recently completed appraisal cycle prior to the date of issuance of RIF notices; or prior to the cut-off date the Agency specifies before the issuance of RIF notices after which no new ratings will be entered into the record.

The Agency agrees to give twenty (20) years of credit to outstanding or equivalent rating level under the Census Bureau's five- (5-) level system.



Examples of service credit for a transferred rating from another Agency on a multilevel system will be given credit as follows:

- Level 5 (outstanding or equivalent) 20 years credit
  - Level 4 (commendable or equivalent) 16 years credit
  - Level 3 (fully successful or equivalent) 12 years credit
  - Level 2 (marginal or equivalent) 0 years credit
  - Level 1 (unacceptable or equivalent) 0 years credit
  - Level 4 (outstanding or equivalent) 20 years credit
  - Level 3 (fully successful or equivalent) 12 years credit
  - Level 2 (marginal or equivalent) 0 years credit
  - Level 1 (unacceptable or equivalent) 0 years credit
  - Level 3 (outstanding or equivalent) 20 years credit
  - Level 2 (fully successful or equivalent) 12 years credit
  - Level 1 (unacceptable or equivalent) 0 years credit
  - Level 2 (meets or exceeds or equivalent) 20 years credit
  - Level 1 (does not meet expectations) 0 years credit
- For other patterns, the highest rating allowed will receive 20 years of credit, descending in increments to a Level 3 (fully successful or equivalent) level.

### **Section 48.19 Services to Employees Affected by Reduction in Force, Directed Reassignment, or Transfer of Function**

1. Employees relocated outside of the local commuting area as a result of any action under RIF may be entitled to relocation expenses in accordance with applicable laws, rules, and regulations.
2. When the Agency assigns an employee to a position that requires a move to another geographic area, the Agency will inform the Union as far in advance as practicable, 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.
3. Employees issued a directed reassignment to a different commuting area who elect to relocate will be allowed up to sixty (60) days as necessary to complete the move and report to work at the new location. Additional time may be granted at the discretion of the gaining supervisor. The employee will continue to report to duty at their current location during the transition.
4. After receipt of the Agency's offer of a directed reassignment, an employee may request an assignment to an available vacant position where he/she is qualified at the same or lower grade. The Agency agrees to consider such a request. An available position is a funded position that has not been identified in a job offer to another affected employee.

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## **ARTICLE 49. CONTRACTING OUT/ PRIVATIZATION**

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### **Section 49.1 Definitions**

Business Process Re-engineering (BPR) is a systematic, disciplined improvement approach that critically examines, rethinks, and redesigns mission delivery and work processes in order to achieve dramatic improvements in performance efficiency and effectiveness in areas important to end users, customers, and stakeholders.

Contracting Out means a change in the performance of a commercial activity from Agency performance to a private-sector provider (outside of the Agency). This is referred to a "conversion to contract" in the Office of Management and Budget (OMB) Circular A-76.

Insourcing means a change in the performance of a commercial activity from a private-sector provider (outside the Agency) to Agency performance by Agency employees. This is referred to as a "conversion from contract" in OMB Circular A-76.

OMB Circular A-76 refers to the OMB government-wide procedures for conducting public-private cost comparisons required before work performed by federal employees can be converted to contractor performance. All references to OMB Circular A-76 in this Article shall also apply to any successor public-private competition process.

Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

Start of preliminary planning for the purposes of this Agreement means, with respect to the OMB Circular A-76, the process begins on the date on which the Agency assigns Agency personnel, or obligates funds for the acquisition of contract support, to carry out any of the following activities:

1. Determining the scope of the competition;
2. Conducting research to determine the appropriate grouping of functions for the competition;
3. Assessing the availability of workload data, quantifiable outputs of functions, or Agency or industry performance standards applicable to the competition; or
4. Determining the baseline cost of any function for which the competition is conducted.

Work as exclusively defined for the provisions of this Article, means work currently or last performed by Agency employees, an expansion or surge of work currently or last performed by Agency employees, and new work not previously required by the Agency.

### **Section 49.2 General**

The provisions of this Article concern any contracting out of work being or potentially performed by employees that impacts conditions of employment and creates a statutory duty to bargain. This Article applies to contracting out

actions, reorganizations, and/or reviews regardless of the authority under which the action or review was initiated. This includes, but is not limited to, contracting out reviews conducted under OMB Circular A-76 procedures, service contracts, and/or work that are directly converted to contractor performance without a public-private competition.

#### *Section 49.2.1*

The Agency shall comply with all applicable laws, government-wide rules and regulations in all aspects of the contracting, BPR, realignment, redistribution, reviews, studies, or other similar initiatives of work processes.

### **Section 49.3 Notice and Briefings to the Union on Contracting Actions**

#### *Section 49.3.1*

With regard to contracting actions taken under OMB circular A-76, the Agency will notify the Union and conduct periodic briefings with Union officials at the local and/or national level, as applicable; beginning with the start of preliminary planning, to provide information concerning contracting out, insourcing, FAIR, and any Agency decisions that may impact employees.

#### *Section 49.3.2*

Prior to contracting out work outside the OMB Circular A-76, a process which will impact conditions of employment and create a statutory duty to bargain, the Agency will provide notice to the Union before the invitation of bids, including information concerning positions, locations, and the employees who may be affected. The Agency will meet with the Union to discuss the information contained in the notice. Following discussions, the Union may request to negotiate the process to the extent required by 5 U.S.C. 71 and in accordance with Article 16, Mid-Term Bargaining.

### **Section 49.4 Site Visits**

The Agency will notify the Union if a site visit is going to be conducted pursuant to Section 49.3.1 of this Article for potential bidders seeking contracts. A local Union representative may attend such a site visit.

### **Section 49.5 Employee Placement**

When employees are adversely affected by a decision to contract out, the Agency will make maximum effort to find available positions for employees. This effort will include:

1. Giving priority consideration for available positions within the Agency;
2. In accordance with applicable law and government-wide rules and regulations, establishing an employment priority list and a placement program; and

3. Paying reasonable costs for training, subject to available budget. The Agency retains the discretion to determine what training is appropriate.

### **Section 49.6 Employee Privileges and Benefits**

Employees' privileges and benefits will not be diminished by allowing contractors to participate in employee programs. Such privileges include, but are not limited to, health screening, health fitness programs, shuttle services, and government-sponsored training.

### **Section 49.7 Inventory of Commercial Activities**

Upon request, the Agency will provide the Union with a copy of its FAIR Act inventory in accordance with Article 6, Union Rights, Section 6.8, Right to Information.

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## **ARTICLE 50. OFFICIAL TRAVEL**

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### **Section 50.1 General**

#### *Section 50.1.1*

The nature of the mission of the Agency is such that it might be necessary for bargaining unit employees to travel officially on behalf of the government.

#### *Section 50.1.2*

The Parties agree that Agency proposed modifications to conditions of employment based on changes in the FTR will be processed in accordance with Article 16, Mid-Term Bargaining.

#### *Section 50.1.3*

When employees travel on official business requiring written orders/authorization, i.e., travel for more than twelve (12) hours, orders/authorization will be prepared, and allowances will be authorized consistent with applicable law, rule, regulation, and the terms of this Agreement.

#### *Section 50.1.4*

Travel Orders/Authorization shall be issued in advance of the date that the travel is to begin, except in cases of urgent or unusual situations. In the absence of such circumstances, orders/authorization will be issued sufficiently in advance to permit the employee to complete all travel arrangements prior to the travel, including lodging arrangements, obtaining transportation requests or tickets, and advance funds if desired.

#### *Section 50.1.5*

When employees travel locally and written orders/authorization are not required, such travel will be paid consistent with applicable law, rule, regulation, and the terms of this Agreement.

### *Section 50.1.6*

Time spent in a travel status will be compensated in accordance with all applicable laws, rules, regulations, and this Agreement.

## **Section 50.2 Government Travel Charge Card (GTC)**

### *Section 50.2.1*

Employees required to travel will obtain and use the GTC for official travel expenses.

The Agency may exempt the following employees from the mandatory use of the GTC:

1. New employees who have an application pending;
2. Temporary or intermittent employees;
3. Employees traveling internationally to areas where credit fraud is widespread; and
4. Where payment through a travel charge card is impractical or imposes unreasonable burdens (including employees with disabilities) or costs on federal employees or federal agencies.

### *Section 50.2.2*

Employees shall not be required to do the following in order to perform their jobs:

1. Apply for personal credit;
2. Apply for business credit (GTC), unless the employee is required to travel;
3. Have unreasonable cost burdens imposed on him/her;
4. Have his/her personal credit rating compromised and/or adversely affected unless the employee becomes delinquent on his/her account; or
5. Waive his/her constitutional rights and other rights, which include but are not limited to the Privacy Act, laws, and federal statutes.

### *Section 50.2.3*

The Agency shall take reasonable steps to insure that employees are protected from any adverse impact caused by their use of the GTC for official travel purposes, consistent with applicable law, regulation, rules, and the terms of this Agreement.

### *Section 50.2.4*

If an employee is exempt or cannot obtain a GTC because of lack of credit history or because he/she is found to have an unsatisfactory credit history, the Agency may authorize one or a combination of the following methods of payment in accordance with applicable law, rule, and regulations:

1. Personal funds, including cash;
2. Government Transportation Request;

3. Personal charge card; or

4. Travel advances.

## **Section 50.3 Scheduling Travel**

### *Section 50.3.1*

Whenever possible, the Agency will schedule and arrange for travel during an employee's regularly scheduled work hours.

### *Section 50.3.2*

If circumstances require an employee's presence on Monday, too early to permit travel that day, the employee may perform the travel on the preceding day (Sunday), leaving home or POD at a reasonable time. If the employee prefers, travel may be permitted during duty hours on the preceding Friday. In this event, subsistence reimbursement may be allowed to start with the departure time, but will be limited to the amount that would have been payable if the departure was made on Sunday.

### *Section 50.3.3*

Employees will not be required to travel away from their normal duty stations when it is reasonably foreseeable in advance that they will be away from their normal duty station for more than twelve (12) hours without appropriate Temporary Duty (TDY) orders or other written authorization.

### *Section 50.3.4*

When travel results from an event that cannot be scheduled or controlled administratively, such travel may be considered hours of employment for pay purposes or as compensatory time according to applicable law, rule, regulations, and the terms of this Agreement.

### *Section 50.3.5*

If the travel is expected to require employees to be absent from their posts of duty for three (3) or more consecutive months, the Agency will provide employees with at least thirty (30) days notification of their date of departure when practicable. The Parties recognize that emergency circumstances may limit the amount of notice time that can be provided.

### *Section 50.3.6*

Employees who are on travel away from their assigned posts of duty and elect to return home during nonworkdays will be reimbursed for travel not to exceed the amount reimbursable for the per diem had they remained away from home.

### *Section 50.3.7*

Normally, employees will not be required to stay away from their duty stations two (2) consecutive weekends unless

the assignment involves working on the weekend or other exigent circumstances apply.

#### *Section 50.3.8*

Employees traveling on official business for any purpose will not be required to share a room.

### **Section 50.4 Per Diem Allowances**

#### *Section 50.4.1*

The per diem allowance (also referred to as subsistence allowance) is a daily payment instead of reimbursement for actual expenses for lodging, meals, and related incidental expenses. The per diem allowance is separate from certain transportation expenses and miscellaneous expenses. The per diem allowance covers all charges, including service charges, where applicable, for lodging, meals, and incidental expenses as allowed by applicable law, rule, regulation, and the terms of this Agreement. Lodging taxes are considered a separate reimbursable expense and not part of the per diem.

#### *Section 50.4.2*

Per diem rates are established according to applicable law, rule, and regulation.

In instances where an employee is in a travel status and the employee's actual and necessary subsistence expenses are in excess of the established per diem allowances for one (1) or more days, the employee may file a request and will be authorized actual expenses under the provisions of the applicable law, rule, and regulations.

### **Section 50.5 Advances**

#### *Section 50.5.1*

Employees approved for travel advances, in accordance with Section 50.2.4 of this Article, will be advanced travel funds in amounts consistent with applicable law, rule, regulation, and this Agreement. An employee traveling on official business may request an appropriate advance to cover per diem, lodging costs, or actual subsistence expenses, mileage for use of a privately owned vehicle, and other appropriate costs incidental to official travel not directly billed to the Agency or charged to a government travel charge card.

#### *Section 50.5.2*

Travel advances will be made available prior to the date of departure to those employees who make timely application.

#### *Section 50.5.3*

Employees with unused advance funds at the conclusion of travel will remit such funds at the time the claim is filed. Claims must be filed within five (5) business days after travel is complete. Exceptions may be made on a case-by-case basis.

#### *Section 50.5.4*

Employees will be given ample written warning prior to the Agency levying any interest, penalty, or other financial charges because of delinquent repayment of unused travel advances. Such warning will be sufficiently in advance to give employees a fair opportunity to avoid the assessment of penalties, interest, or other charges. Employees will also be told of the amount of interest that would be charged, the method of accrual, the interest rate, the way(s) in which any delinquencies could be involuntarily collected, and how they might challenge assessment decisions made by the Agency.

### **Section 50.6 Promotional Items**

#### *Section 50.6.1*

Employees may keep promotional benefits and materials received from a travel service provider for personal use if the items are obtained under the same conditions as those offered to the general public, are at no additional cost to the federal government, and are kept in accordance with applicable law, rule, regulation, and the provisions of this Agreement. Examples would be frequent traveler benefits, upgrades, or access to carrier clubs and facilities.

### **Section 50.7 Reimbursements**

#### *Section 50.7.1*

All employees traveling will have access to and submit claims for reimbursements on the forms prescribed by the Agency (currently Commerce Business Systems). Employees will be provided training and may request additional assistance.

#### *Section 50.7.2*

Reimbursement claims will normally be submitted by employees within five (5) business days after the completion of the travel. Consistent with law, rule, and regulation, employees will be reimbursed for all undisputed portions of their reimbursement claims within thirty (30) days after their submissions of a properly executed claim (voucher) to the Agency.

#### *Section 50.7.3*

An employee shall receive a written notification from the Agency of all disallowed expenses at the time he or she is notified of payment of undisputed expenses, or not more than seven (7) days later. This notice shall state:

1. The reason(s) in detail as to why expenses were disallowed;
2. That the employee has the right to request reconsideration of expenses if they have additional information;
3. The name of the Agency official to whom reconsideration may be requested; and

4. An explanation of the process of challenging disallowances.

#### *Section 50.7.4*

The Agency shall pay employees' late fees for all reimbursements that are not paid within thirty (30) days of employees' submissions of proper claims to designated Agency officials. Late payments shall be calculated in accordance with applicable law, rule, or regulation.

#### *Section 50.7.5*

The late fee shall be calculated based on the prevailing Prompt Payment Act interest rate beginning on the thirty-first (31st) day after submission of a proper travel claim and ending on the date on which payment is made.

Alternatively, the Agency may reimburse the employee a flat fee of not less than the prompt payment amount based on an Agency-wide average of travel claim payments.

In addition to the fee required, the Agency will also pay an amount equivalent to any late payment charge that the card contractor would have charged had the bill not been paid.

### **Section 50.8 Accommodating Special Needs**

Consistent with its obligations under applicable laws, rules, regulations, and the provisions of this Agreement, the Agency shall provide reasonable accommodations to employees with special needs by paying for additional travel expenses. Depending on the circumstances, these additional expenses may include, but not be limited to the following:

1. Transportation and per diem expenses incurred by a family member or other attendant who must travel with the employee to make the trip possible;
2. Specialized transportation to, from, and/or at TDY duty locations;
3. Specialized services provided by a common carrier to accommodate employees' special needs;
4. Costs for handling baggage that is a direct result of employees' special needs;
5. Renting and/or transporting a wheelchair;
6. Other than coach-class accommodations when necessary to accommodate employees' special needs; and
7. Services of an attendant, when necessary, to accommodate employees' special needs.

### **Section 50.9 Privately Owned Vehicles (POVs)**

#### *Section 50.9.1 For the Purposes of Official Travel*

Ownership or use of a POV is not a condition of employment. Their use by employees for official government business is voluntary.

#### *Section 50.9.2*

If an employee is either unable or unwilling to use his or her POV for official government travel, it is the Agency's responsibility to provide transportation.

#### *Section 50.9.3*

When an employee volunteers the use of his/her POV and that use is authorized by the Agency, the mileage allowance and related expenses allowed by applicable law, rule, or regulation will also be authorized.

#### *Section 50.9.4*

Mileage calculations when an employee uses their POV for official government travel will be reimbursed in accordance with the FTR.

#### *Section 50.9.5 Local Travel*

The local area is defined as a mileage radius of fifty (50) miles within the employee's assigned duty station. This local area definition applies only to this Article relating to mileage reimbursement. It is not to be confused with established competitive areas for RIF or commuting areas for recruitment and staffing purposes.

#### *Section 50.9.6 Reimbursement for Local Travel*

When commuting to or from an alternative duty point(s) within the local area, employees may request and will be reimbursed for the total miles traveled less their normal commuting mileage.

#### *Section 50.9.7*

An employee authorized to use his/her POV will not be required to carry a passenger(s). If an employee voluntarily accepts an employee(s) as a passenger(s) on official business, any claim against the owner of the POV by the passenger(s) for damages will be processed under applicable laws, rules, or regulations.

#### *Section 50.9.8*

Supervisors may approve up to fifty-nine (59) minutes of excused absence/administrative leave to an employee in connection with necessary emergency repairs to a POV when the emergency arises while the employee is in official travel status. Additional administrative leave may be granted by the Agency upon presentation by the employee of a reasonable, acceptable explanation or documentation relating to the emergency.

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## **ARTICLE 51. SMOKING**

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### **Section 51.1**

To protect federal employees and the public from exposure to tobacco smoke in the federal workplace, the Parties agree that smoking and the use of smokeless tobacco



is prohibited in Agency occupied buildings, government-owned or government-leased vehicles, and during emergency evacuations, including all fire drills. Employees may only smoke in appropriate designated smoking areas.

### **Section 51.2 Breaks**

Smoking is to be done only during breaks as outlined in Article 42, Work Schedules, or before or after work hours. No additional breaks are allotted for smokers that are not allotted for any other employee.

### **Section 51.3 Smoking Areas**

Designated smoking areas, including those with smoking shelters and/or windbreaks, will continue to be provided at approved locations across facilities. Any changes to current smoking policies and/or designated areas will be handled in accordance with Article 16, Mid-Term Bargaining.

### **Section 51.4 Proper Disposal**

Disposal of smoking products is the responsibility of the employee. Cigarette and cigar butts and refuse from smokeless tobacco products should be disposed of in appropriate receptacles. These products should not be disposed of on the lawn, sidewalks, or parking areas located on any part of the facility.

### **Section 51.5 Compliance and Enforcement**

The success of this Article depends on the support and compliance of all employees. Concerns about violations of this Agreement should be directed either to Agency management representatives or to the Union.

Violation of the provisions of this Agreement may be cause for appropriate administrative action.

### **Section 51.6 Smoking Cessation Program**

The Agency will provide assistance and information to employees who wish to quit smoking. The Agency, where possible, may offer other types of assistance such as smoking cessation seminars, support systems, smoking cessation groups, and publicity about quitting techniques.

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## **ARTICLE 52. NEPOTISM**

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It is the policy of the Agency that no relative, as defined in 5 CFR 310, of an employee may be employed or assigned in any position where the employee may be able to directly or indirectly supervise, control, or influence the work or employment status of the relative or the affairs of the organizational unit where the relative is to be assigned.

The Agency will conduct an inquiry, as appropriate, of any allegations made regarding improper supervisor-subordinate relationships and take corrective action as appropriate.

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## **ARTICLE 53. RETIREMENT, RESIGNATION, AND SEPARATION**

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### **Section 53.1 General**

This Article shall be administered in accordance with applicable laws, rules, regulations, and this Agreement.

An employee's decision to resign or retire, if eligible, shall be made freely.

### **Section 53.2 Information**

The Agency will provide employees with information regarding the federal retirement program. This shall include information, materials, and resources such as the OPM Web site, retirement counseling, etc. Funds permitting, preretirement training seminars will be made available. Those employees who are within five (5) years of optional retirement eligibility will be given priority for available training slots.

### **Section 53.3 Voluntary Separation**

Employees who separate due to a medical condition may apply for disability retirement.

Separating employees, depending on length of service and other criteria, also may be eligible for a discontinued service retirement or deferred annuity.

For information regarding these and other entitlements, employees should contact their Servicing HR Office.

### **Section 53.4 Involuntary Separation (Employees Facing Termination or Removal)**

If an employee is facing termination or removal, the employee may resign freely and in accordance with prevailing regulations any time prior to the effective date.

An employee may withdraw his or her resignation at any time prior to its effective date.

The employee will be notified in a termination or removal decision letter of their right to file for disability retirement within one (1) year of their separation.


### **Section 53.5 Withdrawal of a Retirement Application**

An employee may withdraw a retirement application at any time prior to its effective date. The Agency may decline such a request before its effective date only when the Agency has a valid reason and explains that reason to the employee. Valid reasons include, but are not limited to administrative disruption, or the hiring or commitment to hire a replacement.

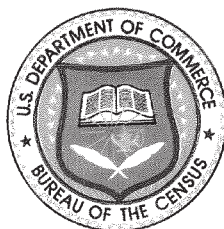
### **Section 53.6 Thrift Savings Plan**

The Agency will provide eligible employees information relating to the TSP during new employee orientation sessions. Additional information concerning investing in TSP is available on the TSP Web site at <[www.tsp.gov](http://www.tsp.gov)>.

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	U.S. DEPARTMENT OF COMMERCE Economics and Statistics Administration U.S. CENSUS BUREAU	<b>1. Name of grievant (Last, first, middle initial)</b>						
<b>NEGOTIATED GRIEVANCE PROCEDURE</b>								
Refer to Article 8 of the Reference Negotiated Agreement for information regarding informal grievances.								
<b>2. Statement of grievance – State specifically when and in what manner grievance arose.</b>								
		Enter date of instance/issue →						
		<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 30px; text-align: center;">Month</td> <td style="width: 30px; text-align: center;">Day</td> <td style="width: 30px; text-align: center;">Year</td> </tr> <tr> <td style="height: 20px;"></td> <td style="height: 20px;"></td> <td style="height: 20px;"></td> </tr> </table>	Month	Day	Year			
Month	Day	Year						
<b>3. Relief sought</b>								
<b>4. Issue – What in the agreement, regulation, or condition of employment has been violated?</b>								
<b>5. Signature of grievant</b>  _____ Date	<b>6. Designation of representative</b>  _____	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"><b>a. Name</b></td> <td style="width:50%;"></td> </tr> <tr> <td style="width:50%;"><b>b. Signature</b></td> <td style="width:50%;"></td> </tr> <tr> <td style="width:50%;"></td> <td style="width:50%; text-align: right;">Date</td> </tr> </table>	<b>a. Name</b>		<b>b. Signature</b>			Date
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<b>TO BE COMPLETED BY STEP (1) DECIDING OFFICIAL</b>								
<b>7. Name</b>	<b>8. Title</b>							
<b>9. Date</b>		<b>10. Decision – Mark (X) one</b> <table style="display: inline-table; vertical-align: middle;"> <tr> <td><input type="checkbox"/> Grievance sustained</td> <td rowspan="3" style="font-size: 2em; vertical-align: middle;">}</td> <td rowspan="3" style="vertical-align: middle;">Explain in item 11</td> </tr> <tr> <td><input type="checkbox"/> Grievance denied</td> </tr> <tr> <td><input type="checkbox"/> Other</td> </tr> </table>	<input type="checkbox"/> Grievance sustained	}	Explain in item 11	<input type="checkbox"/> Grievance denied	<input type="checkbox"/> Other	
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<input type="checkbox"/> Other								
<b>a. Grievance meeting</b>	<b>b. Decision to grievant</b>							
<b>11. Summary of step (1) decision</b>								
<b>TO BE COMPLETED BY GRIEVANT</b>								
<b>12. Relief offered is – Mark (X) one</b> <table style="display: inline-table; vertical-align: middle;"> <tr> <td><input type="checkbox"/> Acceptable</td> </tr> <tr> <td><input type="checkbox"/> Unacceptable</td> </tr> </table>	<input type="checkbox"/> Acceptable	<input type="checkbox"/> Unacceptable	<b>a. Signature of grievant or representative</b>	<b>b. Date</b>				
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<b>13. Name</b>	<b>14. Title</b>							
<b>15. Date</b>		<b>16. Decision – Mark (X) one</b> <table style="display: inline-table; vertical-align: middle;"> <tr> <td><input type="checkbox"/> Grievance sustained</td> <td rowspan="3" style="font-size: 2em; vertical-align: middle;">}</td> <td rowspan="3" style="vertical-align: middle;">Explain in item 17</td> </tr> <tr> <td><input type="checkbox"/> Grievance denied</td> </tr> <tr> <td><input type="checkbox"/> Other</td> </tr> </table>	<input type="checkbox"/> Grievance sustained	}	Explain in item 17	<input type="checkbox"/> Grievance denied	<input type="checkbox"/> Other	
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<input type="checkbox"/> Grievance denied								
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<b>a. Grievance meeting</b>	<b>b. Decision to grievant</b>							
<b>17. Summary of step (2) decision</b>								
<b>TO BE COMPLETED BY GRIEVANT</b>								
<b>18. Relief offered is – Mark (X) one</b> <table style="display: inline-table; vertical-align: middle;"> <tr> <td><input type="checkbox"/> Acceptable</td> </tr> <tr> <td><input type="checkbox"/> Unacceptable</td> </tr> </table>	<input type="checkbox"/> Acceptable	<input type="checkbox"/> Unacceptable	<b>a. Signature of grievant or representative</b>	<b>b. Date</b>				
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<b>TO BE COMPLETED BY STEP (3) DECIDING OFFICIAL</b>			
<b>19.</b> Name		<b>20.</b> Title	
<b>21.</b> Date		<b>22.</b> Decision – <i>Mark (X) one</i>	<input type="checkbox"/> Grievance sustained <input type="checkbox"/> Grievance denied <input type="checkbox"/> Other
<b>a.</b> Grievance meeting	<b>b.</b> Decision to grievant		
<b>23.</b> Summary of step (3) decision			
<b>TO BE COMPLETED BY GRIEVANT</b>			
<b>24.</b> Relief offered is – <i>Mark (X) one</i>	<input type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable	<b>a.</b> Signature of grievant or representative	<b>b.</b> Date
Remarks			



## Charter of the Census Bureau Labor-Management Council

### Preamble

As the President declared in Executive Order 13522, *Creating Labor-Management Forums to Improve Delivery of Government Services* (December 2009), Federal employees and their union representatives are an essential source of front-line ideas and information about the realities of delivering Government services to the American people. A non-adversarial forum for managers, employees, and employees' union representatives to discuss Government operations will promote satisfactory labor relations and improve the productivity and effectiveness of the Federal Government. Labor-management forums, as complements to the existing collective bargaining process, will allow managers, employees, and employees' union representatives to collaborate in continuing to deliver the highest quality services to the American people.

Before proposing to union representatives a management-developed solution to a workplace challenge or problem so that labor may engage in bargaining, management will utilize the Council to discuss with labor workplace challenges and problems to endeavor to develop solutions jointly.

### Details of the Census Bureau Labor-Management Council Charter Agreement

The management of the Census Bureau and the exclusive representatives of its employees embrace these ideas and adopt the following charter for the Census Bureau Labor-Management Council.

1. We agree that there will be established a Census Bureau Labor-Management Council (hereinafter Council), which will discuss and propose solutions upon matters of a Census Bureau-wide significance.

To the extent permitted by law, the Council will:

- a. as necessary, in coordination with the Department of Commerce Labor-Management Forum, develop suggested measurements and metrics for the evaluation of the effectiveness of the Council in order to promote consistent, appropriate, and administratively efficient measurement and evaluation;



- b. collect and disseminate information about, and provide guidance on, labor-management relations improvement efforts in the Census Bureau, including the results achieved;
  - c. as needed, utilize the expertise of individuals both within and outside the Federal Government to foster successful labor-management relations, including the use of facilitators and training of Census Bureau personnel and union representatives in methods of dispute resolution and cooperative methods of labor-management relations;
  - d. develop recommendations for innovative ways to improve the delivery of services and products to the public while cutting costs and advancing employee interests; and
  - e. serve as a venue for addressing systemic failures of labor-management relationships in the Census Bureau.
2. We agree that the Council will make all decisions by consensus as represented by each co-chair. Consensus decisions are made using a partnership process of information sharing, discussion, and decision making that result in discovering a mutually agreeable solution to an organizational problem.

Consensus decision making includes the following characteristics:

- a. a high level of acceptance by the members;
  - b. total commitment by the members to the solution(s); and
  - c. any member in disagreement must search for an alternative solution.
3. We agree that ideas for the Council to consider or affirm may be introduced by any member of the Council.
  4. We agree that employees and their union representatives will have pre-decisional involvement in all workplace matters, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106. Nothing in this charter shall be

construed to impair or otherwise affect the authority granted by law to the management of the Census Bureau.

5. We agree that management will provide adequate information on such matters expeditiously to union representatives where not prohibited by law in order for the Council to collectively arrive at a solution. The members agree that when changes are proposed, both parties will be given up to 14 days to review and comment on the changes. This time frame may be shortened or lengthened by consensus of the Council.
6. We agree to make a good-faith attempt to resolve issues concerning proposed changes in conditions of employment, including those involving the subjects set forth in 5 U.S.C. 7106(b)(1), through discussions in the Council. The goal is to minimize the need for bargaining, thereby lessening the time and costs of implementation. Any agreements made at the Council will not replace traditional bargaining at the appropriate level.
7. We agree to evaluate and document, consistent with the purposes of the Executive Order 13522 (Order) and any further guidance provided by the National Council on Federal Labor-Management Relations or the Department of Commerce Labor-Management Forum, changes in employee satisfaction, manager satisfaction, and organizational performance resulting from the Council.
8. The Council will consider presenting to the Department of Commerce Labor-Management Forum a plan that will include the Census Bureau as a candidate for pilot projects as specified in Section 4(a) of E.O. 13522. The Council may consider pilot projects as a means to improve productivity or effectiveness of the Census Bureau or to reduce costs subject to the restrictions specified below:
  - a. The Census Bureau and its union representatives are encouraged at all levels to bring to the Forum suitable subject matter suggestions for bargaining over permissive subjects. The Forum agrees to forward those suggestions it finds consistent with the goals of Executive Order 13522 to the National Council on Federal Labor-Management Relations as candidates for pilot projects.
  - b. The Census Bureau agrees to bargain with appropriate union representatives over the subjects set forth in 5 U.S.C. 7106(b)(1) and waive any objection to participating in any impasse procedures set forth in 5 U.S.C. 7119 that is based on the subjects being permissive, but only to the extent that any proposal for negotiation on these subjects meets the following criteria:

- i. The proposal explains how its adoption will improve productivity or effectiveness of the Federal Government or reduce costs; and
    - ii. The proposal provides suggested methods for evaluation that meet the criteria specified in Section 4(a)(i or ii) of E.O. 13522.
  - c. In good faith, management will determine whether the proposal meets these criteria although adverse determinations may be appealed to the Forum or other body designated by the Forum, subject to guidelines set by the Forum.
  - d. The Parties understand that the Forum has created a Labor-Management Innovation Working Group to initially screen and evaluate proposed pilot projects and make recommendations to the Forum regarding the Department of Commerce Labor-Management Innovation Program.
9. We agree that Council members and alternates will, as needed, receive joint training of labor and management and will jointly select the trainer or facilitator. As determined by the Council, they will receive training, including, but not limited to, effective communication and meeting skills, problem solving, alternative dispute resolution methods, work analysis and improvement tools, strategic planning, budget issues, policy matters, and any other subjects that will enable them to effectively do their Council work.
10. We agree that the Council will be comprised of sixteen (16) members as well as an equal number of alternates and that the parties may at their choice change the makeup of their respective teams, with the Director of the Census Bureau appointing the management members and alternates and with AFGE choosing and replacing its own members and alternates. All members and alternates must be Federal employees unless the White House, OPM, GSA, or the National Council on Federal Labor-Management Relations issues a written opinion that the Federal Advisory Committee Act (FACA) is not applicable to the Council.

The Council members are as follows:

- a. Eight (8) members of Census Bureau management
- b. Three (3) union representatives from Headquarters in Suitland, MD

- c. Three (3) union representatives from the National Processing Center in Jeffersonville, IN
- d. One (1) union representative from the Tucson Telephone Center in Tucson, AZ
- e. One (1) union representative from the Hagerstown Telephone Center in Hagerstown, MD

We also agree that observers shall be permitted at meetings by approval of both co-chairs. Observers will not be permitted to speak during meetings unless one of the co-chairs invites that observer to speak.

- 11. We agree that a representative for labor and a representative from management will serve as co-chairs of the Council. Each co-chair may designate an alternate from among the members who will serve in the absence of the respective co-chair.
- 12. We agree that the Council will initially hold regularly scheduled meetings twice per month, with opportunities for face-to-face meetings to take place at the Census Bureau headquarters. The meetings will be on the second and fourth Wednesdays of the month, from 2:00 p.m. to 3:30 p.m. Eastern Time. The need for travel will be determined by the Co-Chairs of the Council. Videoconferencing and/or teleconferencing will be available for those members not able to be present at any meeting held.
- 13. We agree that the Council members may change the frequency, location, and length of the Council meetings. Meetings may be extended by consensus of the members.
- 14. We agree that the Council will invite the Director and the Deputy Director to attend all meetings as ex-officio members.
- 15. If a Council member is unable to attend, their alternate may attend in their place.
- 16. We agree that the Council will, as needed, appoint working groups to gather facts and study and analyze information in order to make knowledgeable recommendations to the Council. When the Council decides to refer an issue to a working group for study, it will establish the parameters of the topic to be researched and an anticipated date to receive recommendations from the working group. The working group is responsible for studying the issue and making recommendations to the Council. The Council will determine the number of participants on a working group. When particular skills are

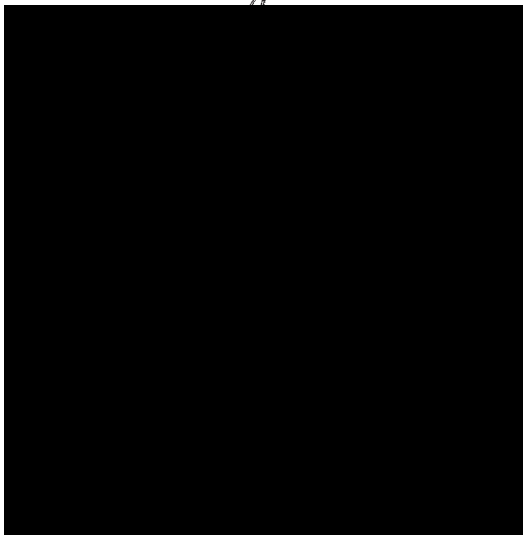
needed for effective participation on a working group, the Council will develop the criteria for selection. The Council will appoint representatives to the working groups who have the necessary skills to perform the assigned tasks. Working groups will provide status reports at appropriate intervals to the Council. Matters of local significance (e.g., headquarters, Jeffersonville, Tucson, or Hagerstown) may be addressed through the creation of labor-management working groups at the local level.

17. We agree that the Council will not hold meetings in the absence of a quorum. A quorum consists of at least 4 members of management and 4 members of the union, including alternates replacing members at that meeting.
18. We agree that, on days of Council meetings, days of working group meetings, and at other times, if needed, with the approval of the management co-chair, management will provide Council members with personnel and support services, such as a meeting room, use of Government computers, copiers, fax machines, presentation equipment, and telephones.
19. We agree that attendees of the Council (members and their respective alternates, as well as approved observers) will be in duty status while participating in Council business, including meetings of the Council, reasonable preparation in advance of the Council meetings, attendance at working group meetings, and travel time to and from all Council meetings, including working group meetings. Council activities beyond or outside normal duty hours of those involved will be considered as official duty and compensated in accordance with law. Additional individuals may be permitted to participate in Council business while in duty status with the agreement of the co-chairs.
20. We agree that the Council members or their respective alternates will have all travel treated as official government business and remunerated accordingly, with travel and per diem expenses paid.
21. We agree that the Council members (including alternates acting as members) will select a "secretary" who will perform duties as prescribed by this Charter and the Council and who will provide detailed minutes of the proceedings that document the history of issues and matters discussed and the decisions made.
22. We agree that the Council members will determine agenda items for the next meeting in the last 15 minutes of the current meeting. The co-chairs may consider requests for emergency or new items at the beginning of each meeting.



23. We agree that the Council secretary will provide detailed minutes of the meeting to the Council members and alternates for their review, including proposed agenda items for the next meeting, within a week of the previous meeting.
24. Nothing in this agreement shall abrogate any collective bargaining agreements in effect on the date of this order. However, the Council may recommend changes in the collective bargaining agreement to labor and management.
25. This Charter is a living document and will be reviewed periodically to evaluate the effectiveness of the Council, but no later than once a year, unless the parties agree otherwise. The Labor-Management Council may review and recommend revisions to the Council Charter, when necessary, so long as there is consensus among the members of the Council for the change.
26. By provision of the Department of Commerce Labor-Management Forum charter, the Census Bureau may agree to pursue additional labor-management initiatives or procedures for improving labor-management relations.

For Labor:



For the Census Bureau:



Signed on this, the 6<sup>th</sup> day of January, 2011.

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# Awards Overview

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A Quick Reference Guide for  
Census Bureau Awards

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For questions, contact Human  
Resources Division, Employee Relations  
Branch at (301) 763-3701

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## **AWARDS OVERVIEW**

There are numerous types of awards available for managers to give to their employees. Keep in mind that one of the easiest awards to give is verbal acknowledgement of a job well done. When a job well done requires more than this acknowledgement you have numerous options to choose from. Please be advised, only Federal employees may receive monetary/merchandise awards. Contractors are not eligible, but may be given Certificates of Appreciation for contributions.

### **PERFORMANCE AWARDS:**

#### ***Quality Step Increase:***

##### **Delegated Authority**

Recognizes a continuing high level of quality performance, with the exemplary performance expected to continue at the same high level in the future. This award is directly linked to an employee's rating of record. Employees must have a rating of Level 5 to be eligible for this award, and a narrative with specific examples that indicate how the Level 5 was accomplished for each critical element.

Approval routing: Supervisor, Branch Chief, ADC, Division Chief, Administrative Office, HRD.

#### ***Performance Cash Award:***

##### **Delegated Authority**

A performance cash award is a performance-based cash payment to an employee based on the employee's rating of record for the current appraisal period. The award may not exceed 10 percent of the employee's annual rate of base pay (including locality pay), except in extremely rare cases when it may not exceed 20 percent. A performance award does not increase base pay. The award ranges are as follows:

- Level 5: Up to 10 percent of base pay (including locality pay)
- Level 4: Up to 6 percent of base pay (including locality pay)
- Level 3: Up to 3 percent of base pay (including locality pay)
- Level 2: Not eligible
- Level 1: Not eligible

Supervisors and Managers are encouraged not to allocate monies for Performance Awards in excess of monies allotted for other incentive award programs. Supervisors and Managers will strive to utilize the full range of awards programs.

Performance Awards must only be paid after the end of the full annual performance appraisal cycle. When determining the appropriate performance award amount, supervisors and managers should consider an employee's contributions to the achievement of the organization's mission and goals.

Criteria for eligibility if a determination is made to provide a Performance Cash Award:

- The employee must have a current summary rating of record and must meet the threshold performance evaluation criteria at the Level 3 or above, as determined by the Agency, which is a prerequisite to receive the Performance Cash Award.
- The employee must be employed by the Agency on the last day of the performance appraisal cycle

The Agency will provide Performance Award recipients with written documentation that clearly articulates the specific reason(s) that the employee received the award. Employees are encouraged to relate this information to specific evaluation criteria when completing applications for merit promotion.

Significant concerns of perceived inequity and/or unfairness in the distribution of Performance Awards may be referred to the Labor Management Relations Branch or a committee, as deemed appropriate by the Agency, for review and/or consideration.

Rating Officials must gain approval from the Approving Official before granting any performance cash awards. Rating Officials must also document the amount of the award, and the percentage of base pay (including locality payments) on the employee's Form CD-430.

### **INCENTIVE AWARDS:**

#### ***Cash-in-Your-Account:***

##### **Delegated Authority**

Recognizes accomplishments over a short period or work assignments that may not be covered by critical elements. The CIYA award amounts have been revised to include net amounts of \$25, \$50, \$75, \$100, \$150, \$200, \$250, \$300, \$350, \$400, \$450, \$500 and continue in \$100 dollar increments up to \$1000. The single award amount is \$1000, and the annual award limit is \$2000 per employee. An employee may receive, either as an individual or part of a group, in a single calendar year, a maximum of \$2000. Access **CHRIS** to initiate this award (under the CARS tab). The pre-tax amount counts against a branch's award budget, which can be up to 2½ times the award amount (i.e., a \$100 award might be \$250 from the budget). A current rating of record is not required.

Approval routing: Supervisor, Branch Chief, ADC, Division Chief, Administrative Office. Division Chief can approve all awards or may designate lower level authority for final approval.

#### ***On-the-Spot:***


##### **Delegated Authority**

Recognizes day-to-day efforts that contribute in a special way to getting the job done, such as developing a new approach to a task. This award consists of merchandise with a cash value of up to \$25. During a fiscal year an employee may receive up to \$125 in merchandise. Access **CHRIS** to initiate this award (under the CARS tab). This award counts against the HRD's OTS award fund. A current rating of record is not required. All OTS awards must be redeemed within one year of award date.

Approval routing: Supervisor, Branch Chief, ADC, Division Chief, Administrative Office. Division Chief can approve all awards or may delegate lower level authority for final approval.

#### ***Time-Off:***

##### **Delegated Authority**

Recognizes nonrecurring short-term contributions. Excused absence is granted without charge to leave or loss of pay. Minimum award is one half-day, and no more than one week may be granted for a single contribution. All time-off awards must be used within one year of the award's effective date, and cannot be restored or converted to cash value. Complete **CB-326**  to initiate this award.



Approval routing: Supervisor, Branch Chief, ADC, Division Chief, Administrative Office, HRD. Division Chief can approve one day or may delegate to lower level authority for final approval. Associate/Assistant Directors may approve up to 40 hours.

***Special Act Award:***

**Delegated Authority** 

Recognizes unique contributions by an employee that are significantly outside normal job expectations, including acts of heroism or work spanning several years duration. Special Act (SA) maximum award approval is \$7500. SA's up to 4%, not to exceed \$7500, may be approved by Division/Office Chiefs/Regional Directors; and SA's up to 10%, not to exceed \$7500, may be approved by Associate Directors/Deputy Director/Director. Awards from \$7501 to \$10000 must be approved by the Census Bureau Performance Review Board and subsequently receive approval by the Director. A current rating of record is required in order for an employee to be eligible to receive this award.

Complete **CB-326**  to initiate this award.

Approval routing: Supervisor, Branch Chief, ADC, Division Chief, Associate Director, Administrative Office, HRD.

**RECOGNITION AWARDS:**

***Employee of the Month Program:***

Peer recognition program that divisions and offices at the Census Bureau may elect to implement to recognize individual employees who demonstrate exceptional initiative on assignments that further the mission and objectives of the division. A Cash-in-Your-Account, On-the-Spot or Time-Off Award is used as the means of recognition for individuals selected within the division. A Certificate of Recognition may also be awarded. All employees in participating divisions are eligible for recognition within their own division. Division Chiefs, or their designees, are responsible for complying with all of the procedural requirements of the award program that is selected as recognition, including submission requirements and obtaining any required clearances.

***Certificate of Recognition:***

Created by the Human Resources Division upon request of a Division Chief, which may be redelegated to a lower level authority. Certificate is a standard Department of Commerce form. These are given often to employees in conjunction with an award.

***Certificate of Appreciation:***


Created by the Human Resources Division upon request of a Division Chief, which may be redelegated to a lower level authority. Certificate is a standard Department of Commerce form. These are given mainly to non-federal employees and are available in two sizes.

***Length of Service Awards:***

Recognizes Census Bureau employees for their dedication and commitment to the Agency. A certificate and pin is issued for every 5 years of service after 10 years of service is reached.


## INTERNAL CENSUS BUREAU AWARDS:

### ***Census Award of Excellence:***

Recognizes exceptional service by employees Grade 10 and below to the mission of the work unit or agency. A five-member selection panel will review the nominations and make recommendations to the Director of the Census Bureau. This \$5,000 award is presented once a calendar year, and is approved by the Director of the Census Bureau from bureau-wide nominations. Complete **CB-326**  to nominate an employee for this award.


Approval routing: Supervisor, Branch Chief, ADC, Division Chief, Administrative Office, HRD.

### ***Director's Award for Innovation:***

Recognizes an individual or team for creativity, effectiveness, and risk-taking behavior in developing new processes, products, or services that contribute to the mission of the agency. Individual recipients receive \$5,000; teams receive \$10,000 to be divided equally among the members. Individual Honorable Mention recipients receive \$1,000; Honorable Mention team members receive \$500 each. A nine-member selection panel makes recommendations to the Director of the Census Bureau for final approval, and awards are presented once a year. Complete **CB-326**  to nominate an employee or team for this award.

Approval routing: Supervisor, Branch Chief, ADC, Division Chief, Administrative Office, HRD.

### ***Equal Employment Opportunity Award:***

Recognizes significant recent contributions and/or outstanding performance in the area of equal employment opportunity. Recipients should have achieved outstanding results through effective leadership, innovation, imagination, and/or perseverance in extending equal employment opportunities to all Census Bureau employees. This award is presented once a year, and selected employees receive an engraved plaque. Complete **CB-326**  to nominate an employee for this award.

Approval routing: Supervisor, Branch Chief, ADC, Division Chief, Administrative Office, HRD.

### ***Bronze Medal:***

Recognizes the work of an employee or group for superior contributions that have resulted in more effective and efficient management systems, or creative abilities in the development and improvement of methods and procedures for the Bureau. This award is presented once a year, and is the highest medal awarded by the Director of the Census Bureau. A completed Bronze Medal nomination form must be sent to the Employee Relations Branch, Human Resources Division.

### ***Outstanding Mentor Award:***


The Outstanding Mentor Award was established in 2006, to recognize employees who exemplify the spirit and value of mentoring through their efforts to develop the skill and/or professionalism of other employees. Each recipient will receive a \$500 cash award and a plaque. A five-member selection panel will review the bureau-wide nominations and make recommendations to the Director of the Census Bureau for final approval. An annual call for nominations is issued electronically to managers, administrative officers and all Census Bureau employees around February/March.

Nominations must be submitted on the form **CB-326**  to the Human Resources Division.

The award is presented at the Public Service Recognition Award ceremony in the spring.

***Diversity Champion and Leadership Award:***

The Diversity Champion and Leadership Award was established in 2007, to recognize employees who have contributed significantly to diversity initiatives at the Census Bureau. Recipients of this award have made exceptional contributions to promoting workplace diversity in one of the following categories: Improving Organizational/Business Effectiveness, Improving Employee Satisfaction and Workplace Effectiveness, or Improving Customer/Client Relationships. Either individuals or groups may be nominated for the award. A group may consist of a minimum of two up to a maximum of ten individuals. Each recipient will receive an engraved plaque. A five member selection panel from the Diversity Council will review the bureau-wide nominations and make recommendations to the Director of the Census Bureau for final approval. An annual call for nominations is issued electronically to managers, administrative officers and all Census Bureau employees around February/March.

Nominations must be submitted on the form **CB-326**  to the Human Resources Division. The award is presented at the Public Service Recognition Award ceremony in the spring.

***Tree of Honor Award:***

The Tree of Honor award is to recognize and pay tribute to the men and women of the U.S. Census Bureau who have been killed or severely injured in the line of duty. Any employee who is killed in the line of duty or is severely injured in the line of duty is eligible for this honor. Employees who die of natural causes while performing their assigned duties are not eligible. Injuries are defined as serious when leading to a permanent disabling condition. Employees at all grade levels are eligible for this honor, including employees on term appointments and members of the Senior Executive Service. Recipients will have their name engraved on a leaf that will be mounted on the "Tree of Honor" memorial. The Human Resources Division will consult with the appropriate management chain regarding any death or injury which appears to meet these criteria prior to making a final determination on sending a recommendation for recognition to the Deputy Director for approval.

**DOC HONORARY AWARDS:**

***Gold/Silver Medals:***

Recognizes distinguished performance characterized by extraordinary, noble, or prestigious contributions that impact the mission of the Department and/or an operating unit. These awards are presented once a year, and are the highest honors bestowed by the Secretary of Commerce. A completed Gold/Silver Medal nomination form must be sent to Employee Relations Branch, Human Resources Division.

**NOTES:**

- All awards exceeding \$7,500 (except the Director's Award for Innovation), including performance cash awards, must be sent to the Census Bureau's Performance Review Board, and subsequently sent to the Director for approval.

### **Award Criteria for ACS FEFU**

- 1) The award period will be a calendar month from the 1<sup>st</sup> to end of month.
- 2) Interviewers must be logged into the survey for (8) hours during the award period.
- 3) Agents must have at least 80% computer/WebCATI login hours of their paid hours in the survey (i.e. actual hours worked in ACS FEFU) during the award period.\*\*
- 4) Agents have received fully successful on all ACS FEFU monitoring sessions, which is a score of a 76 or higher, during award period on ACS FEFU.
- 5) (\$150) Awards will be given for highest CPH.

#### **AWARD DISTRIBUTION BY CALL CENTER:**

**HCC:** (1) Award for highest CPH

**TCC:** (1) Awards for highest CPH

**\*In case of a tie for completes per hour (CPH), the award will be distributed to the interviewer with the highest call attempts per login hour during the award period. If a tie still remains, the tiebreaker will be determined by awarding the interviewer with the highest number of hours worked on ACS FEFU during the award period.**

**\*\*If during any award period no Interviewers meet the 80% computer/WebCATI login hours, then this criteria, item (3), should be removed from consideration and all other criteria should be used to distribute the awards accordingly.**

### **Award Criteria for ACS-NR**

- 1) Award Period will be from the 1<sup>st</sup> of the month through to the 14<sup>th</sup> of the month.
- 2) Interviewers must be logged into the survey for (24) hours during the award period.
- 3) Agents must have at least 80% computer/WebCATI login hours of their paid hours in the survey (i.e. actual hours worked in ACS) during the award period.
- 4) Agents have received fully successful on all ACS monitoring sessions, which is a score of a 76 or higher, during award period on ACS.
- 5) (\$100) Awards will be given for highest CPH, highest Call Progress, and highest Refusal Conversion Rates relative to the facility averages for each Call Center.

#### **AWARD DISTRIBUTION BY CALL CENTER:**

**HCC:** (1) Award for highest CPH, (1) Award for highest Call Progress, (1) Award for highest Refusal Conversion Rate

**TCC:** (3) Awards for highest CPH, (1) Award for highest Call Progress, (1) Award for highest Refusal Conversion Rate

**JCC:** (4) Awards for highest CPH, (2) Awards for highest Call Progress, (2) Awards for highest Refusal Conversion Rate

\*In case of a tie for any of the (3) awarded elements (completes per hour; call progress; and refusal conversion rate), the award will be distributed to the interviewer with the highest call attempts per login hour during the award period. If a tie still remains, the tiebreaker will be determined by awarding the interviewer with the highest number of hours worked on ACS during the award period.



### **Award Criteria for ATUS**

- 1). The award period will be from the 1<sup>st</sup> of the month through the end of the month.
- 2). Interviewers must be logged into the survey for twenty (20) hours during the award period.
- 3). Agents have received fully successful on all ATUS monitoring sessions, which is a score of a 76 or higher, during award period on ATUS.
- 4). Interviewers must have worked CPS Sunday during the applicable award period (either calling on ATUS or CPS).
- 5). Interviewers must schedule and work at least two weekend days in each pay period for award period month. (This can be a combination of Saturdays and/or Sundays)
- 6). The coding error rate must be less than 5% for the minimum of (30) cases coded during award period.
- 7). (\$100) Awards will be given for highest CPH and highest Refusal Conversion Rates relative to the facility averages for each Call Center.

#### **AWARD DISTRIBUTION BY CALL CENTER:**

**JCC:** (4) Awards for highest CPH, (2) Awards for highest Refusal Conversion Rate

\*In case of a tie for any of the (2) awarded elements (completes per hour and refusal conversion rate), the award will be distributed to the interviewer with the highest call attempts per login hour during the award period. If a tie still remains, the tiebreaker will be determined by awarding the interviewer with the highest number of hours worked on ATUS during the award period.

### **Award Criteria for CPS**

- 1) The award period for Completes per Hour (CPH) and Call Progress will be Sunday and Monday.
- 2) The award period for Refusal Conversions will be Sunday through Tuesday.
- 3) Interviewers must be logged into the survey for (8) hours during the award period.\*\*
- 4) Agents must have at least 80% computer/WebCATI login hours of their paid hours in the survey (i.e. actual hours worked in CPS) during the award period.
- 5) Agents have received fully successful on all CPS monitoring sessions, which is a score of a 76 or higher, during award period on CPS.
- 6) (\$150) Awards will be given for highest CPH, and (\$100) Awards will be given for highest Call Progress and highest Refusal Conversion Rates relative to the facility averages for each Call Center.

#### **AWARD DISTRIBUTION BY CALL CENTER:**

**HCC:** (1) Award for highest CPH, (1) Award for highest Call Progress, (1) Award for highest Refusal Conversion Rate

**TCC:** (1) Awards for highest CPH, (1) Award for highest Call Progress, (1) Award for highest Refusal Conversion Rate

**JCC:** (1) Awards for highest CPH, (1) Awards for highest Call Progress, (1) Awards for highest Refusal Conversion Rate

**\*In case of a tie for any of the (3) awarded elements (completes per hour; call progress; and refusal conversion rate), the award will be distributed to the interviewer with the highest call attempts per login hour during the award period. If a tie still remains, the tiebreaker will be determined by awarding the interviewer with the highest number of hours worked on CPS during the award period.**

**\*\*If during any award period no Interviewers meet the 80% computer/WebCATI login hours, then this criteria, item (4), should be removed from consideration and all other criteria should be used to distribute the awards accordingly.**

**Award Criteria for MPS  
Prescreener, Special Cases, Medium Multi-Units (MMU), Unions, and Govt**

- 1) The award period will be the survey run during the (8) week period after training has been completed.
- 2) Interviewers must be logged into the survey an average of (15) hours a week during the award period.
- 3) Agents must have at least 80% computer/WebCATI login hours of their paid hours in the survey (i.e. actual hours worked in MPS Prescreener (Special Cases, MMU, Unions, and Govt) during the award period.
- 4) Agents have received fully successful on all MPS Prescreener (Special Cases, MMU, Unions, and Govt) monitoring sessions, which is a score of a 76 or higher, during the award period.
- 5) (\$100) Awards will be given for highest CPH.

**AWARD DISTRIBUTION BY CALL CENTER:**

**JCC:** (2) Awards for highest CPH

\*In case of a tie for completes per hour (CPH), the award will be distributed to the interviewer with the highest call attempts per login hour during the award period. If a tie still remains, the tiebreaker will be determined by awarding the interviewer with the highest number of hours worked on MPS Prescreener (Special Cases, MMU, Unions, and Govt) during the award period.

**Award Criteria for MPS  
Telephone Follow-Up (TFU), Single Unit (SU) and Single Multi Units (SMU)**

- 1) The award period will be the survey run after the (3) day training has been completed through completion of the work.
- 2) Interviewers must be logged into the survey an average of (15) hours a week during the award period.
- 3) Agents must have at least 80% computer/WebCATI login hours of their paid hours in the survey (i.e. actual hours worked in MPS TFU (SU and SMU)) during the award period.
- 4) Agents have received fully successful on all MPS TFU (SU and SMU) monitoring sessions, which is a score of a 76 or higher, during the award period.
- 5) (\$150) Awards will be given for highest CPH, and (\$100) Awards will be given for highest Call Progress and highest Refusal Conversion Rates relative to the facility averages for each Call Center.

**AWARD DISTRIBUTION BY CALL CENTER:**

**TCC:** (3) Awards for highest CPH, (1) Award for highest Call Progress, (1) Award for highest Refusal Conversion Rate

**JCC:** (2) Awards for highest CPH, (1) Awards for highest Call Progress, (1) Awards for highest Refusal Conversion Rate

\*In case of a tie for any of the (3) awarded elements (completes per hour; call progress; and refusal conversion rate), the award will be distributed to the interviewer with the highest call attempts per login hour during the award period. If a tie still remains, the tiebreaker will be determined by awarding the interviewer with the highest number of hours worked on MPS TFU (SU and SMU) during the award period.

### **Award Criteria for TPOPS**

- 1) The award period will be the first (4) weeks of the quarterly TPOPS cycle.
- 2) Interviewers must be logged into the survey for (25) hours during the award period.
- 3) Agents must have at least 80% computer/WebCATI login hours of their paid hours in the survey (i.e. actual hours worked in TPOPS) during the award period.
- 4) Agents have received fully successful on all TPOPS monitoring sessions, which is a score of a 76 or higher, during award period on TPOPS.
- 5) (\$100) Awards will be given for highest CPH, highest Call Progress, and highest Refusal Conversion Rates relative to the facility averages for each Call Center.

#### **AWARD DISTRIBUTION BY CALL CENTER:**

**HCC:** (3) Award for highest CPH, (1) Award for highest Call Progress, (1) Award for highest Refusal Conversion Rate

**TCC:** (5) Awards for highest CPH, (1) Award for highest Call Progress, (1) Award for highest Refusal Conversion Rate

**JCC:** (4) Awards for highest CPH, (1) Awards for highest Call Progress, (1) Awards for highest Refusal Conversion Rate

\*In case of a tie for any of the (3) awarded elements (completes per hour; call progress; and refusal conversion rate), the award will be distributed to the interviewer with the highest call attempts per login hour during the award period. If a tie still remains, the tiebreaker will be determined by awarding the interviewer with the highest number of hours worked on TPOPS during the award period.



### **General Criteria for a Survey without an Established Criteria**

- 1) Award Period will be from the start of the survey period through 65% completion of the workload.
- 2) Agents must have at least 80% computer/WebCATI login hours of their paid hours in the survey (i.e. actual hours worked on the survey) during the award period.\*\*
- 3) Agents have received fully successful on all ACS monitoring sessions, which is a score of a 76 or higher, during award period on the survey.
- 4) (\$100) Awards will be given for highest CPH and highest Refusal Conversion Rates relative to the facility averages for each Call Center. The awards distributed for each Call Center will be determined by workload.

#### **AWARD DISTRIBUTION BY CALL CENTER:**

HCC: (1-4) Award for highest CPH, (1-2) Award for highest Refusal Conversion Rate

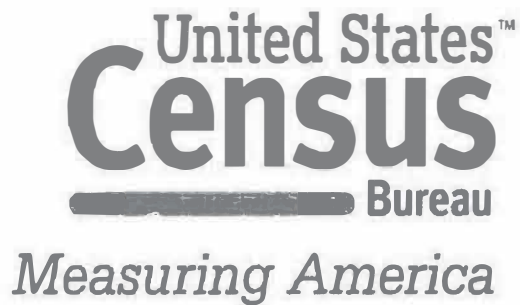
TCC: (1-4) Awards for highest CPH, (1-2) Award for highest Refusal Conversion Rate

JCC: (1-4) Awards for highest CPH, (1-2) Awards for highest Refusal Conversion Rate

**\*In case of a tie for any of the (2) awarded elements (completes per hour and refusal conversion rate), the award will be distributed to the interviewer with the highest call attempts per login hour during the award period. If a tie still remains, the tiebreaker will be determined by awarding the interviewer with the highest number of hours worked on the survey during the award period.**

**\*\*If during any award period no Interviewers meet the 80% computer/WebCATI login hours, then this criteria, item (2), should be removed from consideration and all other criteria should be used to distribute the awards accordingly.**

# U.S. CENSUS BUREAU TELEWORK POLICY



## OCTOBER 2015

**Supersedes Policies of December 2011 and June 2015**

Effective: October 1, 2015

Approved by:

Director, U.S. Census Bureau

Date 11/04/2015

President, AFGE Council 241

Date 11/04/2015

## REVISION INFORMATION

Handling personally identifiable information, business identifiable information and confidential data are updated in this October 1, 2015, version of the new Census Bureau Telework Policy. Specifically, the following revisions have been made:

- Section 5, 6 and 7 were renamed.
- Section 1.1, paragraph 1 – Added link to VDI and Contractors Policy for reference.
- Section 1.4, Definitions – Revised the laws referenced for “Legally Protected Information” for consistency with the laws staff are familiar with.
- Section 3.10 – Removed last sentence of last paragraph, “The reasonable accommodation shall not be approved if it violates the provision of the Telework Enhancement Act.”
- Section 3.3 A and Section 3.9 bullet 3 – Removed “and IT Security” from the reference “Data Stewardship and IT Security Awareness training” found several places in the document.
- Section 3.10 paragraph 1 – Changed Disability and Inclusions Office to Disability Program Office.
- Section 5 through Section 7 were rewritten.
- Section 7.2 was removed.
- Section 14.1 – Removed reference to Section 7.2.
- Section 19.2.2, bullet 2 – Removed “and is approved.”
- Appendix B, paragraph 1 – Removed the reference to working in other federal offices.

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### 1. INTRODUCTION

#### 1.1. Scope and Purpose

The Telework Program has been established for Census Bureau employees, consistent with the Department of Commerce (DOC) Telework Program Policy. The purpose of this document is to provide guidance for implementing, expanding, and improving this program. This program does not include contractors. Contractors should refer to the Contractors and Remote VDI policy (<https://intranet.ecm.census.gov/apps/policyportal/Pages/PolicyViewer.aspx?docID=744>) for more information.

The purpose of the Census Bureau Telework Program is to ensure compliance with the Telework Enhancement Act of 2010 and the Department's Telework Policy by eventually enabling all eligible employees to apply for approval to participate in the program, and to provide and maintain continuous operations of the Census Bureau's services regardless of duty location. (Employee eligibility is defined in Section 3.) In achieving this goal, managers and employees are encouraged to seek creative solutions when considering telework assignments that will ensure continuity of operations, reduce operational costs, and improve the overall work-life balance for our employees.

Critical to the Census Bureau's goal of expanding the Telework Program in a meaningful way is the implementation of technology and policies that allow computer access inside the firewall. The Virtual Desktop Infrastructure (VDI) makes it possible for employees working remotely to access data, tools and programs residing on the Census Bureau's network that are essential to their daily work, as well as legally protected or restricted access data (Title 5, including the Privacy Act of 1974, Title 13, the Confidential Information Protection and Statistical Efficiency Act or CIPSEA, Title 26, and Administratively Restricted).

VDI has made telework more accessible to a larger number of employees and supports an increase in the number of telework days that may be worked each pay period.

This revised policy (1) applies to all parts of the Census Bureau, not just Headquarters and (2) incorporates the revised DOC Telework Policy (2014), the 2014 Office of Personnel Management's (OPM) Washington, DC Area Dismissal and Closure Procedures, and the June 23, 2014 Presidential Memorandum – "Enhancing Workplace Flexibilities and Work-Life Program."

This revised Telework Policy is being established in June 2015 to supersede all previous telework policies, including past practices, in place throughout the Census Bureau.

#### 1.2. Types of Telework

There are three types of telework: (1) routine telework in which telework occurs as part of an ongoing, regular schedule; (2) situational, ad hoc, or occasional telework that is approved on a case-by-case basis, where the hours worked are not part of a previously approved, ongoing, and



regular telework schedule; and (3) unscheduled telework in which federal or Department offices are open but under an announcement of “Unscheduled Telework” by the OPM or other appropriate authority.

### 1.3. Benefits

A successful Telework Program is innovative and cost-effective, and benefits the Census Bureau, its employees, and the communities in which they work and live. For the Census Bureau, telework provides increased productivity, reduced absenteeism, greater employee retention, and expanded recruitment opportunities. It also provides for the continued operation of services during periods of emergency conditions, reduced costs for real estate and facility maintenance, and an enhanced public image.

Telework provides greater job satisfaction for employees by providing flexibility in managing one’s time and activities. It improves morale by reducing stress in balancing work and home obligations, and by saving both time and money in costly, daily commutes.

For the community, telework promotes a cleaner environment, decreased traffic congestion, decreased pollution and energy consumption, and increased economic vitality.

### 1.4. Definitions

**AD HOC or EPISODIC TELEWORK (AD HOC)** – Approved telework performed on an ad hoc occasional, one-time, or irregular basis. An employee can be approved to telework on an ad hoc or episodic basis (not a regular and recurring schedule), but must have successfully completed the appropriate required interactive telework training program (e.g., Telework 101 for Employees or an approved Bureau-designed program specific to the Bureau) via the Commerce Learning Center or some other system capable of tracking when each employee has successfully completed the course. An employee must have an approved individual telework agreement in place before participating.

**APPROVING OFFICIAL** – The official (division chief or equivalent - i.e., regional director, associate director, or above) authorized to approve individual telework agreements. In some cases, the approving official and the supervisor may be the same person.

**ALTERNATE WORKPLACE** – The employee’s residence or another location other than the employee’s traditional worksite that has been approved by the approving official for the performance of the employee’s official duties. For purposes of telework, the alternate worksite is considered an official Government worksite.

**ELIGIBLE TO TELEWORK** – All employees are considered eligible to telework unless: (1) the employee has been officially disciplined for being absent without permission for more than five days in any calendar year (5 U.S.C. § 6502(a)(2)(A)) (without exceptions), (2) the employee has been officially disciplined for violations of 5 CFR Part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch) for viewing, downloading, or exchanging pornography, including child pornography, on a federal government computer or while performing official federal government duties (5 U.S.C. § 6502(a)(2)(B)) (without exceptions).

**ELIGIBLE POSITION** – A position is an eligible position unless 1) the official duties require on a daily basis (every workday) the direct handling of secure materials determined to be

inappropriate for telework by the head of the Census Bureau, *or* 2) the employee performs on-site activities that cannot be handled at an alternate worksite.

**CONTINUITY OF OPERATIONS (COOP) EMERGENCY EMPLOYEE** – A COOP employee (Government) is assigned responsibility to report to an alternate site, as required, to perform the Bureau's Mission Essential Functions or other COOP related operations. This category of emergency employees includes the Emergency Relocation Group and Emergency Command Team. The Census Bureau often refers to COOP Emergency Employees as CEEs.

**EMERGENCY EMPLOYEE** – An employee who occupies a designated “emergency” position that must have an individual telework agreement. These employees are expected to report to (or remain at) their worksite in dismissal or closure situations unless otherwise directed, and may be called upon to assist in providing essential services. If an emergency event occurs during duty hours, these employees are expected to remain on site, as the situation dictates, until properly relieved or provided additional instructions. The Census Bureau often refers to Emergency Employees as “Essential Employees” to avoid confusion with COOP.

**ESSENTIAL FUNCTION** – Functions that enable the federal government to provide vital services, exercise civil authority, maintain the safety and well-being of the general populace, and sustain the industrial or economic base in an emergency.

**EXIGENT CONDITIONS** – Conditions that exist that are determined to be inherently unsafe or such that normal work activities will be disrupted substantially for four or more hours and alternative arrangements for work to continue are deemed necessary.

**HOME-BASED WORK** – A work arrangement under which employees are approved to work full time from their homes, whereby the home is the official duty station. Home-based workers are considered remote workers, and are deemed teleworkers as defined by the OPM and under the terms of this policy because their homes are recognized as their duty station.

**HOTELING** – A telework arrangement in which employees are not assigned permanent space in their designated traditional worksite, but share offices and conference space as necessary when working at the traditional worksite. Such space is assigned by reservation, much like a hotel.

**LEGALLY PROTECTED INFORMATION** – Information collected or available under any law or regulation that restricts access for confidentiality reasons, including Titles 5 (including the Privacy Act of 1974), 13, 26, 42, and the Confidential Information Protection and Statistical Efficiency Act.

**MOBILE WORKERS** – Employees who, by the nature of their duties, do not have a designated traditional worksite, and typically use their homes as their “home base,” for example, field representatives. Due to the nature of their work, they **are not** considered eligible to apply for telework. This is different from “hoteling” arrangements, in which frequent telework-ready employees use shared space when they are working at their designated traditional worksite.

**OFFICIAL DUTY STATION** – The location of an employee’s position of record where the employee regularly performs his or her duties. If the employee’s work involves recurring travel or his or her work location varies on a recurring basis, the duty station is the location where the work activities of the employee’s position of record are based, as determined by the Approving Official. An employee’s official duty station determines the appropriate locality area for pay purposes for General Schedule or equivalent employees (5 CFR 531.605).



**OFFICIALLY DISCIPLINED** – A disciplinary action that results in the placement of a document in an employee’s official personnel file (OPF); the bar on telework participation remains in effect as long as the document stays in an employee’s OPF. A suspension or termination related to the items mentioned in Public Law 111-292 that results in a document (Standard Form 50) that permanently remains in the OPF would result in permanent prohibition in telework participation.

**REGULAR OR RECURRING TELEWORK** – Telework that is performed on the same day(s) of the week on the employee’s regularly scheduled tour of duty.

**REMOTE WORKER** – The employee is teleworking full-time from an alternate work site. The alternate work site becomes the employee’s official duty station for pay purposes.

**TELEWORK** – Telework, known as “telecommuting,” refers to a paid, flexible work arrangement under which employees perform the duties and responsibilities of their positions, and other authorized activities, from an alternate worksite, not the traditional worksite.

**TELEWORK AGREEMENT** – The Telework Agreement is the written agreement which provides the framework, expectations, terms, conditions, and responsibilities by which an employee (who has met the requirements to apply for telework) completes, agrees to with management, and submits to the deciding official for approval or denial.

**TELEWORK-READY EMPLOYEE** – An employee who has completed the required telework training program, has a signed individual telework (either regular or recurring, or ad hoc) agreement, and has the required necessities to work the scheduled telework.

**TRADITIONAL WORKSITE** – The traditional worksite is where the employee would work absent a telework arrangement.

**UNSCHEDULED TELEWORK** – Authorized under an announcement by the Office of Personnel Management (OPM) or other appropriate authority. Telework that was not scheduled in advance; except in rare situations. Does not require supervisor’s approval.

## 2. TELEWORK ENHANCEMENT ACT OF 2010

On December 9, 2010, President Barack Obama signed Public Law 111-292, the Telework Enhancement Act of 2010 (the Act). The general purpose of the Act is to expand participation in telework. The Act is a key factor in the federal government’s ability to achieve greater flexibility in managing its workforce through the use of telework. It requires agencies to establish a policy under which eligible employees of the agency may apply to be authorized to telework, to determine the eligibility for all employees of the agency to participate in telework, and to notify all agency employees of their eligibility.

## 3. ELIGIBILITY AND PARTICIPATION

The Act makes a clear distinction between “eligibility” and “participation.”

### 3.1. Eligibility

An employee is eligible to telework unless one or more of the following exceptions apply:

- A. The employee has been officially disciplined<sup>1</sup> for being absent without permission for more than 5 days in any calendar year.
- B. The employee has been officially disciplined<sup>2</sup> for violations of 5 CFR Part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch) for viewing, downloading, or exchanging pornography, including child pornography, on a federal government computer or while performing official federal government duties.
- C. The employee is a mobile worker.

### 3.2. Participation

Under 5 U.S.C. § 6502(b), the following are the requirements for participation:

- A written agreement that is entered into between an agency manager and an employee authorized to telework, that outlines the specific work arrangement that is agreed to.
- Provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee.
- Except in emergency situations as determined by the head of an agency, employees of the agency whose official duties require on a daily basis (every work day) the direct handling of secure materials determined to be inappropriate for telework by the agency head; or on-site activity that cannot be handled remotely or at an alternate worksite may not participate in telework.
- Direct facility maintenance.
- Facility and employee security.

Participation in the Telework Program is voluntary except for Emergency (“Essential”) and COOP employees. The Act stipulates in Section 6504(d)(2) that “During any period that an executive agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.”

Participation in the program can be terminated voluntarily or involuntarily. An employee may choose to terminate a telework agreement any time after the arrangement starts. A supervisor must terminate an employee’s telework agreement if the employee has violated 5 U.S.C. §§ 6502(a)(2)(A), (B), or 6502(b)(3). A supervisor may terminate an employee’s telework agreement for other reasons in accordance with the Telework Policy. Participation in telework is open to all eligible employees without regard to race, color, religion, sex (including pregnancy and gender identity), national origin, political affiliation, sexual orientation, marital status,

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<sup>1</sup> Definition of Officially Disciplined – A disciplinary action that results in the placement of a document in an employee’s official personnel file (OPF); the bar on telework participation remains in effect as long as the document stays in an employee’s OPF. A suspension or termination related to the items mentioned in Public Law 111-292 that results in a document (Standard Form 50) that permanently remains in the OPF would result in permanent prohibition in telework participation.

<sup>2</sup> See above.

disability, genetic information, age, membership in an employee organization, retaliation, parental status, military service, or other non-merit factors.

Teleworkers and non-teleworkers shall be treated the same for:

- Periodic appraisals of job performance of employees.
- Training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.
- Work requirements.
- Other acts involving managerial discretion.

### 3.3. Program Participation

While all eligible employees are encouraged to apply to participate in the Telework Program, eligibility does not equate to automatic approval to participate. Telework is not an employee's right. Employees wishing to telework must obtain approval from their approving officials before beginning to telework.

Participation in the Telework Program is subject to the following conditions:

- A. The employee must successfully complete all required training, including telework training , Data Stewardship Awareness Training, and Title 26 Awareness Training (if applicable).
- B. The employee must submit a telework agreement in CHRIS. (In the event that the employee does not have access to CHRIS, a written telework agreement must be completed, signed, and submitted by the employee with all requirements met.) The employee must have a written agreement with his or her supervisor that outlines the specific telework arrangement.
- C. The employee's previous rating of record is Fully Successful (or equivalent) or better.
- D. The employee has the required necessities to telework for his/her planned period of telework.
- E. The supervisor should complete and discuss with the employee Appendix B, "Telework Assessment Tool," to determine the employee's suitability for telework.
- F. The employee must certify that the alternative workplace is safe by completing the Telework Safety Checklist.
- G. The employee and supervisor must collaborate to ensure that all appropriate technology tools and resources are accessible from the telework site(s), and that working from the telework site does not diminish office operations.
- H. The employee must work for a sufficient time to become familiar and comfortable with the assigned work, division expectations, bureau and departmental requirements, and Census Bureau culture. A period of 60 to 120 calendar days of continuous Census Bureau employment is considered a reasonable guideline; however, this period may be extended or shortened, by the employee's supervisor, based on the employee's progress review or performance rating in conjunction with the assessment of the employee's ability to:
  - Perform without close supervision.



- Prioritize work effectively.
- Manage time appropriately.

I. The employee's performance must comply with the terms of the written agreement between the supervisor and the employee (5 U.S.C. § 6502(b)(3)).

### 3.4. Levels of Telework

Some employees will decide not to telework at all, while others will choose to telework only on a limited ad hoc basis, and others will telework to the maximum extent possible. To accommodate both categories of employees, the Census Bureau offers two levels (plans) of telework, in accordance with the DOC policy.

#### Plan A

- Ad hoc and/or unscheduled teleworking no more than 80 hours during a term of 12 months beginning with the initial Plan A agreement.
- No prior supervisory approval required for unscheduled telework. Employees performing unscheduled telework under an OPM or other appropriate authority announcement may do so without prior supervisory permission. However, employees must notify their supervisors in accordance with the terms of the written agreement.
- Approval for ad hoc telework. The employee must obtain supervisory approval before performing ad hoc telework.
- Sufficient work. Employees are responsible for ensuring they have sufficient work for the period of telework.
- Office is closed. The employee is not required to telework when the office is closed for reasons other than federal law or executive order.
- Upgrading to Plan B. Employee may switch to Plan B at any time prior to reaching the 80-hour limitation, and the individual agreement will reflect the change.

#### Plan B

- Includes employees on a regular/recurring telework schedule and/or
- Employees doing more than 80 hours ad hoc and/or unscheduled telework. This includes employees who desire the option of doing ad hoc or unscheduled telework (or both) more than 80 hours.
- Approval for ad hoc telework. The employee must obtain supervisory approval before performing ad hoc telework.
- No approval needed for unscheduled telework under OPM or other appropriate authority announcement. However, employees must notify their supervisors in accordance with the terms of the written agreement. Employees may perform unscheduled telework without prior supervisory approval.
- Sufficient work. Employees are responsible for ensuring that they have sufficient work for the period of telework scheduled.

- Fewer than 80 hours of ad hoc or unscheduled telework. Performing fewer than 80 hours of ad hoc or unscheduled telework does not change the employee's election of Plan B.
- Offices are closed. Employees must telework when their offices are closed for reasons other than federal law or executive order.

### 3.5. Official Duties

Teleworker agrees not to conduct personal business while in an official duty status at the alternate workplace (e.g., making home repairs).

### 3.6. Child or Elder Care

Telework is not a substitute for childcare. Telework may not be used to care for elders, children, or other dependents while in an official duty status. If the elders, children, or other dependents are able to care for themselves or are being cared for by another individual, then their presence at the telework location would not interfere with the performance of the employee's telework duties.

- When **federal offices are closed**, an employee who is required to telework may request periods of personal leave during the workday (thus removing themselves from a duty status) to care for an elder, a child or a dependent.
- When **federal offices are closed or in an unscheduled telework status**, the employee may, with supervisory notification, extend his or her workday, starting no earlier than 6:00 a.m., and extending beyond the 6:30 p.m. work day as long as it is by choice of the employee. **An employee who voluntarily extends the workday beyond 6:30 p.m. is not entitled to night differential, premium pay, or compensatory time.** For positions that require working during designated time frames during the day to provide support to customers in other time zones, this flexibility may be limited by management.

### 3.7. Teleworking

- Written agreements must indicate, in accordance with Census Bureau policy and any applicable collective bargaining agreements, that telework-ready employees on Plan B are required to telework from home or an alternate worksite when their office is closed for reasons other than federal law or executive order. Telework-ready employees must follow their written agreements.
- On a case-by-case basis, the supervisor may excuse a telework-ready employee from duty without charge to paid personal leave or loss of pay during an emergency situation if: (1) the emergency adversely affects the telework site (e.g., disruption of electricity or network connection problems that prevent telework), (2) the telework-ready employee's duties are such that the employee cannot continue to work without contact with the regular worksite.
- If the telework-ready employee faces a personal reason that prevents him or her from working successfully at the telework site, the employee may request the appropriate leave (annual, sick, compensatory, credit hours, compensatory time for travel) or may voluntarily make up time after 6:30 p.m. with supervisory notification. The employee may also switch to an alternate work schedule day off or use "flexing" consistent with the employee's alternate work schedule, if any.
- Systems are to be in place to support telework in an emergency, including a



communication process to notify COOP employees and Emergency (“Essential”) employees of the activation of the agency’s emergency plan, and the agency’s operating status during the emergency.

- Telework-ready employees scheduled to telework during their regular tour of duty on a day when their office is closed (or when other employees are dismissed early) are not entitled to receive overtime pay, credit hours, or compensatory time off in lieu of overtime payment for performing work during their regularly scheduled hours.

### 3.8. Performance Standards

Performance standards for telework-ready employees must be the same as performance standards for non-telework-ready employees. Expectations for performance should be clearly addressed in each employee’s performance plan, and the performance plan should be reviewed to ensure the standards do not create inequities or inconsistencies between telework-ready and non-telework-ready employees. Like non-telework-ready employees, telework-ready employees are held accountable for the results they produce. Resources for performance management are available from OPM at [www.opm.gov/perform](http://www.opm.gov/perform).

### 3.9. Factors to Consider

The employee and supervisor should work together to determine if telework is appropriate. The supervisor can use the information contained in the “Telework Assessment Tool” (Appendix B) to frame the discussion with the employee as part of the employee’s submission of the telework agreement. Use of the Telework Assessment Tool does not preclude the employee from submitting an application. The factors that should be considered are listed below. Ultimately, the final decision rests with management in consultation with the Telework Coordinator.

- Is the office staff level sufficient to prevent a hardship when one or more employees may be working at the alternative workplace for an entire day? This does not mean that employees cannot telework, but it does mean that telework schedules must be coordinated to ensure continued office operations.
- Has the employee had sufficient time to become familiar and comfortable with the assigned work, division expectations, bureau and departmental requirements and Census Bureau culture? A period of 60 to 120 calendar days of continuous Census Bureau employment is a reasonable guideline. The potential teleworker’s supervisor has the discretion to reduce or extend the waiting period based on the potential teleworker’s individual circumstances. For instance, if an employee is returning from previous employment with Census Bureau and performing the same job function, this should be considered in assessing an employee’s readiness to telework.
- Has the employee successfully completed Data Stewardship Awareness Training, and Title 26 Awareness Training (if applicable)?
- Are the employee’s performance and conduct acceptable? The supervisor should consider current performance, conduct, and attendance in determining whether the employee is eligible to participate in the Telework Program. For example, employees who have been told that they are exhibiting performance problems may not be suitable for telework. Also, a past record of discipline or leave abuse may not automatically disqualify someone from

participation, but can be considered to determine whether an employee's conduct may make that employee unsuitable for telework. Employees may be disqualified from teleworking due to their conduct, particularly when employees have been disciplined for leave violations and have been placed on a leave restriction.

- Is the employee capable of performing without close supervision? Telework may not be suitable for an employee who requires on-the-job training.
- Has the employee certified that the alternate workplace located in his or her home is safe by completing the Telework Program Safety Checklist? (See Appendix A.)
- Do the employee and manager have the ability, the equipment, and tools to communicate effectively with one another? Timely communication and responsiveness are critical to telework.

### 3.10. Accommodations for Employees With Disabilities

It is important to distinguish between ordinary requests to telework and requests from persons with disabilities for reasonable accommodation. Approving officials or supervisors should consult Department Administrative Order (DAO) 215-10, Reasonable Accommodation Policy, the Collective Bargaining Agreement, and the Disability Program Office as part of the interactive process established by the Rehabilitation Act, in order to fully understand supervisors' responsibilities under the law.

As governed by Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 et. seq., the Rehabilitation Act and DAO 215-10, the determination as to whether an employee may be granted telework as a reasonable accommodation due to a disability should be made through the Reasonable Accommodation Coordinator, the employee's first-line supervisor, and the employee.

### 3.11. Notice of Eligibility

Information regarding the Telework Policy will be provided to new employees during orientation.

## 4. TELEWORK TRAINING

Comprehensive training is key to effective implementation of the Telework Program. Training focuses on how to manage and work at the alternate work site, including helping participants better understand the details of how the program will function and addressing specific issues, such as strategies for effective teleworking, compatible work projects, performance management, effective communication, and work plans. Training is available on an ongoing basis (see the **Commerce Learning Center, or CLC**). The Census Bureau will provide extensive training for teleworking employees and their supervisors.

Data Stewardship Awareness Training is mandatory for employees who wish to participate in the program. Title 26 Awareness Training is mandatory if an employee will telework with Title 26 data. A supervisor or manager who has an employee approved to telework must successfully



complete the Census Bureau telework training prior to approving the employee's telework agreement, regardless of whether the employee intends to telework.

The employee who submits a telework agreement for review and decision must first submit to his or her supervisor a certificate of completion of the required Census Bureau telework training in the CLC. The supervisor must confirm that all required training has been completed by the employee prior to approval of a telework agreement and prior to the start of work at alternate worksite. Required training includes Data Stewardship Awareness Training, and Title 26 Awareness Training (if applicable).

## 5. CENSUS BUREAU INFORMATION

Safeguarding and managing information is essential to the credibility of the Census Bureau and to the success of its mission. In working to provide relevant statistical products on the people and businesses of the United States, the Census Bureau must safeguard and protect the information in its custody, consistent with federal statutes and regulations.

### 5.1. Types of Information at the Census Bureau

The following categories of information at the Census Bureau either have restricted access or are legally protected. Data that fall within these categories, if released, can have detrimental impacts on individuals, businesses, markets, and the Census Bureau's integrity.

#### **Administratively Restricted Information**

Administratively restricted information is information that is not intended as a public information product. While administratively restricted information may not be protected by federal statute, it does still require special handling. This information should be considered sensitive and handled accordingly. The following types of information are considered administratively restricted:

- For Official Use Only information such as internal documentation (contracting, financial, budget, legal, policy documents).
- Embargoed data or reports that have not been released but meet Disclosure Review Board requirements for public release.
- Proprietary contractor information (cost proposal and labor rates).
- All information subject to restrictions but not protected by statutory restrictions, such as valid agreements with government agencies or other entities.
- Internal use methodological documentation in support of statistical products such as the Primary Selection Algorithm.
- Pre-release Principal Economic Indicators and Demographic Time-Sensitive Data.

#### **Identifiable Information**

- Identifiable information is a broad category that can refer to either personally identifiable information (PII) or business identifiable information (BII). PII is information that can be used to distinguish or trace an individual's identity, such as name, social security number, DOB, etc., alone, or when combined with other personal or identifying information, which is linked or linkable to a specific individual. Sensitive PII, if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual.

- BII is information that is defined in the Freedom of Information Act as “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” Commercial is not confined to records that reveal “basic commercial operations” but includes any records [information] in which the submitter has a “commercial interest” and can include information submitted by a non-profit entity. Terms for BII that must be protected from disclosure include “confidential business information,” “confidential commercial information,” and “proprietary information

Types of PII considered sensitive when associated with an individual (including a person’s own information) are:

- Social security number (including truncated form), place of birth, date of birth, mother’s maiden name, medical information, personal financial information, credit card account numbers, passport numbers, potentially sensitive employment information (e.g., personnel ratings, disciplinary actions, and results of background investigations), criminal history, and any information that may stigmatize or adversely affect an individual.

Sensitive PII and BII, if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual or agency.

When deciding whether PII or BII is sensitive or non-sensitive, it is important to consider the type of information, obligations, or expectations regarding the protection of information, risk (probability and consequences) of loss or compromise of information and context of information. Context is particularly important. The same types of information can be sensitive or non-sensitive depending upon the context. For example, a list of names and phone numbers for the Department’s softball roster is very different from a list of names and phone numbers for individuals being treated for an infectious disease. It is important to use good judgment when deciding whether PII is sensitive or non-sensitive. When in doubt, employees should treat PII and BII as sensitive, or they should ask their supervisors.

All of the Sensitive PII and BII at the Census Bureau is also classified as Legally Protected Information and is protected by one of the following laws.

### **5.2 Legally Protected Information and the Laws that Protect Them:**

The following laws protect data at the Census Bureau including sensitive PII and BII.

#### **Title 5 and the Privacy Act of 1974:**

The Privacy Act of 1974 defines a “system of records” (SORs) as a group of any records under the control of any agency from which identifiable information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Department of Commerce system of record notices (SORNs) are notices in the Federal Register that inform the public about the SORs being maintained by an agency. They are posted at the Intranet site of the Census Bureau’s Policy Coordination Office ([https://collab.ecm.census.gov/div/pco/PrivacyIntranet/Pages/Find-a-System-of-Record-Notice-\(SORN\).aspx](https://collab.ecm.census.gov/div/pco/PrivacyIntranet/Pages/Find-a-System-of-Record-Notice-(SORN).aspx)).

The Privacy Act of 1974 prohibits the disclosure of PII/BII from an agency SOR that is not identified as a routine use in that system’s SORN, does not comply with an exemption identified in the SORN, or does not comply with 1 of the 12 exceptions to the non-disclosure-(to third parties)-without-consent rule.



Telework-ready employees are responsible for ensuring that a record containing PII or BII from any agency system of record complies with the Privacy Act of 1974.

### **Title 13**

Title 13, U.S.C. protects information collected from or on behalf of a respondent and prohibits disclosure of this information to anyone who is not sworn to uphold the oath of non-disclosure and who does not have a need to know. The information protected includes response data and some types of paradata. The following is a list of information protected by Title 13:

- Individual census or survey responses.
- Microdata or paradata containing original census or survey respondent data, administrative records data, or both, that do not meet the disclosure avoidance requirements.
- Address lists and frames, including the Master Address File.
- Aggregate statistical information produced for internal use or research that does not meet the Disclosure Review Board disclosure avoidance requirements or that has not been reviewed and approved for release.
- Administrative records from other agencies (not including the IRS and federal tax information).

NOTE: All information collected on behalf of another federal agency, under the authority of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), should be treated as Title 13 information.

### **Title 26**

All information protected by Title 26, U.S.C. is federal tax information, including Fact of Filing information. This information is provided through agreements with the Internal Revenue Service and includes:

- The Business Register
- All files containing federal and state tax forms
- Record layouts for datasets that are protected by Title 26
- Any dataset that is commingled with data that is protected by Title 26.

## **6. TELEWORKING WITH LEGALLY PROTECTED OR ADMINISTRATIVELY RESTRICTED INFORMATION**

Decisions on the proper use and handling of sensitive information at the Census Bureau are governed by DS007: Safeguarding and Managing Information. This section summarizes these guidelines.

In addition, the physical security standards for PII/BII and other Sensitive and Administratively Controlled Information must be addressed prior to allowing telework. Chapter 35 of the Office of Security Manual provides minimum physical security standards for the office environment that are also applicable during telework.



### **6.1. Electronic Access**

Teleworkers must access electronic copies of legally protected information only via VDI. Furthermore, employees must not use any personal email accounts to conduct official government business.

Teleworkers must never:

- Email legally protected (Title 5, Title 13, CIPSEA Title 26) data to a work or personal email account in order to access it outside of VDI.
- Upload legally protected information to a file sharing or file transfer protocol site in order to access it outside of VDI.
- Use their personal email accounts to conduct official business.

Whether working in the office, or teleworking, employees must always encrypt legally protected information before transmission using an Census Bureau approved encryption method.

### **6.2. Hard Copies of Legally Protected Data**

Teleworkers must never remove hard copies of legally protected information from Census Bureau facilities. These are some examples of data that should remain at the office, locked up in an appropriate drawer or filing cabinet, while employees are teleworking:

- Printouts of Title 13 or Title 26 data
  - Address lists
  - Respondent contact information
  - Federal tax information
- Forms containing Title 5 protected employee PII
  - Employee ratings (CD-430)
  - Notification of Personnel Actions (SF-50)
  - Request for Leave or Approved Absence (OPM-71)

### **6.3. Other Legally Protected Data Handling Guidelines**

When faxing sensitive PII and BII, an advisory statement about the contents must be included on the cover sheet and the recipient must be notified immediately before and after transmission. Exception: According to the Commerce Acquisition Manual 1313.301, cardholders shall not transmit credit card information over a facsimile machine.

When mailing sensitive PII and BII, it must be physically secured when in transit. Sensitive PII and BII on CDs, DVDs, hard drives, flash drives, USB drives, floppy disks, or other removable media must not be mailed or sent by courier unless the data is encrypted. Sensitive PII and BII must be sealed in an opaque envelop or container and mailed using First Class or Priority Mail, or a commercial delivery service (e.g., Federal Express or DHL). Appropriate methods must be used to destroy sensitive paper PII and BII (e.g., shredding, using a burn bag) and securely delete sensitive electronic PII and BII.

#### **6.4. Telework without VDI**

Generally, we encourage all employees to use VDI when teleworking. VDI is universally available, and gives teleworkers access to all of their work resources in the most secure way possible. However, there are limited circumstances where teleworking without VDI may be appropriate. For example, if an employee is developing software that will execute on Census Bureau confidential information, the employee can write the logic while at the alternate workplace and can test it using “dummy” information (i.e., made-up data in the same format as the real data). The employee would not be able to execute the software on legally protected data or review the results until he or she returns to the official duty station. Legally protected data may not be removed or transmitted from the Census Bureau for use in testing while teleworking or at any other time. Access to legally protected data must be through the VDI environment only. Similarly, if the employee is writing a report that uses sensitive information, the employee could write the sections of the report that do not actually contain the sensitive data while at the alternate workplace but would have to write the remaining sections that contain sensitive data when at the official duty station.

Managers and employees are encouraged to seek creative solutions when considering work assignments. However, caution must be exercised to ensure that unnecessary or “busy” work is not assigned merely to allow telework.

### **7. DATA SECURITY AND PRIVACY ACT INCIDENTS WHILE TELEWORKING**

Telework-ready employees are responsible for the safeguarding of legally protected information and complying with all Census Bureau guidelines on reporting any confirmed or suspected data security incidents.

Employees must report any confirmed or suspected data security incident, PII incident, or unauthorized disclosure to the Census Bureau Computer Incident Response Team and their immediate supervisors within one hour of discovery at 301-763-3333 (option 1) or 877-343-2010 after hours.

OMB Memorandum M-07-16 defines a PII incident as the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users, and for an other than authorized purpose, have access or potential access to PII or BII, whether physical or electronic.

### **8. INDIVIDUAL TELEWORK AGREEMENTS**

The individual telework agreement provides the framework for the discussion that needs to take place between the supervisor and the employee before the employee signs the agreement.

#### **8.1. Mandatory Requirements**

- Indicate the length of the agreement within the written agreement.
- The telework agreement must indicate if the employee is electing Plan A or Plan B.

- All telework agreements must contain a notice clearly informing employees that if they are on Plan B, then they are required to telework whenever the office is closed, even if it is not their regularly scheduled telework day, except where provided by Sections 3.7 and 19.2.2 of the Telework Policy.
- All telework agreements must contain notification that when the appropriate authority announces “Unscheduled Leave” or “Unscheduled Telework,” telework-ready employees may elect either option by notifying their supervisors consistent with the employee’s telework agreement or the terms of an applicable collective bargaining agreement. Employees are to be reminded that, if they elect to perform unexpected telework, they must have a sufficient amount of work to complete the workday at home. If employees do not have enough work, they must either take unscheduled leave for the entire workday or use a combination of unscheduled leave and unscheduled telework to account for hours not worked.
- The agreement must provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the supervisor and that employee. This may range from a temporary discontinuance to involuntary termination.
- The agreement must set forth the expectations agreed upon by management and the employee so the employee has prior knowledge of these expectations. In rare circumstances, management may find it necessary to require a non-emergency, telework-ready employee to report for an assignment that requires presence at the worksite (e.g., providing a presentation or performing administrative duties at a pre scheduled conference). This should not be a last-minute surprise, but a special work circumstance that both the supervisor and employee know about, discuss, and plan in advance as the special work requires.
- Inform employees that they may, at any time during the term of the individual telework agreement, elect to change from Plan A to Plan B.
- Days may be specified or flexible due to business necessity or an employee’s request. Hours to be worked will be annotated and in accordance with the traditional worksite reporting times.
- Requirements: Outline any additional requirements (e.g., technology, specific software, data security, etc.).
- Clarify any assumptions, for example, regarding work locations (e.g., if expected to work only from home) and frequency and modes of communication (e.g., email vs. telephone, core hours for contact, speed for returning calls).
- If the employee is designated as an Emergency (“Essential”) employee or part of COOP and expected to work during a COOP event such as a national or local emergency, or a COOP exercise. All COOP employees and Emergency (“Essential”) employees must have a telework agreement on file and be prepared to telework at any time.

### 8.2. Modification and Termination

- Telework is a workplace flexibility (unless it is actually designated as a condition of employment), not a legal right, and does not change the terms and conditions of



employment. The operational needs of the Census Bureau are paramount. Employees who telework do not have an automatic right to continue to telework. In accordance with the Act, an employee may not be authorized to continue teleworking if the performance of that employee does not comply with the terms of the written agreement between the approving official and the employee. This may range from a temporary discontinuance to involuntary termination.

- Management shall provide sufficient notice, when feasible, before modifying or terminating a telework agreement to allow the affected employee to make necessary arrangements. The reason for termination must be documented, signed by the approving official, and provided to the affected employee. Consent or acknowledgement via signature by the affected employee is not required for the termination of telework to take effect.
- The employee may request to modify the current agreement (e.g., change the regular teleworking day). To do so, the employee should follow the procedure in the CHRIS Telework tab: <https://chris.hrd.census.gov/PageHolder.asp>.

## 9. HOW TO APPLY FOR TELEWORK

### 9.1. Application Procedure

Prior to submitting the electronic telework agreement, the employee must have successfully completed all the required training. The employee must discuss the telework agreement with his or her supervisor to ensure that the employee is eligible and has all of the information needed to complete the agreement.

An employee who is interested in participating in the Telework Program must apply online, currently through the CHRIS system (hereafter referred to as “online system”) located on the Human Resources Division website. All mandatory electronic forms associated with the submission process can be accessed, completed, and submitted through the online system. An employee who does not have access to the CHRIS system should contact the Telework Coordinator to arrange completion of a paper version of the telework agreement.

The Census Bureau telework pledge form shall be signed manually by the employee and the supervisor and submitted to the deciding official along with the electronic version of the telework agreement. The telework pledge form should be retained within the division or branch files.

#### 9.1.1. Telework Agreement

The employee is responsible for completing the telework agreement (see Appendix A). The employee must then submit the agreement electronically through the online system. The approving official must review the entire agreement (to include telework safety checklist and telework checklist) and reach a decision to approve or disapprove the application.

### 9.1.2. Telework Safety Checklist

If the employee will telework from an office in his or her home, the employee must complete the safety checklist, which is part of the telework agreement. The employee should respond only to those questions that are applicable to the designated work area within the home. The employee must submit the safety checklist electronically as part of the complete agreement to the approving official to document review and acceptance of the responses.

### 9.1.3. Telework Checklist

The employee is responsible for completing the telework safety checklist, which is part of the telework agreement (see Appendix A), and submitting it electronically to the approving official as part of the complete agreement. The approving official is responsible for reviewing the checklist for completeness. If the employee has responded “nonapplicable” to any of the items, the approving official and employee must discuss the item to assure that this response is appropriate.

After completing and submitting the mandatory forms, the online system will automatically generate an email to the employee’s first line supervisor. This email will inform the supervisor that the employee has submitted the required telework documents and permit the supervisor to review the completed forms.

The supervisor will have two workdays to review the documents and provide a recommendation for approval or disapproval to the approving official. After this time, the online system will automatically deliver all of the electronic forms to the approving official for final disposition.

The Approving official is expected to review the completed agreement and accompanying forms and consult with the Telework Coordinator, as appropriate, to make a decision regarding the agreement for telework.

Upon the approving official’s approval or disapproval, the online system will generate an email to the applicant advising of the decision and permitting access to the application.

## 9.2. Agreement Approval Process

Managers and supervisors are encouraged to allow telework where possible. However, realizing that telework is not appropriate for everyone, managers may disapprove requests based on work needs and after careful review and consideration of the factors listed in Sections 3.1 to 3.9.

Prior to the commencement of any type of telework arrangement, a first-level supervisor must ensure that a telework agreement has been completed and approved. The employee must have a written agreement that also specifies if the employee is required to telework during some emergencies. The first-level supervisor should also ensure that both the supervisor and the eligible employee, prior to teleworking, have read the Census Bureau’s policies regarding telework and have completed the required online training courses.

The first-level supervisor must ensure that he or she knows and understands the content of the telework agreement, and must take steps to resolve questions concerning protected data with other managers in the division and the Telework Coordinator, if necessary. The first-level supervisor must evaluate an employee’s request for telework participation in a fair and equitable



manner and make a recommendation to the approving official as to whether the request should be approved or denied.

The approving official, after taking into consideration the recommendation of the first-level supervisor, will approve or deny the employee's agreement to telework. Employees reporting directly to the division chief, regional director, or the equivalent level or above require only that person's approval of the agreement. For an employee at or above the division chief level who is submitting a telework agreement, approval authority is delegated to the employee's first-level supervisor.

The entire approval process should be completed within 10 workdays.

### **9.3. When to Update a Telework Agreement**

During the performance year, certain events might cause a change to the employee's position, such as a move to another branch or division. When such changes happen, and to ensure that the employee's telework agreement remains accurate and up to date, the employee is required to revise or voluntarily terminate the prior agreement, and to resubmit it. Instructions are located in the employee's individual telework tab within CHRIS, and can also be accessed at the HRD Telework site (<https://collab.ecm.census.gov/div/hrd/intranet/employeerelations/Pages/When-to-Update-your-Telework-Application.aspx>).

Telework agreements must be reviewed and renewed yearly.

## **10. PERFORMANCE AND CONDUCT**

### **10.1. Performance Evaluation**

Performance elements and standards will not differ between the teleworker and other employees. To aid this process, the supervisor may need to communicate more frequently and comprehensively with the teleworker and focus more on how the supervisor will be evaluating the results of the teleworker's work. It is imperative that both the employee and the supervisor exercise good communication skills under the telework arrangement, work together to obtain a common understanding of expectations and desired results, and set reasonable and measurable objectives for work to be accomplished. To facilitate this, the manager and the employee may wish to use tools common to all employees, not just teleworkers, such as status reports, progress reviews or milestones – methods that have proven effective in measuring and evaluating performance.

### **10.2. Conduct**

The employee is bound by U.S. Office of Government Ethics' Standard of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635) while working at the alternative workplace. An employee who violates the rules of conduct may be subject to termination from the Telework Program or to disciplinary action, or both, including removal from federal service.

## 11. THE WORKPLACE

### 11.1. Alternate Workplace

As defined in Section 1.4, the alternate workplace will be an employee's primary home, normally without Government-furnished computer equipment. If the need to change the alternate workplace arises, the employee must resubmit the telework agreement (with the updated telework safety checklist) to the approving official for approval prior to teleworking.

### 11.2. Official Duty Station

The official duty station is the location of an employee's position of record where the employee regularly performs his or her duties. If the employee's work involves recurring travel or the work location varies on a recurring basis, the duty station is the location where the work activities of the employee's position of record are based, as determined by the employee's manager or supervisor. An employee's official duty station determines the appropriate locality area for pay purposes (Title 5, CFR 531.605). For those employees teleworking 100% of the time (remote workers), the duty station will be the employee's residence.

Documentation. The official duty station must be documented on the employee's Notification of Personnel Action (SF-50) or equivalent.

Temporary Details. For employees temporarily detailed to a position in a different location without a change in the position of record, the official duty station and associated pay entitlements are not affected. For additional information on official duty stations, please see [http://www.opm.gov/oca/pay/html/Official\\_Duty\\_Station.asp](http://www.opm.gov/oca/pay/html/Official_Duty_Station.asp) .

#### 11.2.1. Determining the Official Duty Station

##### A. Pay During Telework Agreements

- If the traditional worksite and the telework site are within the same locality pay area, the official duty station is the location of the traditional worksite.
- If the traditional worksite and the telework site are NOT within the same locality pay area:
  - The official duty station is the location of the traditional worksite as long as the employee physically reports to the traditional work site at least twice each biweekly pay period on a regular and recurring basis.
  - The official duty station is the telework location (i.e., home or other alternative worksite) if the employee does NOT report at least twice each biweekly pay period on a regular and recurring basis to the traditional worksite.
- If a telework employee with a varying work location works at least twice each biweekly pay period on a regular and recurring basis in the same locality pay area in which the traditional worksite is located, the employee **does not** have to report twice each pay period to the official worksite to maintain the locality payment for that area.

Note: Senior Executive Service (SES) employees do not receive locality pay. Therefore, there are no pay implications if the SES employee works the entire 80 hours in the pay period in a different pay locality area than the official duty station. That employee would continue to receive the same pay.

### **B. Pay During Temporary Telework Arrangements**

- In certain temporary situations, the Census Bureau may designate the location of the traditional worksite as the official duty station of an employee who teleworks on a regular basis in a different locality pay area from the traditional worksite even though the employee is not able to report at least twice each biweekly pay period on a regular and recurring basis to the traditional worksite. The intent of this exception is to address certain situations where the employee is retaining a residence in the commuting area for the traditional worksite but is temporarily unable to report to the worksite for reasons beyond the employee's control (e.g., on a special assignment or working while recuperating from an operation).
- One key consideration is the need to preserve equity between telework-ready and non-telework-ready employees working in the same areas as the telework location. Also, the temporary exception should generally be used only in cases where: (1) the employee is expected to stop teleworking and return to work at the traditional worksite in the near future, or (2) the employee is expected to continue teleworking but will be able to report in the near future to the traditional worksite at least twice each biweekly pay period on a regular and recurring basis.

### **11.3. Characteristics of a Home Office**

There may be special requirements driven by an employee's particular work assignments, but in general, an appropriate office for home-based telework should:

- Consist of a specific room, or part of one, defined in advance; be accessible by telephone; provide privacy and reasonable security for any Government-owned property, documents, supplies or other resources; taking all necessary precautions to safeguard Census Bureau and federal government data from inadvertent, incidental or malicious viewing or copying of Census Bureau data.
- Comply with applicable local building codes.
- Provide a hazard-free, safe working environment.

### **11.4. Reimbursement of Expenses**

The employee is responsible for the basic costs of providing a functional home office. This includes telephone service in or near the designated alternate workplace, electricity, home insurance premiums, routine cleaning and upkeep, and the like.

Employees that telework may need to make outgoing calls to their customers. Supervisors are encouraged to require their teleworkers to sign up in advance for the remote call services feature to facilitate a smooth transition and continuation of calls being routed from the teleworker's office line to their alternate workplace phone. Use of the remote call services feature will permit employees to make business-related calls to their customers without incurring reimbursable costs



to the agency. Information regarding the remote call services features can be found at the Telecommunications Office webpage or at the named link on the Human Resources Division Telework Webpage. The employee not using the remote call services feature may be reimbursed in the normal fashion for business calls from a personal telephone (Claim for Reimbursement for Expenditures on Official Business, SF-1164), when such calls are required to complete a work assignment.

## 12. TELEWORK SCHEDULE

An employee on flexible, alternate, or compressed work schedule may telework; however, pursuant to work needs and office coverage, limitations on telework days may apply. Work requirements should be the primary factor in determining the frequency of telework for an employee. Under typical circumstances and with sufficient work, a teleworker may work at the designated alternative workplace up to four days per pay period. Supervisors should approve the maximum of four days per pay period unless there is a sound business reason not to approve it. The agency maximum of four days applies only to telework days of Plan A and Plan B; it does not include days of unscheduled telework or telework during a federal office closure when announced by the OPM or other jurisdictional authorities. As newer technology permitting remote access behind the firewall is developed, rolled out, and evaluated as successful and safe, the expectation is that telework frequency per pay period may be expanded.

Under special circumstances associated with or affecting work requirements, a teleworker may request a temporary increase in telework frequency beyond four days per pay period, consistent with work requirements, deadlines, and other factors. Such requests require the support and timely approval of the teleworker's division chief. Employees who need to extend their telework days beyond the agency maximum for medical reasons should contact the Census Bureau's Disability Program Office. Employees who would like to submit a request for an alternate duty station should contact the Human Resources Division's Employee Relations Branch to seek assistance.

According to the workload, employees will develop, with their supervisors, a work schedule identifying the days and times that employees will work at the designated alternate workplace, in accordance with existing policies. When developing and approving work schedules, supervisors must consider the needs of the entire unit and balance days out of the office appropriately among the staff, in order to ensure adequate coverage. Once a telework schedule is determined under plan B, the employee should adhere to it as it is not the intent of the schedule to be modified from week to week. Supervisors should make every effort to include the teleworker in staff meetings (via a pre-arranged conference call in number) and help to facilitate better communication for the teleworker to participate. Assistance with conference call etiquette can be found on the Telework website under the link "Conducting Meetings involving the Teleworker." In rare instances, a supervisor may require an employee to report to the official duty station on a telework day, if the needs of the office so require. An employee is required to be available to the supervisor during the established telework work schedule. This requirement includes being able to receive calls from the office and customers, as appropriate.

With prior supervisory approval and subject to work requirements, employees may switch their telework days within the same pay period. Employees may change their telework days in the same pay period if they cannot telework on their regularly scheduled days. Supervisors are encouraged to approve employees' requests whenever possible to foster positive participation in the program. However, if a supervisor is not able to grant the employee's request, the supervisor must provide the employee with a written justification for the denial.

### **12.1. Off-Site Requests for Leave, Etc.**

Leave requests while teleworking may be made and processed according to established leave policies without regard to an employee's telework status.

### **12.2. Overtime**

For an employee on flexible, alternate, or compressed work schedules, overtime refers to all hours officially authorized to work in excess of the established work schedule. For an employee on a standard work schedule, overtime refers to all hours officially authorized to work in excess of eight hours per day or 40 hours per week. For a full-time employee on a compressed work schedule, overtime work consists of all hours of work in excess of the established compressed work schedule.

To minimize the possibility of an employee working unauthorized overtime hours, it is the responsibility of the supervisor to regulate and control the use of overtime and to establish tours of duty and clear expectations concerning work to be performed at the alternate workplace. An employee may not work overtime on a specific project or assignment, unless the supervisor has given explicit approval to do so (for example, by completing Form CD-81, Authorization for Paid Overtime and/or Holiday Work, and for Compensatory Overtime), in advance. The employee is responsible for requesting, in advance, approval to work in excess of his or her normal hours of duty. The supervisor must approve schedules in advance. By signing the telework agreement, the employee agrees not to work or expect to be compensated for unauthorized overtime, compensatory time, or credit hours consistent with policies while in the official duty station.

Equity in overtime is afforded to teleworkers and non-teleworkers according to established overtime policies and shall not be granted or denied on the basis of an employee's telework status.

### **12.3. Time and Attendance**

Employees who deviate from their normal work hours will do so in accordance with established schedule policies without regard to employees' telework status. All telework hours must be recorded each pay period in the electronic time and attendance system WebTA.

It is very important for each teleworker to record all hours teleworked in the automated timekeeping system to ensure that the Census Bureau is accurately tracking and reporting telework to the Department of Commerce, OPM, Congress, and for purposes of measuring progress toward annual Census Bureau telework targeted goals. If an employee does not report telework hours regularly, after being reminded to do so, the Census Bureau may terminate the employee's telework agreement.



#### **12.4. Reporting to an Official Duty Station From an Alternate Site**

In cases where an employee who has already started the telework day at the alternate site must report to work (e.g. to attend an emergency meeting), the employee generally will not be charged personal leave for the commute into the official duty station. The employee, upon arrival at the official duty station, should continue to perform his or her duties at the official duty station for the remainder of the workday and will not be permitted to return to the alternate site. Where possible, every attempt should be made to minimize these interruptions, for example utilizing teleconferencing or videoc conferencing when available. Supervisors should not permit an employee (who has begun to telework from the alternate approved worksite) to report to the official duty station without prior supervisory approval. Permitting the employee to do so may create a possible workers' compensation dilemma for the agency.

### **13. CHANGES TO APPLICABLE LAWS, RULES, REGULATIONS, CENSUS BUREAU POLICIES, AND CONTRACT LANGUAGE**

The Census Bureau Telework Program does not change any laws, regulations, Census Bureau policies, applicable rules, or contract language in the current collective bargaining agreement(s). Current policies and procedures, such as work schedules, hours of duty, leave and others, continue to apply to teleworkers and non-teleworkers without change. Future changes to applicable laws, regulations, policies, rules, or contract language may be subject to appropriate negotiated procedures.

### **14. EQUIPMENT AND SUPPLIES**

#### **14.1. Personally Owned Equipment**

The CIO will specify through the IT Security Policy appropriate and approved technology and procedures for accessing information technology resources while teleworking remotely. Personally owned equipment will likely continue to be the primary technology approved for telework at home or at an approved alternate worksite and is sure to evolve beyond the typical personal computer and will include mobile devices and tablets using cellular, Wi-Fi and other broadband connectivity.

#### **14.2. Government-Furnished Equipment (GFE)**

GFE (such as PCs, laptops, tablets, etc.) may be assigned solely for telework in extenuating circumstances but this approval will be a rare exception and not the rule. Employees in a work-at-home arrangement should consult their divisions regarding GFE. While rare that an employee would be assigned GFE specifically to telework, Employees who have been assigned GFE for other reasons, may telework using it provided they have the necessary authorization to remove that equipment from the building. This provision also permits the use of Government-provided mobile devices such as smartphones for telework as long as the remote access technology is CIO-approved for those devices.

#### **14.3. Publicly Shared and Accessible Equipment**

Workstations such as are available in public libraries, schools, airport kiosks, restaurants, coffee shops, and hotel business centers will not be approved and must not be used for telework.

### **14.4. Care of Equipment and Supplies**

An employee is responsible for the proper use, care, and protection of any Census Bureau-issued resources.

The employee should refer to the Acceptable Use Policy for U.S. Census Bureau Information Technology Resources (IT AUP, <https://intranet.ecm.census.gov/apps/policyportal/Pages/PolicyViewer.aspx?docID=348>) for information on personal responsibility when accessing information technology resources. The Census Bureau employee working at an alternate site, including his or her home, must adhere to the same rules and laws regarding sensitive and Census Bureau confidential data that apply at the official duty station. An employee engaging in any unauthorized access to the Census Bureau network or in the improper use of restricted information or sensitive, Census Bureau confidential data at the home workstation (including personal computers) will be subject to the applicable administrative and criminal penalties pursuant to the law and departmental policies.

### **14.5. Protection of Government Property**

The employee is responsible for protecting all agency records, documents, and supplies used at any alternate workplace from unauthorized disclosure, damage, or use for other than official purposes.

According to the current IT AUP, employees are generally prohibited from using removable media to transfer files between a Census Bureau facility and an alternate worksite. Exceptions to this are extremely rare and must be approved by the Office of Information Security.

Hard copies of legally protected information must not be removed from Census Bureau facilities and electronic copies must only be accessed via VDI.

### **14.6. Disposition of Census Bureau Documents and Records**

The disposition of agency documents and records used at the alternate workplace remains subject to applicable policies and procedures.

## **15. SAFETY**

When the proposed alternative worksite is an employee's private residence, the employee should ensure that his or her home complies with safety requirements. Employees applying for telework must complete the self-certification telework safety checklist (see Appendix A) as part of the application process. An application may be disapproved on the basis of safety reasons only in the absence of a completed telework safety checklist.

### **15.1. Liability**

The agency will not be held liable for damages to an employee's personal or real property while the employee is working at the approved alternative worksite, except to the extent that the Government is held liable under the Military Personnel and Civilian Employees Claims Act and the Federal Tort Claims Act.



## **15.2. Injuries or Accidents**

Employees performing their duties through an approved telework arrangement are covered under the Federal Employees Compensation Act if the employees are injured in the course of actually performing official duties at the alternative worksite. Employees must notify their supervisors immediately of any such accidents or injuries that occur at the alternative worksite, and must complete any required forms. Supervisors must investigate all reports as soon as possible following notification.

Employees should also report any accidents or injuries while teleworking to their supervisors. Supervisors will process the necessary paperwork through the Census Bureau's Health and Safety Branch at Headquarters, regardless of the employee's duty station.

## **16. DISPUTES**

Any dispute related to the Census Bureau's Telework Program should be dealt with informally, whenever possible. Mediation is available through the Census Bureau's Alternative Dispute Resolution (ADR) Program. A bargaining unit employee may raise a dispute under the negotiated grievance procedure by contacting the appropriate Union office. An employee not covered by the negotiated grievance procedure may use the administrative grievance procedure prescribed in the DOC Administrative Order 202-771.

The ADR is available at any point during any complaint process if both parties agree to participate. For more information about the ADR Program, contact the ADR Coordinator at [DIR.ADR.Coordinator@census.gov](mailto:DIR.ADR.Coordinator@census.gov) or 1-800-872-6096.

## **17. TELEWORK AGREEMENT DENIALS AND TERMINATIONS**

Once a telework agreement has been submitted, an employee may withdraw or request to terminate the telework agreement at any time unless he or she is a COOP or Emergency ("Essential") employee who is required to maintain a telework agreement. The supervisor may deny a submission of a telework agreement, or may terminate a telework agreement with appropriate justification.

### **17.1. Telework Agreement Denials**

A recommendation by the supervisor to the approving official to disapprove the telework agreement must be based on telework provisions and business needs. The final decision on the telework agreement should be issued electronically to the employee within ten workdays of its submission. NOTE: The decision will contain the reason for the disapproval, and must be maintained by the supervisor. If there are concerns or questions regarding the reason for disapproval, the approving official should consult the Telework Coordinator either by email or phone. The supervisor should discuss with the employee anything the employee can do to improve the likelihood of being approved to telework at a later date, and indicate the earliest re-application date.

### 17.2. Telework Terminations

Employees may voluntarily terminate participation in the Telework Program without prejudice, unless they are COOP or Emergency (“Essential”) personnel. Employees are expected to give sufficient notice (at least seven days) so that arrangements can be made to accommodate their return to a regular work schedule.

A supervisor may involuntarily terminate an employee’s telework arrangement according to the section below.

### 17.3. Reasons for Involuntary Termination

The involuntary termination of the telework agreement must occur in the electronic system using the telework involuntary termination process (Appendix C). The supervisor or the approving official should consult the Telework Coordinator if the reason for involuntary termination does not fall in the list below. The supervisor or the approving official must include the reason the agreement is being terminated. Below are a number of reasons (which may not be all-inclusive) a supervisor can involuntarily terminate a telework agreement.

- A. The employee is placed on a leave restriction.
- B. The employee is placed on a Performance Improvement Plan.
- C. The employee continues to show a pattern of failing to adhere to the requirements specified in the individual telework agreement, after the supervisor has discussed the issue with the teleworker.
- D. The employee violates confidentiality rules and laws.
- E. The employee has demonstrated an established pattern of inability to work effectively from an alternate worksite without diminished performance. Diminished performance includes reduced work production, non-responsiveness to telephone calls, or non-availability.
- F. The employee fails to correct identified safety problems related to the home based or other approved alternate worksite.
- G. Conditions have changed so that the employee’s work can be done **only** at the employee’s regular workplace.
- H. The employee is officially disciplined for being absent without leave for more than five days in any calendar year (this involuntary termination is permanent).
- I. The employee is officially disciplined for violation of the Office of Government Ethics’ Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635) for viewing, downloading, or exchanging pornography on a Government computer or while performing official Government duties (this involuntary termination is permanent).
- J. The Census Bureau’s inability to support costs of telework, due to budgetary concerns.
- K. Violation of the Office of Government Ethic’s Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635) while at the approved alternate worksite.
- L. Failure to report telework hours regularly on the employee’s timesheet.

#### **17.4. Termination Process**

When terminating an agreement, the supervisor will complete the Telework Involuntary Termination Form through the online system (see **Appendix C**). Copies of the form will be forwarded automatically to the Telework Program Coordinator, the teleworker and his or her supervisor. It should be noted that the supervisor's submission of the form does not constitute agreement on behalf of the teleworker with the termination or the rationale set forth on the form.

#### **17.5. Applying After Termination**

After a termination for cause, the employee will be eligible to reapply to the program after a period of 90 days unless the employee has permanently lost eligibility to participate. This period will be utilized by the employee's supervisor to assess the employee's work assignments, improved performance or conduct, and the employee's ability to adhere to the terms of the telework agreement. The supervisor will work with the employee to address the areas of concern.

### **18. PROGRAM-LEVEL EVALUATION**

Consistent with the Telework Enhancement Act of 2010 (P.L. 111-292), 5 USC 6506, and the U.S. Department of Commerce Telework Program (October 2014), the Census Bureau is required to answer OPM and Commerce Department calls for data on telework. The Census Bureau is required to develop and implement a reporting system that captures telework participation, hours teleworked, terminations, and disapprovals. Reports providing the information listed below must be provided to the Department's Telework Program Manager (TPM) when requested by the TPM.

#### **18.1. Degree of Participation**

The degree of participation of employees in teleworking during the period covered by the OPM report, including:

- A. The total number of employees in the agency.
- B. The number and percent of employees in the agency who are eligible to telework.
- C. The number and percent of employees in the agency who are teleworking
  - 3 or more days per pay period
  - 1 or 2 days per pay period
  - Once per month
  - On an occasional, episodic or short-term basis.

#### **18.2. Additional Information to be Provided to the TPM**

- A. Description of the method for gathering telework data
- B. The reasons for positive or negative variation if the total number of employees teleworking is 10 percent higher or lower than the previous year
- C. The Census Bureau's goal for increasing participation to the extent practicable or necessary



- D. An explanation of whether or not the Census Bureau met its established goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers
- E. An assessment of the progress made in meeting Census Bureau participation rate goals during the reporting period
- F. A description of best practices

In addition, the Census Bureau will also track the number and percent of eligible employees who have approved applications.

The Census Bureau will respond to other requests from the Chief Human Capital Officer and Telework Managing Officer of the Department of Commerce, the Department's Telework Program Manager, and the OPM. The Census Bureau may authorize studies to address these and other areas of concern.

These reports will be shared with the Labor Management Council.

## **19. TELEWORK DURING EMERGENCY SITUATIONS**

Emergencies can disrupt Government activities at the level of an individual bureau, an operating unit or a building alone, for a regional area, or for the Nation as a whole. Although a variety of circumstances may affect individual situations, the principles governing administrative leave, dismissals, and closings for employees inside the Washington, DC Capital Beltway are covered by the provisions of OPM's publication "Washington, DC Area Dismissal and Closure Procedures." The appropriate Federal Executive Board or Regional Authority will make decisions for other geographical areas.

### **19.1. Emergencies Limited to One or More Census Bureau Facilities**

In the event of an emergency at a Census Bureau facility where the building (or a portion thereof) is deprived of electricity, network connectivity, adequate lighting or temperature controls or other similar factors (for example, a water main break), the division chief or equivalent can approve telework for employees who have an approved telework agreement.

#### **19.1.1. Types of Facility Emergencies**

Telework for exigent conditions also can be approved for telework-ready employees in specific short-term emergency situations that affect employees' ability to conduct work in the Census Bureau facility. These very unusual situations could include but are not necessarily limited to the following:

- Uncontrolled gas leak in the vicinity of the building that prevents entry to the facility.
- Local police action that prevents entry to the facility.
- Terrorist activity or imminent threat of terrorist action that is not tied to a national or regional COOP situation.

### 19.1.2. Threshold

This authorization for telework due to exigent conditions applies only to those occasional, infrequent situations where operations or conditions at the Headquarters or other Census Bureau facilities are substantially disrupted or are determined to be inherently unsafe.

Conditions must exist such that normal work activities will be disrupted substantially for four or more hours and alternative arrangements for work to continue are deemed necessary. Under these circumstances, the division chief or equivalent has the authority to approve alternative arrangements for continued work, for all authorized employees. Telework may be approved for telework-ready employees.

### 19.1.3. Requirements

An employee must apply for the Telework Program, complete the online telework training, have an approved telework agreement, and sign the telework pledge in order to be authorized to telework for both normal and emergency situations.

All COOP and Emergency (“Essential”) employees must have a telework agreement on file and be prepared to telework at any time. Depending on the emergency, they may or may not be required to come to the regular duty location or to telework. An employee designated as a “COOP Emergency Employee” who does not intend to voluntarily participate in the Telework Program does not have to select Plan A or B, but will generally telework when a COOP-related event occurs. If the COOP Emergency Employee chooses to voluntarily participate in the Telework Program, that employee may choose either Plan A or Plan B. If Plan A is selected, that employee will generally not be required to telework in a non-COOP emergency unless the employee has teleworked beyond the 80 hours in a 12-month period. Hours teleworked in a COOP emergency will not count toward the 80 hours.

Employees who are Emergency (“Essential”) employees must have an approved telework agreement that, at a minimum, designates them as Emergency “Essential” employees who will telework as needed under Plan B, as they are required to telework in the case of an OPM announcement of “Federal Offices are Closed.” Emergency “Essential” employees may also voluntarily participate in the Telework Program by selecting, under Plan B, either the regular/recurring or situational/ad hoc schedule.

During an announcement of “Federal Offices are Closed,” Essential Employees designated for the purpose of completing work related to Economic Indicators who are not voluntarily participating in the Telework Program under Plan B, may not be required to telework if it is not a high-production time. The supervisor will determine if these employees are required to telework.

### 19.1.4. Options

Except for those who are designated COOP or Emergency (“Essential”), employees have the right to request to telework under these circumstances, or accept other available alternative work arrangements within the building, at another acceptable location, or be placed on administrative leave.

## 19.2. Emergencies Affecting the Census Bureau and Other Federal Agencies That Are Not Defined as COOP Emergencies

OPM makes decisions regarding unscheduled telework when Government offices are open and there is early dismissal or delayed arrival to and from federal offices in the Washington D.C. metropolitan area. Those decisions are announced on OPM's website and in the public media. Announcements in other geographic areas are determined by their respective regional and local authorities.

When such an announcement is made, the following will apply:

### 19.2.1. Unscheduled Telework

It is Government policy that unscheduled telework is authorized to the maximum extent possible to continue work operations during periods of inclement weather or other emergencies without compromising the safety of employees and the general public. This type of telework is permitted when authorized by OPM or some other appropriate authority. Unscheduled telework allows telework-ready employees to work from home or at an approved alternate location upon notification to their supervisors in accordance with the office policies or the terms of an applicable collective bargaining agreement.

Special attention should be paid to those employees who will telework only on an occasional, situational basis during events or circumstances that disrupt or prevent commuting or reporting to work at the conventional office. It is important to emphasize that the key to successful use of telework for these purposes is an effective routine Telework Program. Snow emergencies, for example, may be rare events, but to operate as intended, telework must be a regular and recurring activity for eligible, approved teleworkers.<sup>3</sup>

OPM has incorporated the unscheduled telework option into various operating statuses.

### 19.2.2. Federal or Departmental Offices Are Closed

When OPM or other authority announces the federal government is operating under a **Federal Offices are Closed** status, employees on Plan B **must** telework consistent with their telework agreements when federal or departmental offices in their local commuting area are closed. Excused absences may be granted on a case-by-case basis for telework-ready employees in the above situation.

Telework may not be used to care for elders, children, or other dependents while in an official duty status. If the elders, children, or other dependents are able to care for themselves, then their presence at the telework location would not interfere with the employee's performance of telework duties.

- When **federal offices are closed**, a teleworker may request periods of personal leave during the work day (thus removing themselves from a duty status) to care for an elder, child or dependent; or

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<sup>3</sup> United States Office of Personnel Management, December 2013. "Washington, DC, Area Dismissal and Closure Procedures," introductory letter and page 2



- When **federal offices are closed**, the employee may notify the supervisor that the employee is voluntarily extending the work day at the earliest at 6:00 a.m. to beyond the 6:30 p.m. work day (without receiving pay premium night differential), as long as it was by employee request. **An employee who voluntarily requests to extend the work day beyond 6:30 p.m. (or as defined in the collective bargaining agreement) is not entitled to night differential.**

Excused absences can be granted on a case-by-case basis for employees who were scheduled to telework when OPM or other authority announces federal offices are closed for various situations (e.g., electricity, infrastructure, connectivity).

However, on a case-by-case basis, the manager or supervisor may excuse, without charge to paid personal leave or loss of pay, a telework employee from duty during an emergency if: (1) the emergency adversely affects the telework site, (2) the telework-ready employee is unable to access another alternative telework site, (3) the telework-ready employee's duties are such that the employee cannot continue to work without contact with the traditional worksite..

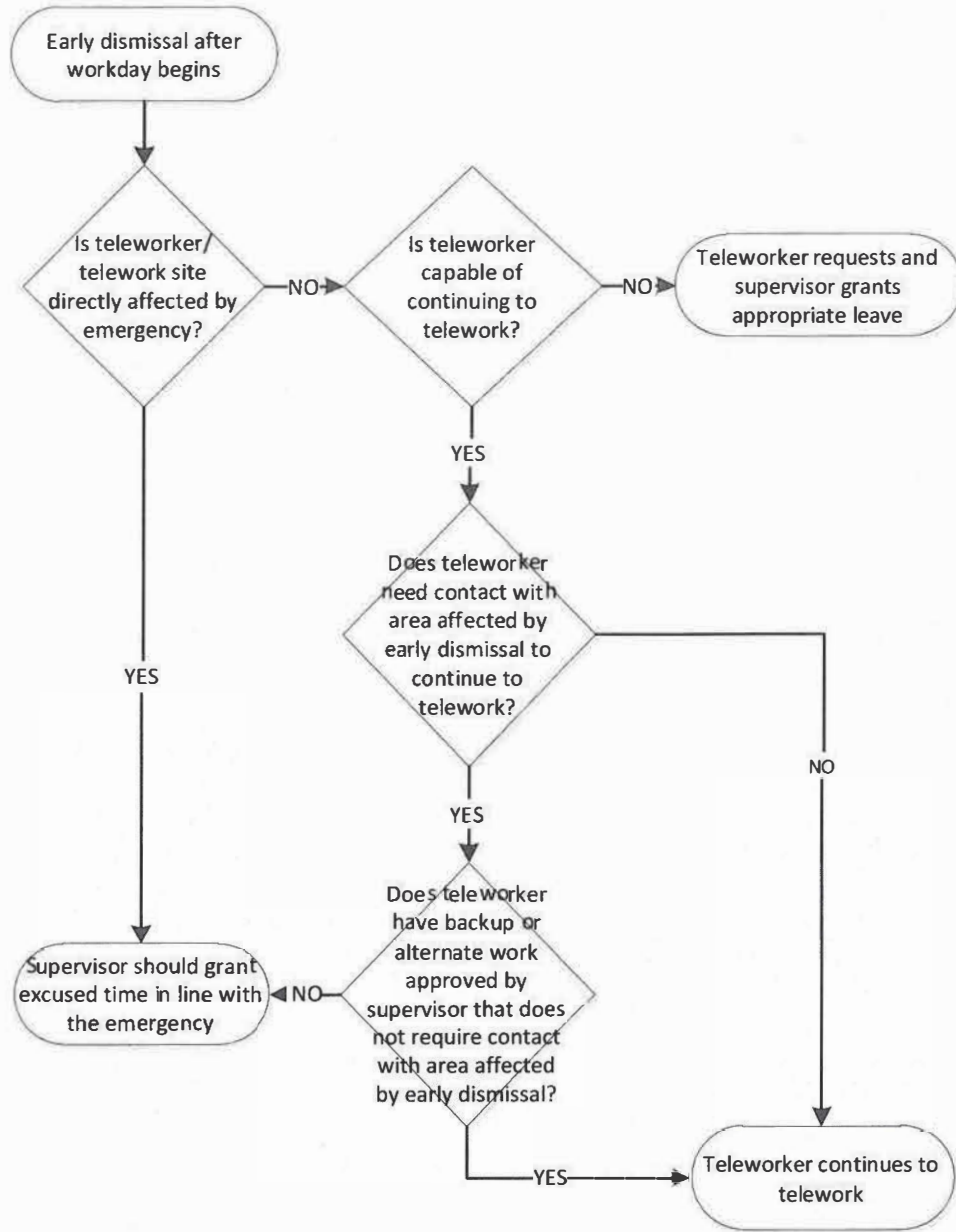
### 19.2.3. Early Dismissal or Delayed Arrival

When emergencies such as fires, chemical spills, disruptions of power or water, or interruptions of public transportation impact the regular worksite and cause an early dismissal or delayed arrival of employees, those who are teleworking at an alternative worksite are not dismissed from duty for any part of the work day and do not receive any premium pay for continuing to work their normal schedule. However, managers or supervisors may grant excused absence on a case-by-case basis, if the employee is unable to continue teleworking because the alternative worksite is also impacted (e.g., disruption of electricity or network connection problems that prevent telework) by the emergency.

When an early dismissal or delayed arrival is provided due to inclement weather causing hazardous or potentially hazardous road conditions to allow employees to arrive or return home safely, those who are teleworking from their alternative worksite are not dismissed from duty for any part of the workday unless they cannot continue to successfully work without contact with the regular office.

The supervisor or manager may grant excused time on a case-by-case basis, if the employee's duties are such that he or she cannot continue to successfully work at the alternative worksite without contact with the regular office.

The procedure described in Figure 1 applies when an emergency condition forces the early dismissal of the Census Bureau or any specific areas of the Census Bureau, and employees are excused time as a result.



**Figure 1 – Procedure for Early Dismissal After Workday Begins**

When the Census Bureau announces an early dismissal of employees for non-emergency conditions, such as on the day prior to a federal holiday, all employees will be excused, regardless of telework status.

The procedure described in Figure 2 applies when federal offices are closed.



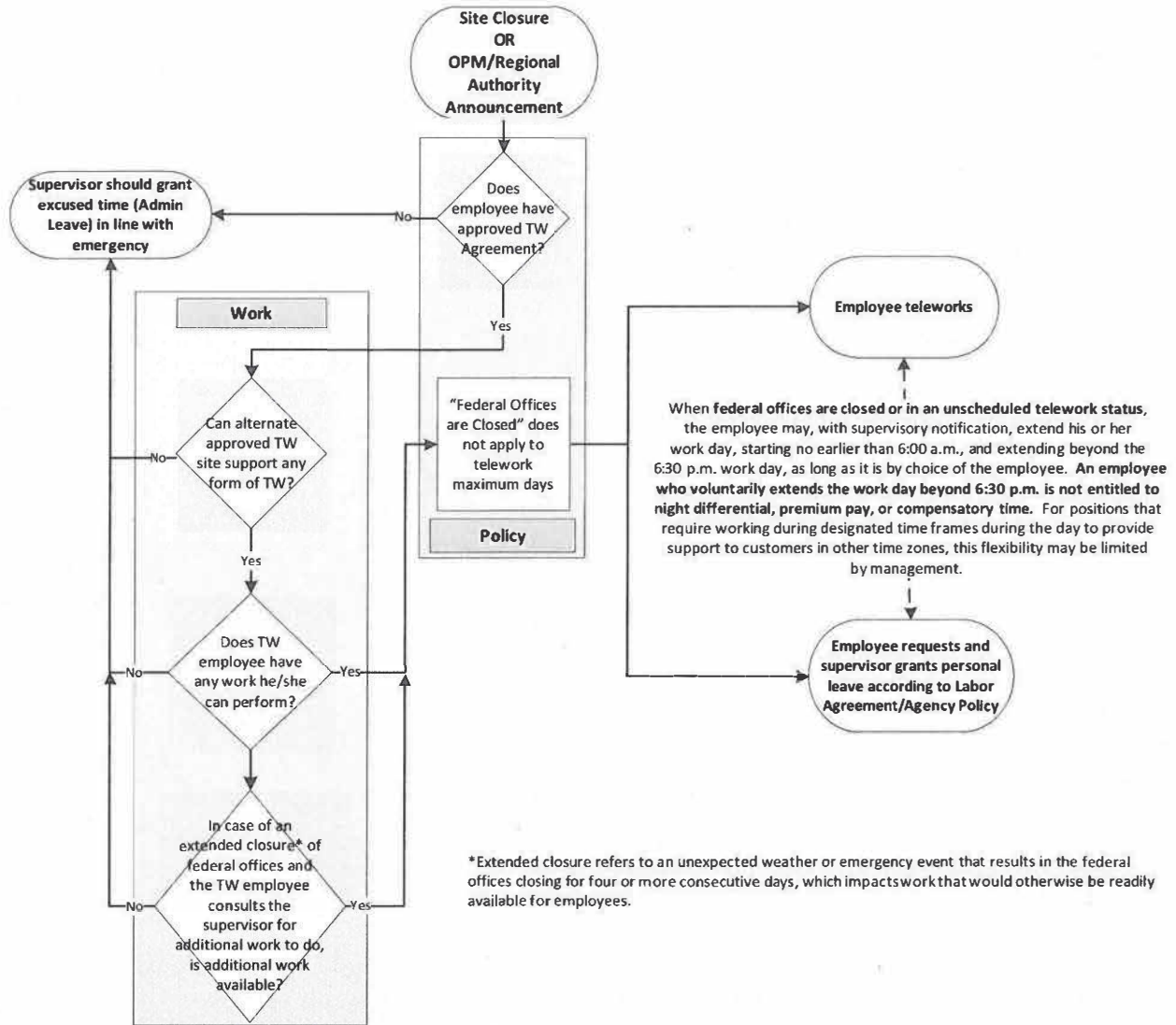


Figure 2 – Procedure for Closure of Federal Offices

19.2.4. Emergency at the Alternative Workplace

When an emergency affects only the alternative worksite, teleworkers will immediately notify their supervisors and seek guidance. If the emergency affects the alternative worksite and impacts the employee’s ability to perform official duties for what could be a major portion of the workday, the employee, with concurrence of the supervisor, is expected to report to the regular office or approved alternative telework site. Alternatively, the employee may request supervisory approval of paid personal leave as applicable (i.e., annual, compensatory time, compensatory time off for travel, leave without pay, credit hours, etc.). Supervisors may approve administrative leave, if applicable.

On a case-by-case basis, the Census Bureau may excuse a telework employee from duty during an emergency, without charge to personal leave or loss of pay, if:

- The emergency adversely affects (e.g., disruption of electricity or network connection problems that prevent telework) the telework site
- The teleworker is unable to access the alternative telework site
- The teleworker's duties are such that he or she cannot continue to work without contact with the regular worksite.

### **19.3. Telework and Continuity of Operations Emergencies**

COOP emergencies are large-scale national security or regional emergencies that require concerted action to maintain critical Government operations. Examples of some potential COOP situations include credible threats of terrorist strikes, biological or chemical threats, and pandemic illnesses (such as bird flu) that require a large-scale quarantine of the local population for two or more weeks.

In accordance with 5 U.S.C. § 6504(d)(2), "During any period that an executive Agency is operating under a continuity of operations plan, that plan shall supersede any telework policy."

COOP employees may be required to telework during COOP emergency closures or other emergencies, including pandemics for COOP purposes, on any day when the agency is closed by an emergency even if that day is not a regular telework day or a day with specific approval for situational or episodic telework. Teleworkers may also be required to perform duties outside of their usual or customary duties to ensure continuation of agency-essential mission or activities.

All COOP employees must have a telework agreement on file and be prepared to telework at any time. Depending on the emergency, they may or may not be required to come to the regular duty location or to telework. An employee designated as a "COOP Emergency Employee" who does not intend to voluntarily participate in the Telework Program does not have to select Plan A or B, but will generally telework when a COOP-related event occurs. If the COOP Emergency Employee chooses to voluntarily participate in the Telework Program, that employee may choose either Plan A or Plan B. If Plan A is selected, that employee will not be required to telework in a non-COOP emergency unless the employee has teleworked beyond the 80 hours in a 12-month period. Hours teleworked in a COOP emergency will not count toward the 80 hours.

Designated Emergency ("Essential") employees, who are required to work during closures for inclement weather, will be required to check Plan B and are required to telework in the case of an OPM announcement of "Federal Offices are Closed."

During an announcement of "Federal Offices are Closed," Essential Employees designated for the purpose of completing work related to Economic Indicators who are not voluntarily participating in the Telework Program under Plan B, may not be required to telework if it is not a high-production time. The supervisor will determine if these employees are required to telework.

COOP employees and Emergency ("Essential") employees have a responsibility to be familiar with the Census Bureau's emergency plans (continuity plan, pandemic plan, etc.) and the unscheduled telework policy. All telework hours must be recorded each pay period in the automated timekeeping system.

## Telework Policy

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COOP employees, along with their supervisors or managers, are responsible for maintaining a current telework agreement that clearly states whether the teleworker is expected to work in case of a COOP event such as a national or local emergency, during an emergency event involving inclement weather, or during another situation that may result in a disruption to normal office operations.

Advance or situational decisions should be made as to whether the employee must physically report for duty or can work from home or an alternate worksite. For example, if the purpose of the employee reporting for duty at the office is to provide policy guidance or to notify specific individuals of emergency requirements, this may be accomplished from home, provided the employee has access to the resources necessary to perform the required services.

However, in some cases, the only way to obtain the services of the employee may be through telework from an alternate worksite. For example, if an inclement weather or other emergency situation results in a shutdown of transportation, but phone lines remain working, the employee may have to work from home, rather than reporting to the regular office or COOP site.

**APPENDIX A: TELEWORK AGREEMENT**

Applicant : Application	
Application	
U.S. DEPARTMENT OF COMMERCE      APPENDIX A CENSUS BUREAU	
<b>Applicant's Name:</b>	JOHN DOE
<b>Telephone:</b>	3017633333
<b>Job Title:</b>	IT SPECIALIST
<b>Series:</b>	2210
<b>Grade:</b>	12
<b>Division:</b>	ASD
<b>I request to telework from:</b>	Home - Primary Address
<b>Supervisor's Name:</b>	Select Supervisor
<b>Approving Official's Name:</b>	Hobbs, Joseph F
<b>Voluntary Participation:</b>	The applicant voluntarily agrees to work at the Census Bureau approved alternate workplace indicated above and to follow all applicable policies and procedures. Some emergency personnel may be required to telework during emergencies. The applicant recognizes that the telework arrangement is a privilege, not a right. It is an additional method the Census Bureau may approve to accomplish work.
<b>Length of Agreement:</b>	--
<b>Primary Workplace Address:</b>	<input type="text"/>
<b>Description of Work to be Performed at the Workplace:</b>	<input type="text"/>
<b>Emergency Personnel Required to Work:</b>	<input type="checkbox"/> Essential Employee *Must apply to Plan B.  <input type="checkbox"/> COOP Emergency Employee *An employee designated as a "COOP Emergency Employee" who does not intend to voluntarily participate in the Telework Program does not have to select Plan A or B, but will generally telework when a COOP-related event occurs. If the COOP Emergency Employee chooses to voluntarily participate in the Telework Program, that employee may choose either Plan A or Plan B. If Plan A is selected, that employee will generally not be required to telework in a non-COOP emergency unless the employee has teleworked beyond the 80 hours in a 12 month period. Hours teleworked in a COOP emergency will not count toward the 80 hours.



## Telework Policy

	<input type="checkbox"/> Not Applicable
<b>Type of Plan:</b>  <b>Plan A:</b>  <b>Situational/Ad hoc/unscheduled telework up to 80 hours. Not required to telework if Federal Offices are closed.</b>	<input type="checkbox"/> Situational/Ad hoc/unscheduled telework  *Employees who have selected Plan A may upgrade at any time to Plan B.
<b>Plan B:</b>  <b>Routine/Recurring or Situational/Ad-hoc telework schedule beyond 80 hours. If selected, you are required to telework on a day when Federal Offices are closed.</b>	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>Week 1</p> <p>Week 2</p> <p>Work At Home Teleworker:</p> <p>Situational/Ad-hoc Teleworker:</p> <p>Essential Employee:</p> <p>DPO Approved Reasonable Accommodation: <input type="checkbox"/></p> </div> <div style="width: 50%;"> <p>Please select the day(s) of the week:</p> <p>M <input type="checkbox"/> T <input type="checkbox"/> W <input type="checkbox"/> TH <input type="checkbox"/> F <input type="checkbox"/></p> <p>Please select the day(s) of the week:</p> <p>M <input type="checkbox"/> T <input type="checkbox"/> W <input type="checkbox"/> TH <input type="checkbox"/> F <input type="checkbox"/></p> <p><input type="checkbox"/> Telework 5 days/week</p> <p><input type="checkbox"/> Situational/Ad-hoc Teleworker</p> <p><input type="checkbox"/> Telework as needed</p> <p>DPO Approved Reasonable Accommodation <input type="checkbox"/></p> </div> </div>
<b>Special Instructions or Comments:</b>	<div style="border: 1px solid black; height: 60px; width: 100%;"></div>
<b>Salary and Benefits:</b>	The supervisor and applicant understand that a telework arrangement does not change the basis for determining the applicant's salary, benefits or entitlements.
<b>Official Duties:</b>	The applicant agrees not to conduct personal business while in an official duty status at the alternate workplace (e.g., caring for dependents or making home repairs.)
<b>Performance Standard:</b>	I understand I must maintain my performance at Fully Successful (Level 3). If not, my telework privileges may be suspended or cancelled until my performance reaches the required level.
<b>Time and Attendance:</b>	The employee agrees to report the time and attendance (biweekly) for hours worked at the conventional office and to code the hours worked at the alternate workplace as telework.
<b>Leave:</b>	The applicant agrees to follow established office procedures for requesting and obtaining approval for leave.
<b>Overtime:</b>	The applicant agrees to work overtime only when requested and approved by the supervisor in advance and understands that claimed overtime work without such approval may result in termination of the telework privilege.
<b>Alternate Workplace Costs or Retention Work Plan Arrangement:</b>	All costs associated with the alternate workplace are borne by the teleworker. Employees in a full-time Work at Home (WAH) agreement through the Field Realignment will not be responsible for costs related to the set up of their alternate workplace. Other employees in a voluntary WAH agreement or Retention Work Plan (RWP) arrangement may bear set up and maintenance costs for their alternate workplace. Employees in a WAH or RWP agreement should consult their Division regarding government furnished equipment. The Census Bureau will provide a government calling card, as needed, to be used for all work-related long distance business calls.
<b>Equipment / Supplies:</b>	The applicant is responsible for the proper use, care and protection of any government-issued resources. The Census Bureau will not normally provide government-furnished




## Telework Policy

	<p>computer equipment to a home site, nor will support be provided for an employee's personal computer or home equipment. The teleworker assumes all risk for any personally owned equipment and software used for telework. Accordingly, the Census Bureau will not be responsible for any damages, service or maintenance to an employee's personal computer or home equipment outside the limits of government liability.</p>
<b>Security:</b>	<p>The applicant agrees to follow all existing security policies and procedures. Title-Restricted data may not be accessed or used from the alternate workplace until new technology approved by the Chief Information Officer is made available to the teleworker and the teleworker signs the VDI Telework Pledge form.</p>
<b>Liability:</b>	<p>The applicant understands that the government will not be liable for damages to his/her personal or real property while he/she is working at the approved alternate workplace, except to the extent the government is held liable under the Military Personnel and Civilian Employees Claims Act and the Federal Tort Claims Act.</p>
<b>Work Area:</b>	<p>An applicant working at home agrees to provide a designated work area adequate for performance of official duties and meet the safety requirements as stated in the Checklist.</p>
<b>Injury Compensation:</b>	<p>The applicant understands that he/she is covered under the Federal Employees Compensation Act if injured in the course of actually performing official duties at the alternate workplace. The applicant agrees to notify his/her supervisor and the Health Unit immediately of any accident or injury that occurs at the alternate workplace while performing official duties and to complete any required forms.</p>
<b>Work Assignments/ Performance:</b>	<p>The applicant understands that he/she is covered under the Census Bureau's performance appraisal system and will be held to the performance elements and standards outlined in his/her current performance plan. The applicant agrees to exercise good communication skills and work cooperatively with the supervisor to obtain a common understanding of expectations and desired results.</p>
<b>Disclosure:</b>	<p>The applicant agrees to protect government records from unauthorized disclosure or damage and to comply with requirements of the Privacy Act of 1974; 5 U.S.C. 552(a); Title 13, 5 U.S.C., Sections 9 and 214; Title 10, 5 U.S.C. Section 1905; and Title 26, 5 U.S.C., Sections 7213, 7213A and 7431.</p>
<b>Standards of Conduct:</b>	<p>The applicant agrees that he or she is bound by the Office of Government Ethics standards of conduct for employees of the Executive Branch while working at the alternate worksite.</p>
<b>Termination:</b>	<p>The Census Bureau or the teleworker may terminate the telework arrangement unless the teleworker is an emergency worker who is required to maintain a Telework Agreement. Termination must be documented on the Telework Termination Agreement.</p>
<b>Certification:</b>	<p>By signing this agreement, the application certifies that he/she has read the following documents and agrees to follow the policies and procedures outlined in them, as well as all other policies and procedures at the Census Bureau:</p> <ul style="list-style-type: none"> <li>• Mandatory Telework Training</li> <li>• Mandatory Managing Performance Training (for supervisors and managers)</li> <li>• Telework Agreement (this document includes Telework Safety Checklist and Telework Checklist)</li> <li>• Census Bureau Internet Policy</li> <li>• Census Bureau Telework Policy</li> <li>• Census Bureau Rules of Behavior for Information Technology Systems</li> <li>• VDI Policy (as Chief Information Officer authorized technology becomes available)</li> </ul> <p>The applicant further certifies that he/she has read, understands and agrees to comply with Census Bureau policies mandating that NO Title-Restricted data may be removed or transmitted from Census Bureau offices. Title-Restricted data shall only be accessed through VDI or after the Chief Information Officer has approved the new technology and made it available to the teleworker and the teleworker has taken any required training and agreed to and signed the VDI Telework Pledge.</p> <p>The applicant understands that engaging in any unauthorized access to the Census Bureau network or improper use of restricted information or sensitive Census confidential data at a telecenter or home work station (including personal computing devices) will subject him/her to applicable administrative and criminal penalties pursuant to law and</p>

## Telework Policy

	Departmental policies.
<b>TELEWORK SAFETY CHECKLIST</b>	This checklist is designed to assess the overall safety of the designated work area of the teleworker's primary home and/or secondary address (if applicable). Each applicant should read and complete the self-certification safety checklist.
<b>Describe the designated work area(s):</b>	<div style="border: 1px solid black; height: 60px; width: 100%;"></div>
<b>Are all stairs with four or more steps equipped with handrails?</b>	<input type="text" value=""/>
<b>Are all circuit breakers and/or fuses in the electrical panel labeled as to intended service?</b>	<input type="text" value=""/>
<b>Is all electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires, flexible wires running through the walls, exposed wires fixed to the ceiling)?</b>	<input type="text" value=""/>
<b>Will the building's electrical system permit the grounding of electrical equipment?</b>	<input type="text" value=""/>
<b>Are aisles, doorways, and corners free of obstructions to permit visibility and movement?</b>	<input type="text" value=""/>
<b>Are file cabinets and storage closets arranged so drawers and doors do not open into walkways?</b>	<input type="text" value=""/>
<b>Are the chair casters (wheels) secure and the rungs and legs of the chair sturdy?</b>	<input type="text" value=""/>
<b>Are the phone lines, electrical cords, and</b>	<input type="text" value=""/>

## Telework Policy

<b>extension wires secured under a desk or alongside a baseboard?</b>		
<b>Is the office space neat, clean, and free of excessive amounts of combustibles?</b>	<input type="checkbox"/>	
<b>Are floor surfaces clean, dry, and level?</b>	<input type="checkbox"/>	
<b>Are carpets well-secured to the floor and free of frayed or worn seams?</b>	<input type="checkbox"/>	
<b>Is there sufficient light for reading?</b>	<input type="checkbox"/>	
<b>I certify that the checklist above applies to both the primary and secondary address (if applicable).</b>	<input type="checkbox"/>	
<b>TELEWORK CHECKLIST</b>		The following checklist is designed to ensure that the applicant is properly oriented to the policies and procedures of the program. Signify the completion of each activity by answering "Yes" in the space provided. In order for this application to be processed you must be able to truthfully answer yes to all five questions.
<b>Applicant has printed and signed the Census Bureau Telework pledge. Pledge must be signed by your supervisor and must be delivered to your approving official.</b>	<input type="checkbox"/>	 Telework Pledge)
<b>Applicant has read, understands, and agrees to comply with Census Bureau policies and procedures covering Title-Restricted data.</b>	<input type="checkbox"/>	
<b>Applicant clearly understands his or her Performance expectations, which have been discussed with him or her.</b>	<input type="checkbox"/>	
<b>Census Bureau policies and procedures covering work</b>	<input type="checkbox"/>	

**schedules and hours of duty, overtime/premium pay, leave procedures, time and attendance, and emergency conditions are made available to employees for review via all employee broadcast messages, labor agreement and/or the Census Bureau intranet.**

**Applicant understands that he or she may terminate participation at any time consistent with the Census Bureau Telework Policy.**

**If I am on Plan B or am an Emergency Personnel, I understand that I must telework, unless otherwise excused by my supervisor, when Federal government offices in my local commuting area or my Department of Commerce work location are closed due to weather or other emergency situations. During an announcement of "Federal Offices are Closed", Essential Employees designated for the purpose of completing work related to Economic Indicators who are not voluntarily participating in the Telework program under Plan B, may not be required to telework if it is not a high production**



time. The supervisor will determine if these employees are required to telework. Administrative leave may be granted in rare situations (e.g., no electricity, or network connection failure problems that prevent telework). Refer to Section 19 in the Telework Policy and refer to the flow chart for site closure or OPM/Regional Authority Announcements.

I understand that it is my responsibility to have sufficient work available to complete my entire telework shift. If I do not, I must request appropriate leave. In rare situations, I may request administrative leave that is at my supervisor's discretion.

I understand that telework may not be used as a substitute for dependent care and I am not permitted to telework while in duty status if I must take care of dependents. In these situations, I may request the appropriate leave from my supervisor or seek other flexibilities offered in the Telework Policy. Refer to Section 3.6 Child or Elder Care in the Telework Policy and refer to the flow chart for site

## Telework Policy

**closure or  
OPM/Regional  
Authority  
Announcement.**

**I certify that I am aware that when the Office of Personnel Management announces "Unscheduled Leave" or "Unscheduled Telework", telework ready employees may elect either option by notifying his/her supervisor of his/her intent to exercise either option. Exercising the option of "Unscheduled Telework" does not require prior supervisory approval. Managers are to permit unscheduled telework when requested but may, in rare circumstances, find it necessary for a non-emergency telework-ready employee to report to the office for an assignment that requires presence at the worksite (e.g., providing a presentation, performing administrative duties at a pre-scheduled conference, etc.).**

**I certify that I am aware that I may not be authorized to telework if my performance does not comply with the terms of this telework agreement.**

***\*Employee must click "Yes" to advance.***

## Telework Policy

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**I certify that I  
have completed  
U.S. Census  
Telework Training.**



By pressing the "I Agree" button, the applicant certifies that all of the above information is true to the best of their knowledge and that all questions were answered in the affirmative or, if answered in the negative, that the applicant will take all necessary corrective actions to eliminate any hazard (as revealed by a negative response) before (s)he begins to telecommute.

I Agree

Save As Draft

## APPENDIX B: TELEWORK ASSESSMENT TOOL

The decision to telework should be based on the ability of an employee to work in a setting that may be in his or her home, or at a location other than the regular office, without immediate supervision. The following tool is to be used by the supervisor as a basis for discussing the option and appropriateness of telework for a particular employee. Employees may also use the assessment tool to help in determining if telework is suitable for their positions.

**Please rate yourself or your employee, using the following scale:**

**5 – Always    4 – Usually    3 – Sometimes    2 – Rarely    1 – Never**

1. Employee works without regular monitoring or supervision.
2. Employee is comfortable working alone.
3. Employee independently identified required work products.
4. Employee successfully plans work production schedule.
5. Employee communicates hindrances to successful completion of a task or project in sufficient time to allow for alterations that improve the opportunity for success.
6. Employee is knowledgeable about the organization's procedures and policies.
7. Employee is current on Data Stewardship Awareness Training.
8. Employee meets deadlines.
9. If telework will be in the employee's residence, the residence has an appropriate work environment.
10. Employee is willing to provide his or her own equipment if Government-furnished equipment is not available.
11. Employee is computer literate.
12. Employee has successfully completed the Census Bureau's online teleworking training course.



# APPENDIX C: TELEWORK INVOLUNTARY TERMINATION PROCESS

**TELEWORK**
457 | 102217

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GENUS LEARNER SYSTEM
457 | 102217

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Approved
Pending Approval
Approved

---

Supervisor: Involuntary Termination
Agreement C

Application Number: 318-2013
Telework Involuntary Termination Process

Employee Name: Joe Thompson
Job Title: IT SPECIALIST

Supervisor Name: [ ]
Supervisor Title: [ ]

Supervisor Signature: [ ]
Supervisor Date: [ ]

Employee Signature: [ ]
Employee Date: [ ]

Reason for Termination: [ ]
Effective Date: [ ]

Supervisor Comments: [ ]
Employee Comments: [ ]

Supervisor Signature: [ ]
Employee Signature: [ ]

Supervisor Date: [ ]
Employee Date: [ ]

Supervisor Title: [ ]
Employee Title: [ ]

Supervisor Department: [ ]
Employee Department: [ ]

Supervisor Location: [ ]
Employee Location: [ ]

Supervisor Contact: [ ]
Employee Contact: [ ]

Supervisor Email: [ ]
Employee Email: [ ]

Supervisor Phone: [ ]
Employee Phone: [ ]

Supervisor Fax: [ ]
Employee Fax: [ ]

Supervisor Address: [ ]
Employee Address: [ ]

Supervisor City: [ ]
Employee City: [ ]

Supervisor State: [ ]
Employee State: [ ]

Supervisor Zip: [ ]
Employee Zip: [ ]

Supervisor Country: [ ]
Employee Country: [ ]

Supervisor Other: [ ]
Employee Other: [ ]

Supervisor Request: [ ]
Employee Request: [ ]

ADDENDUM E

**Memorandum of Understanding  
Between U.S. Census Bureau and AFGE Council 241 Governing Telework by Census  
Bureau Labor Management Council (CLMC) Committee Members**

The U.S. Census Bureau and AFGE Council 241 (hereafter referred to as the Parties) agree that members of the Council and its committees and working groups are authorized for telework while conducting business on behalf of the Council and its committees and working groups . The Parties further agree that the following provisions will apply:

- In addition to time spent participating in Council, committee or working group meetings, Council, committee or working group members are authorized to receive reasonable amounts of official time while teleworking for the following reasons: preparing for meetings, time spent on assignments or projects assigned by the Council, one of its committees or working groups and time spent reviewing meeting minutes or compiling notes- and records after a meeting's conclusion..
- Those who telework must follow all provisions of the Telework Program dated December 2011 or any subsequent Telework Program approved by the CLMC. In addition, the employee must inform his/her supervisor of the time to be spent working on CLMC activities while teleworking in advance of the telework..
- The provisions of this Memorandum of Understanding (MOU) do not apply to any other union representational activity outside of conducting business for the CLMC or one of its Committees..


**Effect on Other Agreements**

This MOU is not a re-opener for bargaining any other terms of any Labor-Management Agreement.

**Effective Date**

The effective date of this MOU will be the date the MOU is approved in accordance with 5 U.S.C. 7114(c). In the event that the MOU is neither approved or disapproved during the 30-day period established by 5 U.S.C. 7114(c)(2), the effective date will be 31 days from the date the MOU is forwarded to the Department of Commerce for Agency Head Review.

**For the Union**

  
 \_\_\_\_\_  
 01/15/2014  
 Date  
 President  
 AFGE Council 241

**For the Agency**

  
 \_\_\_\_\_  
 1/14/15  
 Date  
 Labor Relations Officer  
 U.S. Census Bureau

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
U.S. CENSUS BUREAU AND AFGE COUNCIL 241  
  
CENSUS BUREAU HEADQUARTERS BACKGROUND  
INVESTIGATIONS

The U.S. Census Bureau (the Agency) and AFGE Council 241 (the Union) agree that the following arrangements apply to background investigations of current bargaining unit employees.

- A. Background investigations will be consistent with the fair credit reporting act and all Federal applicable laws, rules, regulations, executive orders, and directives. Personnel occupying public trust positions will be required to sign a fair credit release form and a credit report will be obtained.
- B. Employees will be given up to seven (7) calendar days from the date they receive the Electronic Questionnaire for Investigations Processing (e-QIP) invitation letter to submit the background form(s). Additional time may be approved by contacting the Census Investigative Services (CIS) and requesting an extension. Extensions will be granted on a case-by-case basis.
- C. Management will inform employees of the reasons for any upgraded Background Investigation when applicable.
- D. Should CIS discover derogatory or discrepancies in the security documents, the employee will be given up to ten (10) workdays to provide a response. Extensions of this timeframe may be granted on a case-by-case basis but will not extend beyond 30 calendar days.
- E. Upon request, the Union will be given copies of a report that has a summary total of favorable or unfavorable investigations, so long as this information is not prohibited from disclosure by law. Reinvestigations will not occur all at once.
- F. If an appointee receives an unfavorable decision, the Agency, subject to any applicable direction from OPM, will consider reassigning the appointee to a position with equivalent grade level and promotion potential, unless such an appointment would violate any applicable laws, rules, regulations, or collective bargaining agreement.
- G. If an employee receives an unfavorable decision and the matter is referred to the Agency by OPM for action under 5 U.S.C. Chapter 75, the Agency may consider reassigning the employee to a position with equivalent grade level and promotion potential, unless such determination would conflict with OPM direction 5 CFR 731.201 (f) or (g), or any other applicable law, rule, regulation or collective bargaining agreement.
- H. All clearance and successful completion of background investigation requirements will be noted on the vacancy announcement.

- I. Failure to complete the documentation requirements related to a background investigation may negatively affect employment with the U.S. Census Bureau.
- J. All background investigative materials will be maintained in a secure environment consistent with all applicable laws, rules and regulations.
- K. Employees will be notified when they are required to undergo a reinvestigation in accordance with applicable Federal laws, or Government-wide rules, or regulations. The background check notification will be amended to inform employees that there is a reinvestigation requirement. The Director of the Office of Personnel Management determines reinvestigation requirements.
- L. The background check notification will be amended to inform employees occupying a public trust position of the requirement to update the investigation every five (5) years.
- M. The E-QIP invitation letter will state, **“READ INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM”** (BOLD AND ALL CAPS).
- N. In addition to e-QIP, employees will be required to be fingerprinted and should derogatory information surface, address concerns brought to his/her attention by CIS.

**Effect on Other Agreements**

This MOU will not be construed, as a waiver of the provisions in Article 2.4 of the Labor Agreement nor is this MOU considered a re-opener for bargaining any of the terms of the Labor Agreement.

**Effective Date**

The effective date of this agreement will be the date the agreement is approved in accordance with 5 U.S.C. § 7114(c). In the event that the agreement is neither approved nor disapproved during the 30-day period established by 5 U.S.C. § 7114(c) (2), the effective date of the agreement will be 31 days from the date of the final signature below.

[Redacted Signature]

8/9/17

Date

Chief, Labor Management Branch

A  
[Redacted Signature]

8/9/17

Date

President, AFGE Council 241

**U.S. BUREAU OF THE CENSUS  
EEO ADVISORY COMMITTEE  
CHARTER**

**I. INTRODUCTION**

The Census Bureau Equal Employment Opportunity (EEO) Advisory Committee, hereafter referred to as the EEOAC, is designed to ensure equal opportunity in employment for all persons and/or employees, to address and attempt to prohibit discrimination based on age, race, color, religion, sex, national origin, disability, genetic information, reprisal/retaliation and sexual orientation; and promote the full realization of equal opportunity through continuing affirmative action within all Census Bureau locations.

**II. PURPOSE/FUNCTION**

The purpose of Census Bureau's EEOAC is to provide advice and recommendations for improvement to the CLMC (Census Labor Management Council) on matters related to EEO within all Census Bureau locations. The recommendations will be sent through the CLMC, in writing, and signed by the EEOAC members. To these ends, the functions of the EEOAC are to:

- a. Consider and draft recommendations regarding the goals, objectives, and performance of the Census Bureau's EEO Programs, and specific components thereof;
- b. Consider and recommend to the employer any studies for which the Committee believes task forces should be used;
- c. Provide program publicity and dissemination of information to employees;
- d. Identify architectural, attitudinal, procedural, or other barriers to the employment of all persons;
- e. Provide advice on the implementation of laws and regulations regarding employment of all persons;
- f. Provide advice to the CLMC on matters related to EEO training opportunities;
- g. Review and provide advice to the CLMC regarding the Census Bureau's MD-715 annual report for all Census Bureau locations;
- h. The Committee will request through the CLMC or designee, any statistical information/data that is necessary to carry out the functions of the Committee. The Committee needs to monitor that data, identify patterns and



trends according to location, associate directorship, division, and protected category, and then offer recommendations for reducing EEO cases.

### **III. COMMITTEE GOALS**

The Census Bureau EEOAC will set annual goals by developing a work plan and budget proposal to present back to the CLMC. These recommendations will be sent no later than May 30 through the CLMC, in writing, and signed by the EEOAC members after coordinating with the EEO office. (Please refer to the Appendix.)

### **IV. COMMITTEE STRUCTURE, PARTICIPATION, MEMBERSHIP ROLES, RESPONSIBILITIES, AND GROUND RULES**

To ensure a broad range of support for Census Bureau's EEO objectives, the Chair and Vice-Chair will rotate between representatives of the Union and Census Bureau Management on an annual basis.

#### **Structure**

The following designates the composition of the Committee:

- a. The Committee is composed of twelve (12) members. Six (6) members – two (2) from Headquarters, two (2) from Jeffersonville, one (1) from HCC and one (1) from TCC – are appointed by the Union, and six (6) members – two (2) from Headquarters, two (2) from Jeffersonville, one (1) from HCC and one (1) from TCC – are appointed by Census Bureau Management. The Union and Census Bureau Management will submit the names of its appointees to the CLMC. Terms will be for two (2) years and members can be reappointed not to exceed three (3) consecutive terms unless approved by the CLMC.
- b. The Committee shall have a Chair and Vice-Chair, one (1) appointed by AFGE Council 241 and one (1) appointed by Census Bureau Management at SES level. These incumbencies will rotate between Union and Management membership annually. The decision will be made no later than the June monthly meeting and will become effective the first meeting of the following month. To avoid conflicts of interest, the Chair and Vice-Chair should not be appointed from either of the following organizations: EEO Division Chief, Human Resources Division Chief, Budget Division Chief, Associate Director for Administration and Chief Financial Officer, or the National Processing Center Director.
- c. If a Committee member is unable to attend a meeting, the member can appoint an alternate from his or her respective location. The alternate will not be eligible to vote on the Committee member's behalf.
- d. Advisors shall consist of, but not limited to, the EEO Chief/designee, NPC EEO Manager/designee, the NPC Reasonable Accommodation Coordinator/liaison, and

the Diversity, Inclusion Office Representative or designee, and Headquarters Reasonable Accommodation Coordinator. They will be non-voting members of the Census Bureau's EEOAC.

- e. Continue collegial relationship with the Diversity Council at Census Bureau Headquarters and NPC locations, utilizing them as a resource and sounding board when needed.

The Committee's term (work year) shall begin on October 1 and end on September 30. Members will serve on a two (2) year term and can be reappointed.

- a. Each year those Committee members whose term will be coming to an end and who do not wish to continue on the Committee shall make their intent known to the Committee Chair no later than the last working day of May of each year.
- b. In the quarter preceding the expiration of any member's term, the Committee Chair or Vice-Chair will notify the CLMC in writing as to the person completing his or her term, and request the submission of a new member's name.
- c. The EEO office will provide administrative support.

### **Responsibilities of Committee Members**

- a. Attend all meetings and be on time
- b. Attend training or refresher training regarding EEO issues
- c. Participate actively
- d. Participate in team building exercises
- e. Model expected behavior in day-to-day activities
- f. Support and work with Human Resources and the EEO office in the effective implementation and operation of EEO-related programs
- g. Stay abreast of relevant community and workforce demographics
- h. Chair and Vice-Chair will ensure meetings stay on task

### **Ground Rules**

- a. All comments are valued; if a minority view is raised, bring to the forefront of discussion.
- b. No side conversations

- c. Active participation
- d. Be honest without fear of retaliation
- e. Everyone is on an equal level and (organizational) rank has no privileges
- f. Treat members with courtesy and respect
- g. Agenda with time allotments

## **V. PARTICIPANTS' SUPERVISOR'S RESPONSIBILITY**

- a. Provide sufficient on-duty time for each Committee member and/or sub-group participant to fulfill the person's responsibilities.
- b. Provide encouragement, flexibility, and support for employees' participation.

## **VI. TYPES OF MEETINGS**

- a. The Committee's monthly meetings will typically be scheduled for the second Tuesday of each month at 2:00 p.m. (Eastern Standard Time) to ensure business is handled in a timely and productive manner. Meetings will be held as long as four (4) or more members or alternates of each party are able to attend. Any necessary changes to meetings will be scheduled by the Chair or Vice-Chair on an "as needed" basis. Members will be notified as to the date, time, and location of each meeting.
- b. The Committee members will approve minutes of all meetings and the Committee Secretary will distribute the minutes to the appropriate persons. The Union will receive EEO-related information through its representatives on the Committee.
- c. General Meeting: regular meetings held monthly.
- d. Special Meetings: Ad hoc meetings called by the Committee and attended by Committee members. When scheduling special meetings, members should be consulted for their availability and be given at least one week advanced notice for any special meetings.
- e. Meetings will normally be conducted via teleconference or videoconference. The CLMC will ensure the Committee meets twice a year, in person, at either Headquarters or at NPC, if funding permits.
- f. If it is determined that the meeting cannot be held at the next scheduled date and time, then the Chair or Vice-Chair will contact Committee members to determine when the next meeting can be held.

## **VII. OPERATING PROCEDURES**

**Agenda** – Meeting attendees may submit agenda items to the Chair of the Committee at least five (5) business days prior to the meeting. Items for discussion should be within the purview of the EEOAC. The Secretary is responsible for distributing the agenda to the members at least two (2) business days before the scheduled meeting.

**Minutes** – The Secretary will be responsible for taking the minutes and ensuring that they are distributed to council members and posted on the “EEOAC Share” folder on the network at least five (5) business days prior to the next meeting.

**Quorum** – Meeting will be held as long as four (4) Management and four (4) Union members or alternates are in attendance. The Chair or Vice-Chair must be present.

**Voting** – The Committee’s objective is to decide issues based on consensus. Only formal recommendations will be voted on. Formal recommendations are to be submitted to the CLMC for approval before implementation. Advisors, liaisons, and alternates do not vote. In the event of a tie, the Committee will bring the issue to the CLMC for the final decision.

**Attendance** – Attendance is extremely important. Committee members who are consistently absent may be asked by the Committee to re-examine their commitment.

## **VIII. WORKING GROUPS/SUBJECT MATTER EXPERTS**

As required, working groups or subcommittees may be formed to carry out Committee activities. Working groups may include non-EEOAC members. The Committee will, as needed, appoint working groups to gather facts and study and analyze information in order to make knowledgeable recommendations to the Committee. When the Committee decides to refer an issue to a working group for study, it will establish the parameters of the topic to be researched and an anticipated date to receive recommendations from the working group. Equal numbers of both parties will be represented in the working group. The working group is responsible for studying the issue and making recommendations to the Committee. The Committee will determine the number of participants on a working group. When particular skills are needed for effective participation on a working group, the Committee will develop the criteria for selection. The Committee will appoint representatives to the working groups who have the necessary skills to perform the assigned tasks. Working groups will provide status reports at appropriate intervals to the Committee. Matters of local significance (e.g., Headquarters, Jeffersonville, Tucson, or Hagerstown) may be addressed through the creation of Labor Management working groups at the local level.

The working group may be comprised of any Census Bureau employees. The Chair will appoint a Committee member to serve as an advisor who will report all recommendations to the Committee for further action. Representatives from officially recognized employee

organization and other informal employee interest groups should be sought out to participate on the working groups. Outside experts and volunteers may be used to address specific topics. At the conclusion of its specific assignment, each working group will automatically disband.

The Committee may invite persons with special knowledge or expertise to attend Committee meetings when it is determined that their specialized competence may contribute to a particular area of concern or study.

## **IX. ORIENTATION OF NEW MEMBERS**

An orientation package will be provided to new members one (1) month prior to their first Committee meeting. At a minimum, the package should include a copy of the current charter, history/accomplishments, current initiatives, operating rules, and other pertinent information as it relates to the Committee.

The EEO office will provide new EEOAC member orientation to new Committee members within two months of their appointment. Additionally the EEO office shall ensure that EEO training is provided to all Committee members at least once per year to ensure members gain a full understanding of EEO issues, policy changes, and are appraised of emerging EEO issues that may affect the workplace.

## **X. PERIODIC REVIEW OF CHARTER AND CHANGES**

The Chair shall ensure that this Charter is reviewed and updated on an as needed basis by the Committee with recommendations presented to the CLMC for approval.



## APPENDIX

### EQUAL EMPLOYMENT OPPORTUNITY ADVISORY COMMITTEE (EEOAC) WORK PLAN

The EEOAC should develop a work plan. The work plan should reflect the specific focus of the Committee for a specified time frame and allow the Committee to assist the CLMC in addressing employment related issues within the program area.

Development of the work plan should be a collaborative effort between the EEOAC and the CLMC, and the final work plan should be signed by the CLMC. The work plan should consist of the following:

- a. Problem/barrier statements
- b. Objective
- c. Action steps
- d. Responsible people/person
- e. Time frame
- f. Mechanism to ascertain effectiveness

A sample of a work plan statement is as follows:

*Problem Statement: Recruit and outreach efforts need to be coordinated within the Agency to obtain maximum effectiveness and efficiency, where appropriate.*

*Objective: Heighten the CLMC's awareness of recruitment and outreach deficiencies and provide recommendations to correct the same.*

*Action Steps:*

- a. *Analyze EEO workforce profile data provided by Special Emphasis Program (SEP) coordinators on under representation by race, gender, grade level, and occupational series to determine areas of deficiency and provide recommendations to the CLMC.*

*Responsible Person: SEP coordinators, EEO office, and the CLMC*

*Time Frame: Semi-annual*

- b. *Provide information on recruitment process to selecting officials including special authorities*

*Responsible Person: Chair or Vice-Chair*

*Time Frame: February 1, 2014*

## **EEOAC Chair Work Plan**

The Chair is responsible for seeing that the Committee is productive and runs smoothly. In preparation, the Chair should be acquainted with all items included on the Committee Members Checklist (see Attachment).

At Committee meetings, the Chair has the following duties:

**Presiding:** The Chair presides at all meetings. If an emergency prevents the Chair from presiding, the Vice-Chair will assume the duties of the Chair until a new Chair is appointed. In the event of departure of the Chair, the Vice-Chair will become the Chair. The CLMC or the Union will appoint a new Vice-Chair.

**Agenda:** The Chair sets the agenda after consulting with the Committee members. The agenda should be prepared and distributed within two (2) business days prior to the meeting for review.

The agenda identifies the time, place, date, purpose, and business items to be discussed and votes to be taken. A typical agenda would include:

1. Call to Order
2. The Secretary will take attendance that will become part of the minutes
3. Introduction of guests, if appropriate
4. Reading and call for additions or corrections to the previous minutes. The Committee
5. Chair will approve minutes of all meetings and the Secretary will distribute to the appropriate persons, five (5) business days prior to the next meeting.
6. Reports
7. Unfinished business (such as previously tabled motions or ongoing projects)
8. Reading of correspondence received
9. New business
10. Program (if any scheduled)
11. Adjournment

The final obligation of the Chair is to turn all records and correspondence over to the next Chair and to offer to serve as a resource person, if needed.

### **EEOAC Member Duties**

1. To help identify EEO barriers or problems existing at the Census Bureau that adversely affect all persons or prevent them from being recruited, selected, or promoted consistent with their representation in the Civilian Labor Force.
2. To report on any employee problems, interests, or concerns of an EEO nature.
3. To make recommendations regarding corrective action through the EEO office to the CLMC.
4. To promote and provide information on EEO to employees through special programs, newsletters, exhibits, bulletin boards, flyers, and informal contact.
5. To assist the EEOAC in identifying potential recruitment resources for qualified women, minorities, persons with disabilities, and any other protected groups within or outside the Census Bureau. The EEOAC will periodically appoint a member of the Committee to work with Human Resources and EEO offices to identify potential resources and markets for all qualified employees within or outside the Census Bureau.
6. To help represent the Census Bureau to the community as an equal opportunity employer.
7. To plan and carry out any other approved activities that are assigned to the Committee or are approved by the CLMC as helping to achieve the Census Bureau's goals and objectives.

## **ATTACHMENT**

### **COMMITTEE MEMBER CHECK LIST**

1. Copy of the current Charter for the EEOAC
2. Copy of the most recent EEO Fact Sheet, which identifies the Division's EEO staff, EEO collateral duty counselors, and EEOAC members
3. Copy of the EEO and Sexual Harassment Policy Statements issued by the Bureau of the Census and/or the Department of Commerce
4. Copy of the most recent Annual EEO Program Status Report (MD-715)
5. Copies of the most recent work force profiles provided quarterly. (This information to be provided by location and grade level, by demographics to include, race, national origin, age, gender, and disability/targeted disability.)
6. Copy of No Fear Act Report
7. EEO Data Request made to the CLMC (to be tracked on an annual basis and provided by June of the following year or sooner)

**U.S. Census Bureau  
DIVERSITY AND INCLUSION COUNCIL CHARTER**

**I. Introduction**

In support of the U. S. Census Bureau’s Diversity and Inclusion (D&I) Strategic Plan, the Diversity and Inclusion Council (hereafter referred to as the Diversity Council, or Council) advocates for increasing employee awareness and management for the importance of a talented and diverse workforce to build an environment where the design of systems and policies are fair and equitable. The Council strives to assure that the seven tenets of diversity—*Inclusion, Opportunity, Comprehensiveness, Accessibility, Training, Management, Evaluation and Communication*—are applied and practiced throughout the Census Bureau. The Council also supports and collaborates with the National Processing Center’s (NPC) Diversity Council, and the Census Bureau six Regional Offices.

Acting as an advisory body to the Census Bureau Labor Management Council and the Operating Committee, the Council reports regularly to the Labor Management Council. Heretofore, this Charter outlines the Council’s purpose, goals, membership and other relevant matters.

**II. Purpose**

The purpose of the Council is to provide independent advice and recommendations on diversity and inclusion issues.

**III. Council Goals and Activities**

The goals and activities of the Council are to –

- Review policies, practices and procedures regarding the Census Bureau Organizational systems (i.e., hiring, retention, promotion, quality of work life programs, training, etc.) that influence the workforce.
- Monitor and provide recommendations on diversity management at all levels
- Facilitate communication to improve and promote awareness about diversity issues and initiatives throughout the Bureau.

**IV. Council Structure, Membership Roles, and Terms**

In order for the Council to be a successful advisory body, members must be champions of diversity. They must be committed to furthering awareness and management of the importance of a diverse and inclusive workforce and be a part of Council diversity activities.

**Structure**

The following designates the composition of the fifteen (15) member Diversity Council—

- One Council Chair, an Associate/Assistant Director, designated by the Bureau Director
- Five Headquarters management members appointed by the Bureau Director
- Five Headquarters union members appointed by AFGE Local 2782 President
- One National Processing Center (NPC) management member appointed by the NPC Director



- One National Processing Center union member appointed by NPC Union President
  - One Regional Office management member appointed by the Associate Director for Field Operations
  - One Regional Office union member appointed by AFGE Local 2782 President
- All members must be current employees.

## **Membership Responsibilities, Roles and Terms**

### **Chair**

- Provide leadership to the Council and assist with the advancement of its purpose and activities.
- Oversee agenda-driven meetings and works closely with the Chief, Diversity Officer on D&I strategies.
- Serve as a conduit to the Director regarding the Council and related matters.
- Serve for a period of up to three years and remain on the Council for two subsequent months during the transition period.
- Does not vote, except to break a tie.

### **Vice Chair**

- Oversee the meeting in the absence of the Chair.
- Oversee and ensure sub-group action item assignments and milestones are being accomplished.
- Ensure presenters are informed and prepared to report at Council meetings.
- Provide leadership to the Council and serve as a spokesperson.
- Serves for a period of up to three years and has the right to vote on all diversity council matters.

### **Council Members**

- Review policies, practices and procedures regarding Census Bureau organizational systems that affect the workforce and make recommendations for improvements.
- Work with DIO, HRD, EEO and other available resources on Council recommendations and advice regarding diversity related matters.
- Model inclusive behavior in day-to-day activities - Implement what the Council espouses, using their work area as a laboratory.
- Serve as a conduit to employees within their realm of influence regarding the importance of a diverse workforce and related activities that take place throughout the organization.
- Attend all meetings and actively participate.
- Attend diversity training provided at an early stage in appointment and as offered by the Census Bureau.
- Participate in team building exercises.
- Serves for a period of up to two years and has the right to vote on all Council matters.

## **Secretary/Recorder**

- Prepare the agenda for all meetings and distribute to the Chair and Vice Chair five days before the meeting and to remaining members three days before the upcoming meeting.
- Records and prepares the minutes for all meetings and distributes to all members five days before the upcoming meeting.
- Coordinates meeting rooms, video teleconferencing, conference calls.
- A staff member from the DIO serves as the Secretary/Recorder to the Council.
- Does not vote on council matters.

## **Subcommittees**

The Council may form subcommittees or workgroups as standing entities or ad hoc groups for any purpose consistent with this charter. The subcommittees or workgroups may be assigned work by the Chair or Vice Chair of the Council.

The subcommittees or workgroups have no authority to make decisions on behalf of the chartered Council nor may they report directly to the Labor Management Council. Such subcommittees or workgroups may not work independently of the Council and must report their recommendations and advice to the Council for full deliberation and discussion.

Although the Council will have no oversight role over subcommittees or workgroups established by other authorities, strong collaborations and communications, will be supported.

## **Council Awards Panels**

The Council is responsible for maintaining a Diversity Awards Panel, which consists of seven members: three management representatives, three union representatives, and the seventh member alternates each year between union representative and management representative. Panel members will review nominations from the incentive awards staff and rank the nominations for recommendation(s) to the Director, who will make the final selection of the winners.

## **V. Special Advisors**

The Chiefs of DIO, HRD and EEO, Union President and/or designee, serve as special advisors and have standing invitations to attend all Council meetings.

Representatives from officially recognized employee organizations serve as Special Advisors to the Council. For example, officially recognized employee organizations are those whose recognition has been granted by the Director, U.S. Census Bureau, in accordance with Department Administrative Order 202-251, "Voluntary Employee Organizations," or those approved as Census Bureau Affinity Groups. Special Advisors can be the president of the employee organization or a designee. Special Advisors who meet this definition may only attend general meetings and cannot vote on diversity council matters.

Any Special Advisors shall inform the Diversity Council of any communication, correspondence and/or engagement with senior management related to any diversity and inclusion matters prior to interaction with management. Therefore, the Special Advisor has no authority to make decisions on behalf of the Council, nor the Chief, DIO. Special Advisors may not report directly to the Labor Management Council regarding diversity matters.

Supervisors of employees who serve on the Council and/or as Special Advisors must provide sufficient on-duty time for employees to fulfill their council responsibilities. Additionally, they shall provide encouragement, flexibility and support for employee participation.

#### Special Advisors

- Attend all general meetings..
  - Participate in Council discussions, however do not vote on diversity related matters.
  - Identify and raise issues of concern to the Council associated with their Affinity Group.
  - Promote the purpose of the Council to members in their organizations as well as others
  - Work closely with the DIO, HRD and EEO as needed to facilitate the council's business
  - Serve as a conduit for information sharing and better communication.
- Attend diversity training as offered by the Census Bureau.

#### **The Diversity and Inclusion Office (DIO)**

The DIO supports the Council by developing and implementing the strategic vision and direction set by the Council and providing recommendations and administrative support related to diversity and inclusion practices and procedures

#### **VI. Meetings**

##### **General (Open to all Special Advisors)**

Eight (8) general meetings held yearly and attended by all council members and special advisors. These meetings entail discussion of a variety of diversity issues/items brought to or raised by the Council, Special Advisors, invited guests, and/or general population. Employees not on the Council, or serving as a special advisor may attend meetings with prior approval from the Diversity Council Chair or Vice Chair.

##### **Quarterly (Council Members Only)**

Four (4) quarterly meetings normally held the first month of each quarter and attended by Council members only and the Chiefs of DIO, HRD and EEO (or their respective designee). The Union President and/or designee may also attend at his/her discretion.

#### **Attendance**

Attendance for all council members is extremely important and mandatory for all meetings. Members who miss three consecutive meetings without the approval of the Council Chair or Vice Chair, will be asked to discontinue their membership.

## **VII. Operating Procedures**

1. Agenda: Any Census employee may submit agenda items to any Council member or the DIO at least 10 workdays prior to a general meeting. Items for discussion must be within the purview of the Council. The agenda will be prepared by the Council Secretary and approved by the Chair and/or Vice Chair three workdays prior to the upcoming meeting.

2. Recordings/Minutes: Minutes for each meeting will be prepared by the Council Secretary and provided to the Chair and Vice Chair for approval ten days before the next meeting. The Chair and Vice Chair must provide approval on the minutes to the Council Secretary within two days of receipt. After Council members approve the minutes, they will be posted on the DIO SHAREPOINT site within seven business days, excluding handouts related to outstanding actions items.

3. Quorum: Simple majority of at least eight council members, with at least four members from both, management and union. Alternates will not be considered.

4. Voting: The objective is to decide issues based on a consensus. When consensus cannot be reached, a vote will be called. Votes will be announced on the next meetings agenda. Voting by absentee ballot is not permitted.

### **5. Ground Rules**

- Be on time
- Agenda with time allotments
- Listen and respect others
- No war stories
- One conversation at a time
- Stay focused
- Work issues in the room
- All comments are valued; if minority view is raised, bring to forefront of discussion
- Honesty without fear of retaliation
- Everyone is on equal level and rank has no privileges

## **VIII. Communication**

The Council shall be responsible for providing the DIO with its list of prior year accomplishments within ninety days of the ending calendar year. The DIO is responsible for communicating the accomplishments bureau-wide. In addition, the Council will be responsible for providing briefings as appropriate on recommendations arising out of the Council and will coordinate such efforts with the DIO, as necessary.

**IX. Periodic Review of Charter and Operations**

The Chair shall ensure that this Charter, including goals and objectives, is reviewed and updated every three years by the Council. Changes and updates at the triennial review are subject to a majority vote of a quorum. It is understood that all Charters and changes are subject to the Labor Management Council’s approval.

In addition to the Charter review, the Council will develop an annual report highlighting accomplishments for the year and goals for the next year.

**X. Orientation of New Members**

An orientation package will be provided to new members prior to their first Council meeting. At a minimum, the package should include a copy of the current charter, the Diversity and Inclusion Strategic Plan, history/accomplishments, current initiatives, operating rules, and other pertinent information as it relates to the Council.

**XI. Effective Date**

This charter is approved and implemented effective this \_\_\_\_\_ of \_\_\_\_\_, 2015.

Signed,

\_\_\_\_\_  
*Redacted*  
Chair, Diversity Council

\_\_\_\_\_  
*Redacted*  
Vice Chair, Diversity Council



## Appendix A: New Scorecard

Evaluator

2015 Score Card

<ul style="list-style-type: none"> <li>• Agent Full Name <span style="background-color: black; color: black;">[REDACTED]</span></li> <li>• Evaluator Full Name <span style="background-color: black; color: black;">[REDACTED]</span></li> <li>• Score <span style="border-bottom: 1px solid black; padding: 0 20px;">0</span></li> </ul>	<ul style="list-style-type: none"> <li>• Segment Start Time <span style="border-bottom: 1px solid black; padding: 0 20px;">2/12/2015 9:06:35 AM</span></li> <li>• Evaluation Creation Date <span style="border-bottom: 1px solid black; padding: 0 20px;"></span></li> <li>• Segment ID <span style="background-color: black; color: black;">[REDACTED]</span></li> </ul>
---	---

---

**1. HIGH CRITICAL**
0 / 0

- \* 1.a. Read and follow call recording procedures?  Yes  No
- \* 1.b. Follow confidentiality per survey procedures, Title 13, Title 26, and PII guidelines to avoid breaches?  Yes  No

---

**2. CORE ITEMS**
0 / 50

- \* 2.a. Verify introductory screens/greet caller?  Yes  No
- \* 2.b. Read all survey content questions as worded verbatim per sponsor guidelines?  Yes  No  NA
- \* 2.c. Maintain a respectful manner and voice throughout the interview?  Yes  No
- \* 2.d. Capture accurate information consistent with responses?  Yes  No  NA

---

**3. MINOR CORE**
0 / 15

- \* 3.a. Did not pre-key or miskey responses?  Yes  No  NA
- \* 3.b. Attempt to convert refusals?  Yes  No  NA
- \* 3.c. Capture correct outcome?  Yes  No  NA

---

**4. MEDIUM SIGNIFICANT ELEMENTS**
0 / 23

- \* 4.a. Probe or clarify as needed to collect accurate information?  Yes  No  NA
- \* 4.b. Demonstrate knowledge and understanding of the survey's purpose, usage, and benefits?  Yes  No  NA
- \* 4.c. Respond to any questions appropriately and accurately, consistent with help material?  Yes  No  NA
- \* 4.d. Capture appropriate/relevant notes?  Yes  No  NA
- \* 4.e. Get and set appointment time, as appropriate?  Yes  No  NA

---

**5. LOW SIGNIFICANT**
0 / 12

- \* 5.a. Navigate the system efficiently?  Yes  No  NA
- \* 5.b. Speak at a pace and volume that can be understood?  Yes  No
- \* 5.c. Avoid using slang, overly familiar terms, excessive verbal fillers, or first names?  Yes  No
- \* 5.d. Remain on topic/Guide the respondent back to the interview?  Yes  No
- \* 5.e. Avoid misstatements?  Yes  No

---

**6. POSITIVE FEEDBACK**
0 / 0

- \* 6.a. Exceeding quality expectations?  Yes  No

---

**7. NOTES**

## Appendix B: New Scorecard Expectations

	Item	Points	Expectation
<b>1</b>	<b>High Critical</b>		
1a	Read and follow call recording procedures?	0	The recording should not be stopped unless requested by the respondent.
1b	Follow confidentiality per survey procedures, Title 13, Title 26, and PII guidelines to avoid breaches?	0	No information breaches. Census data should be protected from unauthorized disclosures.
<b>2</b>	<b>Core Items</b>		
2a	Verify introductory screens/greet caller?	10	Introduce yourself consistent with approved greeting procedures. Follow all required verification steps.
2b	Read all survey content questions as worded verbatim per sponsor guidelines?	10	Survey scripts are read verbatim without paraphrasing or grouping questions together per specific survey guidelines. See ACS Manual Topic 4 "Section Reading Questions" and "Section Verifying Data".
2c	Maintain a respectful manner and voice throughout the interview?	10	Avoid escalating tone, rudeness, sarcasm, harshness, and/or using inflammatory words.
2d	Capture accurate information consistent with responses?	20	Information captured reflects responses provided. Interviewer does not suppress active signal pop-ups when a correction or confirmation is needed. If the respondent provides new information later in the interview, the interviewer should correct the erroneous data entry. Avoid using your own words. Avoid keying errors that grossly impact data quality, such as entering \$350 instead of \$3500.
<b>3</b>	<b>Minor Core</b>		
3a	Did not pre-key or miskey responses?	5	Interviewers should not select an answer before receiving a response to the question. Hovering with a cursor over the answer field is allowed, as long as the interviewer is not actually selecting the answer. Avoid keying errors such as misspellings, an incorrect directional for an address (NW, SE, etc.), or miskeying a value, such as \$355 instead of \$350, etc. Avoids miskeys that do not grossly affect the quality of the data.
3b	Attempt to convert refusals?	5	On a case-by-case basis, utilize techniques to gain respondent cooperation and participation.
3c	Capture correct outcome?	5	Outcome captured is consistent with calls, i.e. immediate hang-up vs. refusal.
<b>4</b>	<b>Medium Significant</b>		
4a	Probe or clarify as needed to collect accurate information?	5	Ability to recognize unclear responses, attempt made to clarify information, avoid leading probes.
4b	Demonstrate knowledge and understanding of the survey's purpose, usage, and benefits?	5	Exhibit understanding of the survey's purpose, usage, and benefits. Interviewer demonstrates general knowledge of the survey.
4c	Respond to any questions appropriately and accurately, consistent with help material?	5	Answers are consistent with help screens, memos, and survey manuals available to interviewers. Interviewers answer questions correctly that are asked by the respondent.
4d	Capture appropriate/relevant notes?	4	All relevant notes are documented.
4e	Get and set appointment time, as appropriate?	4	Call back times requested by respondents are entered as appropriate.

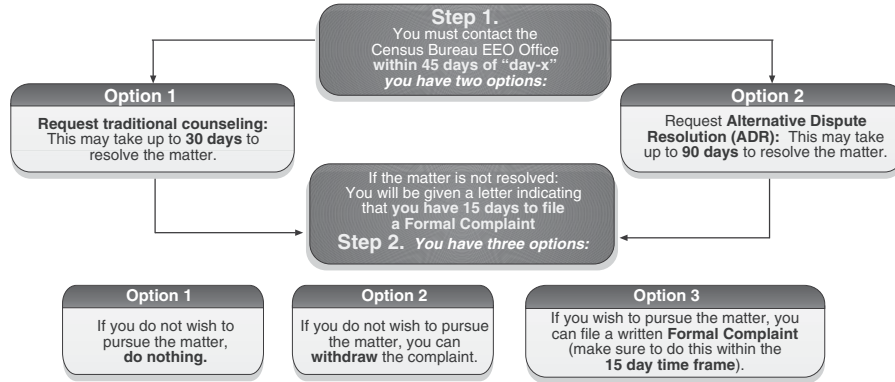
(Scorecard expectations continue on next page)

	<b>Item</b>	<b>Points</b>	<b>Expectation</b>
<b>5</b>	<b>Low Significant</b>		
5a	Navigate the system efficiently?	3	Proficiently navigate to appropriate screens to maintain call flow. Correctly selects the inbound vs. outbound call options.
5b	Speak at a pace and volume that can be understood?	2	Adjust pace and volume as appropriate.
5c	Avoid using slang, overly familiar terms, excessive verbal fillers, or first names?	2	Don't interrupt the interview process by repeatedly saying, "ok", "I see", "umm", "honey", "dear", "sweetie", etc., or say "thank you" after every question. Avoid using respondent's first name unless that was requested by the respondent or no other name was appropriate (difficult to pronounce last name, etc.)
5d	Remain on topic/Guide the respondent back to the interview?	2	Avoid personal conversations or oversharing that extend the duration of the call.
5e	Avoid misstatements?	3	Avoid making untrue or misleading statements or guidance that impact the integrity of the answer. Interviewer does not provide misstatements on any specific survey question.
<b>6</b>	<b>Positive Feedback</b>		
6a	Exceeding quality expectations?	N/A	Exceeding any expectations for any element(s). Used to recognize an interviewer's ability to perform any of the above elements exceptionally well, regardless of their overall score. Scorecard does not need to be scored as a 100 in order to use the Positive Feedback item. (i.e. even if an interviewer did poorly on certain elements, Positive Feedback can be used to recognize something they did really well, such as converting a refusal or a very professional and friendly manner/tone.) Please provide a write-up of what element(s) the interviewer is receiving the positive feedback for.

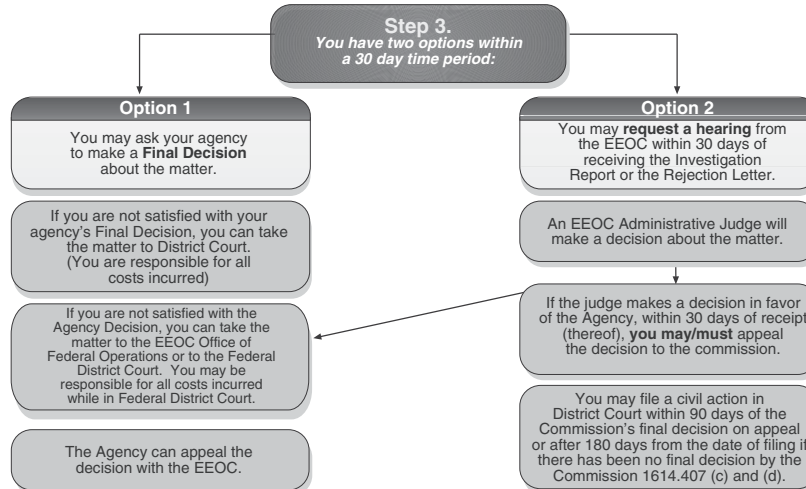
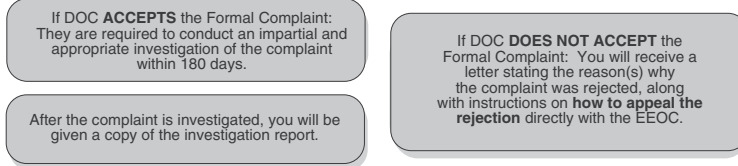
# The EEO COMPLAINT Process

An incident happens on "day-x"

If you believe this incident was a result of a decision based on your race, color, religion, gender, national origin, age (40 and over), disability, retaliation, or sexual orientation



The Department of Commerce, Office of Civil Rights (DOC) will **ACCEPT** or **REJECT** the Formal Complaint



	Addresses :	Websites :
For more information about the EEO Complaints Process, go to the Equal Employment Opportunity Commission (EEOC) Web site at: <a href="http://www.eeoc.gov">http://www.eeoc.gov</a>	<b>In Maryland:</b> Equal Employment Office 4600 Silver Hill Road, Rm. 3K106 Washington, DC 20233 301-763-2853 800-672-6096	<b>National Processing Center</b> U.S. Census Bureau Telephone Center 1201 East 10th Street Jeffersonville, IN 47132 812-218-3472
		<a href="http://cww2.census.gov/eeo/home">cww2.census.gov/eeo/home</a> <a href="http://www.osec.doc.gov/ocr/">www.osec.doc.gov/ocr/</a>

<sup>1</sup>See "Sexual Orientation Discrimination Complaint Process" ([www.osec.doc.gov/ocr/sod.html](http://www.osec.doc.gov/ocr/sod.html))

The Merit Systems Protection Board in its landmark decision, *Douglas vs. Veterans Administration*, 5 M.S.P.R. 280 (1981), established criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct.

### The Douglas Factors

The following relevant factors must be considered in determining the severity of the discipline:

- (1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
- (2) the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
- (3) the employee's past disciplinary record;
- (4) the employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- (5) the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties;
- (6) consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- (7) consistency of the penalty with any applicable agency table of penalties;
- (8) the notoriety of the offense or its impact upon the reputation of the agency;
- (9) the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- (10) the potential for the employee's rehabilitation;
- (11) mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
- (12) the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

**THIS IS NOT AN ALL INCLUSIVE LIST!!!!!!**



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