

# COLLECTIVE BARGAINING AGREEMENT



*Tennessee*  
NATIONAL GUARD

BETWEEN



Army Ground Chapter of the Association of  
Civilian Technicians (#103)

AND

Tennessee Army National Guard

Approved by the Department of Defense on February 5, 2019

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IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT THIS

11TH DAY OF JANUARY 2019:

FOR THE EMPLOYER

FOR THE LABOR ORGANIZATION

**PREAMBLE AND LABOR ORGANIZATION DESIGNATION**

Pursuant to the policy set forth by the Civil Service Reform Act of 1978 regarding Federal Labor Management Relations, the following articles of this basic agreement, together with any and all supplemental agreements and/ or amendments which may be agreed to at later dates, constitute a total agreement by and between Tennessee Army National Guard, hereinafter referred to as the Agency, and the Association of Civilian Technicians, Volunteer Chapter #103, hereinafter referred to as the Labor Organization (LO) for the employees in the Bargaining Unit (BU) described below, hereinafter referred to as employees. This agreement constitutes the entire agreement between the parties hereunder and may only be modified or amended by a written instrument executed by both parties. The parties agree to be bound by the terms and conditions. The Agency recognizes the LO is the exclusive representative of all employees in the BU described below. The BU to which this agreement is applicable is composed of All Wage Grade and General Schedule employees of the Tennessee Army National Guard, excluding All professional employees, supervisors, management officials, employees of the Army National Guard Flight Facilities, and employees described in 5 USC 7112(b) (2), (3), (4), (6) and (7).

WHEREAS the Congress finds that --

1. Experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively and participate through LOs of their own choosing in decisions which affect them;

- a. Safeguards the public interest
- b. Contributes to the effective conduct of public business
- c. Facilitates and encourages the amicable settlements of disputes between employees and their agency involving conditions of employment.

2. 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. It is the purpose of this agreement to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures designed to meet the special requirements and needs of the government.

**ARTICLE 1**

**DEFINITIONS**

The following definition of terms used in this agreement shall apply:

**Section 1-1 Collective Bargaining:**

Means the performance of mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.

**Section 1-2 Impasse:**

Means the inability of representatives of the Agency and the LO to arrive at a mutually agreeable decision concerning negotiable matters through the negotiation process.

**Section 1-3 Negotiability Dispute:**

Means a disagreement between the Parties as to the negotiability of an item or subject proposed to be negotiated by either Party.

**Section 1-4 Amendments:**

Means modification(s) of the basic agreement to add, delete, or change portions, sections, or articles of the agreement.

**Section 1-5 Supplements:**

Means additional articles, negotiated during the term of the basic agreement, to cover matters not adequately addressed by the basic agreement.

**Section 1-6 Labor Organization Official and/or Labor Organization**

**Representative:**

Any accredited National Representative of the LO, National Officers or staff of the National Office, Stewards and the duly elected or appointed officials of the LO.

**Section 1-7 Authority:**

The Federal Labor Relations Authority (FLRA) established by 5 USC Chapter 71.

**Section 1-8 Grievance:**

Means any complaint:

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

**Section 1-9 Military Technician and National Guard Employees:**

Dual-Status Military Title 32 non-supervisory Wage Grade (WG), General Schedule (GS) Technicians and Title 5 employees of the Tennessee Army National Guard, excluding technicians of the Army National Guard Flight Facilities, temporary or indefinite employees, and technicians described in 5 USC 7112(b)(1), (2), (3), (4), (5), (6) and (7), herein will be referred to as employees, unless otherwise defined.

## ARTICLE 2

### MANAGEMENT RIGHTS AND RESPONSIBILITIES

Nothing contained in this agreement shall affect the authority of any management official of the Agency.

1. To determine the mission, budget, organization, number of employees, and internal security practices of the Agency; and

2. In accordance with applicable laws:

a. To hire, assign, direct, layoff, and retain employees, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

b. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Agency's operations shall be conducted;

c. With respect to filling positions, to make selections for appointments from:

i. Among properly ranked and certified candidates for promotion; or

ii. Any other appropriate source;

(1) To take whatever actions may be necessary to carry out the Agency's mission during emergencies;

(2) To determine the numbers, types, and grades of employees or positions as assigned to any organizational subdivision, work project, or tour of duty, or to determine the technology, methods, and means of performing work.

**ARTICLE 3**

**EMPLOYEE RIGHTS AND RESPONSIBILITIES**

**Section 3-1 Employees Right to Representation (Investigations):**

Employees have the right to have a LO representative present at any examination by 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.

**Section 3-2 Representation:**

1. Employees will be informed of their right to representation in accordance with 5 USC, Chapter 71, Section 7114 (a) (3).
2. Any discussions pursuant to Section 3, with employees by representatives of the Agency, will be conducted in a private room.

**Section 3-3 Labor Organization:**

Each employee shall have the right to form, join, or assist any LO, or to refrain from any 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 law, such right includes the right:

1. To act for the LO in the capacity of a representative,
2. To engage in collective bargaining with respect to conditions of employment through representatives chosen by the LO,
3. To being represented by an attorney or other representative, of the employee's own choosing in any grievance or appeal action; or exercising grievance or appellate rights established by law, rule, or regulation; except in the case of grievance or appeal procedures negotiated within this agreement,
4. The Agency recognizes the right of employees to organize and express their views collectively or to refrain from such activity.

**Section 3-4 Wearing of the Military Uniform:**

In accordance with 32 USC 709 (b) (4) employees will, "while performing duties as a Military Technician(dual status), wear the uniform appropriate for the member's grade and component of the armed forces."

**Section 3-5 Military Customs and Courtesies:**

IAW with All current TAG policies and Chapter 4, HRO(TN) 690-1, Dual-status military technicians are expected to display professional courtesy and when in uniform must display respect for the customs and courtesies of the service.

**Section 3-6 Accountability:**

1. Subject to applicable law, rule and regulation, employees shall have this right to direct and/or fully pursue their private lives, personal welfare and personal beliefs, without interference, coercion or discrimination by the Agency so long as such activities does not conflict with their job responsibilities.

2. When a "cause" involves off-duty misconduct, management must establish an adequate relationship between the grounds for the adverse action and the efficiency of the service (i.e., the employee's ability to perform his/her duties; the Agency's ability to fulfill its mission).

**ARTICLE 4**

**LABOR ORGANIZATION RIGHTS AND RESPONSIBILITIES**

**Section 4-1 Exclusive Recognition:** As long as this LO holds exclusive recognition, it is the exclusive representative of employee's collective bargaining in the unit and is entitled to act for and to negotiate agreements covering all employees in the BU. It is responsible for representing the interests of all employees in the BU without discrimination and without regard to LO membership. The LO shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of one or more employees in the BU.

**Section 4-2 Representation:** The LO shall be given the opportunity to be represented at:

1. Any formal discussion between one or more representatives of the Agency and one or more employees or their representatives concerning any grievance or any personnel policies or practices or other general condition of employment.

a. The LO will be given reasonable notification of a formal meeting. Normally, such notices will be no fewer than 24 hours prior to the scheduled meeting. This does not preclude a shorter notice if both parties are available and agree.

b. At those meetings where the LO is represented, the attendance of the representative will be acknowledged by the Agency at the beginning of the meeting. The Agency will permit the LO representative to participate as appropriate in regards to the issue and agenda of the meeting.

2. The LO, in consonance with its right to represent, has a right to propose new policy or changes to former policy, or resolutions to problems. It is agreed that representation shall occur at the lowest level at which a

matter can be resolved, and that the initial point of contact shall be the lowest level Management Official and LO Official having responsibility and authority to act. If the Parties at the initial contact feel resolution of a matter is outside their jurisdiction; the matter shall be referred immediately to the next higher level.

3. The Agency will recognize the duly elected local officers and officials/representatives including, but not limited to, Stewards, in accordance with this agreement.

4. The Agency will recognize representatives of the Association of Civilian Technicians (ACT) National Organization. Advance notice will be furnished to Human Resource Office (HRO) prior to visiting BU installations.

**Section 4-3 Changing Conditions of Employment:** The Agency will notify the LO in advance of implementing changes of conditions of employment. Before implementing any such changes, the Agency will afford the LO an opportunity to negotiate to the extent required by and in accordance with applicable law, and this agreement.

**Section 4-4 Labor Organization/Agency Meeting Procedure:**

1. Joint LO/Agency meetings shall be held upon request by either party. Specific item(s) for discussion should normally be provided in advance of the meeting by either party, although items not submitted may be discussed. Summary minutes, reflecting items discussed and resolutions or actions, shall be furnished to the LO by the Agency.

2. Joint meetings will be conducted during regular duty hours, with LO Officials authorized official time without loss of leave or pay.

3. Labor may request a meeting with The Adjutant General and/or his/her designee(s) and the President of the LO and/or his/her designee(s), upon mutual scheduling availability.

**Section 4-5 Stewardship:**

1. The LO may designate from among its membership Stewards in the various organizations having employees in the BU as follows:

One Steward for each FMS

One additional Steward for FMS 2

Three Stewards for CSMS Middle

Two Stewards for Houston Barracks

One Steward for CSMS West

One Steward for UTES 1

One Steward for UTES 2

Additional Stewards may be temporarily assigned based on representational requirements.

2. The LO shall notify the Agency, in writing, of the appointment of Stewards. The Steward or local official may receive, investigate, prepare and present employee complaints, grievances or appeals during duty hours when this activity is in accordance with the procedures of this Article and the Grievance Article. In the event of the replacement of a Steward, consideration of reasonable time will include time spent by his/her predecessor on the same matter. The Steward or local official will request from his/her supervisor that he/she may leave the work area, indicating he/she has a representation matter to resolve. The Steward or local official will also notify the immediate supervisor of the employee(s) to be contacted. Supervisors shall grant such requests unless such absence would cause an undue interruption to work, or jeopardize the operation of the employee's or Steward's section. During such granted absence, Stewards, local officials and employee(s) will confine their activities to the conduct of that business for which approval of temporary absence was requested, and will return directly to their workstations upon completion of business at hand. Stewards, local

officials and employee(s) will personally notify immediate supervisors upon their return to duty.

**ARTICLE 4A**

**OFFICIAL TIME**

**Section 4A-1 General:**

1. As defined in Presidential Executive Order 13837, the term "taxpayer-funded union time" is analogous to the concept of "official time for representation" in common use throughout DoD and defined 5 U.S.C. §7131(d). In other words, taxpayer-funded union time is the amount of time that management and a union will agree upon to be used to represent employees in a variety of workplace issues that are not directly related to collective bargaining or proceedings before the Federal Labor Relations Authority (FLRA).

2. Official time will be made available without loss of annual leave during normal duty hours for the LO representatives to carry on business that is of mutual interest of the Agency and the LO.

3. Official time will be made available without loss of annual leave during normal duty hours for the Labor Organization representatives to carry out business that is of mutual interest of employing agency and the Labor Organization.

4. **Section 4A-2 Authorized Uses of Official Time:** Unless otherwise restricted through statute, executive order or this agreement, the agency agrees to authorize any amount of taxpayer funded union time (Official Time) under 5 U.S.C. § 7131(d), that is found to be reasonable, necessary and in the public interest, including:

1. Upon request, Official Time may be used for representational duties related to bargaining unit employees facing disciplinary actions.

2. Upon request, Official Time may be used to conduct local wage surveys.

3. Upon request, Official Time may be used for Labor management meetings held with an agenda related to conditions of employment of the BU.

4. Local Stewards may be granted official time to acquaint new employees to the Labor Organization at the work site.

5. The Labor Organization may be authorized official time to train officers and Shop Stewards.

6. The President of the local, or designee may be granted fifteen (15) minutes at each new employee orientation, for the purpose of acquainting new BU employees to the LO.

7. Official time may be granted to Steward(s) conferring with employees and/or supervisors on grievances.

8. Preparatory and presentation time for pre-negotiation, negotiation, investigation, appeal(s), grievances, complaints or scheduled meeting(s).

9. Travel time to and from pre-arranged meetings with the Adjutant General or designee. Travel will be in accordance with applicable JTR.

10. For visiting, writing, and telephoning elected officials in support of desired legislation which would impact the working conditions of the technicians represented by the ACT.

11. The LO is authorized official time to train officers and Shop Stewards. It is understood that this training will be of mutual concern to management and the technicians as a representative of the LO. Approval will be granted except when there are work-related reasons required for mandatory coverage and/or mission of the functional area, which precludes such release. Ordinary workload will not preclude the release of technicians under this section. The LO will request this leave by letter, including an agenda of training from the LO Field Representative, for approval by the HRO-LRS. HRO-LRS will forward official time approval to the LO and the employee must furnish a copy to their immediate supervisor.

12. Official Time, as permitted above, is to be used by Union representatives for representational purposes and may be used for:

- a. Review and preparation of correspondence with management which is related to the administration of this Agreement;
- b. Investigation and processing of grievances; Note/Justification: See Executive Order concerning labor organization representation and preparation of grievances.
- c. Investigation and processing of grievances;
- d. Attendance at formal discussions and at investigatory meetings;
- e. Meetings with Agency officials to discuss conditions of employment;
- f. Service on any committees in an official Union capacity; and,
- g. Other meetings which the Agency and the Union agree are mutually beneficial.

**Section 4A-3 Official time Requests:**

1. Requests for Official Time may be requested by the employee through the HRO Labor Relations Specialist or his or her designee, who will forward recommendations for all requests to the employee's immediate supervisor for approval, on the basis of the merit of each request. The approving official will notify any necessary Agency personnel of the LO officials approval of official time.

2. Upon notification of such requests from the HRO-LRS or his or her designee, supervisors will approve requests for Official Time, unless there are work-related reasons required for mandatory coverage and/or mission of the functional area, which precludes such release. Ordinary workload will not preclude the release of employees under this section.

3. The Agency will make timely decisions regarding requests for Official Time if the request is timely submitted by the union or leave for Union training in advance of the date or dates of the training, reserving the right to change that decision if there are compelling and overriding work exigencies.

4. Approved use of Official Time shall be recorded on the Union Representative's time sheet or in the automated Time and Attendance database (ATAAPS).

5. In order to be approved, Official Time for training on the administration of this contract, and other mutually beneficial purposes, must be requested at least 10 days prior to the proposed training and is subject to the employee supervisor's approval of the agenda and stated purpose. Examples of training that may be of mutual benefit are contract negotiation and administration, information relating to relevant Federal personnel/labor relations laws, regulations and procedures. New representatives may receive up to 40 hours of training within their first year. After the first year, a representative may be approved up to 24 hours for such training.

**Section 4A-4 Leave without Pay (LWOP)**: Presidential Executive Order 13837 permits the authorized use of unpaid leave (LWOP) for union officials in connection with their representational work in accordance with chapter 71 of title 5, United States Code. The provision to authorize LWOP also extends to pursuing grievances in accordance with §7121(b)(1)(C).

**Section 4A-5 Absence without Leave (AWOL)**: Presidential Executive Order 13837, Section 5 provides that any employee's use of taxpayer-funded union time (Official Time) for purposes not authorized by management or contrary to the E.O. is considered absence without leave (AWOL) and subject to appropriate disciplinary action. Moreover, the E.O. provides that repeated instances of this type is serious misconduct and may be grounds to take appropriate disciplinary action against an employee. Such action may be up to and including removal from Federal service.

**Section 4A-6 Responsibilities**: The Agency agrees to conduct an official duty time joint Management-LO training session regarding the administration of this agreement. Such training must be primarily concerned with orienting and briefing LO and management Officials on the administration of this agreement.

Training will be conducted once mutually approved program of instructions (POI) has been developed.

**Section 4A-7 Wear of Civilian Attire:** LO Representatives are not required to wear the military uniform while performing representational functions or other LO activity related functions. These functions include:

1. While engaged in negotiations of any kind with agency representatives
2. Labor/Management meetings with agency representatives
3. Labor/Management seminars
4. BU members will not be required to wear the military uniform while appearing as a grievant or as a witness at third party proceedings
5. During new employee orientation sponsored by the HRO
6. When representing the LO on committees, at hearings, or at third party proceedings.

**Section 4A-8 Travel for Official Time:**

1. Travel on Official Time may be allowed for the:
  - a. Chapter President or designee to attend arbitration hearings, mutually agreed upon meetings with the Agency and approved training for Union Representatives;
  - b. Representatives for mutually agreed upon meetings with the Agency and approved training for Union Representatives, but only incidental same day travel.
  - c. No local travel is reimbursable under this agreement.
  - d. Union Representatives, who are to be absent on Union business which does not qualify for Official Time usage, may request leave without pay (LWOP). Such a request will be subject to the Agency's approval. Normally, LWOP will not be granted when the representative has an annual leave balance.

## ARTICLE 5

### OVERTIME/COMPENSATORY TIME

**Section 5-1 General:** In accordance with all applicable laws and regulations, Dual Status Military Technicians under either the General Schedule or the Wage Schedule are not entitled to pay for overtime work. If technicians are required to work more than eighty (80) hours in a pay period, they will be granted compensatory time off from their scheduled tour of duty equal to the amount of overtime worked. Certain Title 5 positions (depending on their position description) may be entitled to overtime pay.

**Section 5-2 Distribution of Compensatory Time:** Distribution of overtime will be made among employees of a particular skill in a fair and equitable manner. In no case will overtime be assigned to an employee as a reward or punishment.

**Section 5-3 Performance of Compensatory Time:** Management officials will determine the number of hours of compensatory time an employee may be required to work during an administrative work week.

**Section 5-4 Regular Compensatory Time:** Regular or scheduled overtime is overtime that will be scheduled at least twenty four (24) hours in advance, and notice is given to the employee at least twenty four (24) hours in advance. In unusual circumstances less advance notice may be required. Compensatory time off, on an hour for hour basis, will be given for regularly scheduled or unscheduled overtime worked.

**Section 5-5 Callback Compensatory Time:** Callback compensatory time is overtime made necessary by sudden and unforeseen workloads. Compensatory time off will be given on an hour for hour basis, for all callback overtime in excess of two (2) hours. Any callback overtime of less than two (2) hours duration, performed by an employee on a day when work was not scheduled for him/her or for which he/she is required to return to his/her place of employment, will be counted as at least two (2) hours duration.

**Section 5-6 Holiday Pay:** Holiday pay will be paid when an employee is scheduled to work on a federal holiday as authorized by law, rule and/or regulation.

**Section 5-7 Use of Compensatory Time:** Compensatory time must be taken within twenty six (26) pay periods from the date in which it was earned. Compensatory time will be administered between the supervisor and the employee in the same manner as annual leave.

**Section 5-8 Premium Pay:** Premium pay will be earned by employees who are regularly scheduled to work on Sundays and Holidays IAW applicable laws and regulations.

**ARTICLE 6**

**ANNUAL LEAVE**

**Section 6-1 Earning and Requesting Leave:**

1. Employees will earn annual leave in accordance with applicable laws and regulations.

2. Employees will be allowed to schedule/use annual leave in the amount that will normally accrue during the current leave year. The Agency will make reasonable effort to honor the leave request of employees. The only basis for refusal of requested annual leave is mission related. Requests for annual leave shall be submitted to the supervisor for approval. Supervisors will attempt to accommodate the desires of the employee consistent with agency requirements.

a. Consistent with the needs of the agency, annual leave requested in advance will be approved. Requests and approval or disapproval will be documented through the Automated Time Attendance and Production System (ATAAPS) (or on an OPM-71). When unscheduled annual leave is necessary, employees will notify their supervisor as soon as possible. But no later than the beginning of the employee's normal tour of duty. If the supervisor/designee is unavailable, the employee will notify the second level supervisor or leave a telephone number where the employee can be reached. In situations where the employee finds it impossible to contact the supervisor, a two (2) hour grace period is in effect whereby no disciplinary action may be considered unless circumstances warrant. Notification that does not meet the two (2) hour criteria will be dealt with on a case by case basis. The supervisor may request documentation to substantiate an emergency.

b. Where the Agency's workload does not permit approval of annual leave, the Agency will make a reasonable effort to schedule the leave at another time desired by the employee.

c. If employees cannot resolve leave scheduling conflicts among themselves, the conflict will be decided by granting leave to the employee having requested leave in ATAAPS (or on an OPM-71) on the earliest date. When annual leave is requested simultaneously, the employee with the earliest service computation date used for leave will be given priority consideration. This consideration shall not be construed to allow the most senior employee to have the same period more than two (2) years in succession. The Agency will also consider the qualifications of employees to accomplish the workload when making this determination.

d. Special consideration will be made by the Agency for requests for:

- i. religious holidays
- ii. dependent care
- iii. personal emergencies outside the employee's control.

**Section 6-2 Extended Annual Leave:** Requests for annual leave for at least two (2) consecutive weeks will be granted IAW Section 6-1 b(1) of this article provided it will not cause a workload problem and the employee has or will accrue sufficient leave.

**Section 6-3 Employee Responsibilities for Leave Balance:**

1. It is the employee's responsibility to request sufficient annual leave to avoid forfeiture at the end of the leave year.

2. To monitor individual leave balance to ensure adequate availability of annual leave for scheduling purposes.

**ARTICLE 7**

**SICK LEAVE**

**Section 7-1 Earning Leave:** Employees will earn sick leave in accordance with applicable laws and regulations. Sick leave is an employee benefit to be used by the employee in accordance with the specific procedures of this article for absences required by illness, injury, or medical appointments under applicable laws and/or regulations.

**Section 7-2 Requesting Leave:**

1. When an employee knows in advance that sick leave will be required for a reason set forth in the above, the employee will request sick leave at the time the necessity for the leave is determined.

2. When the need for sick leave is unanticipated, and sickness or injury prevents the employee from reporting to work, the employee will notify the supervisor as soon as possible but no later than the beginning of normal duty hours/tour of duty. If the supervisor or their designee is unavailable, the employee will leave a telephone number where they can be reached. If the degree of the employee's illness or injury prohibits compliance with the notification requirements provided above; the employee shall provide such notification as soon as possible.

3. The notification provided for above shall include the reasons for the absence and the expected duration of the absence. When it appears that an absence will extend beyond the original date of anticipated return to duty, the employee shall promptly notify the Agency in writing of the new anticipated date of return. The Agency may require periodic telephone calls updating the condition of the employee.

**Section 7-3 Medical Documentation:**

1. IAW 5 CFR 630.405, "The Agency may grant sick leave only when supported by administratively acceptable evidence. For absences in excess of three (3) days, or for a lesser period when determined necessary by the

Agency, the Agency may require a medical certificate or other administratively acceptable evidence. The Agency may consider an employee's self-certification as to the reason for his or her absence as administratively acceptable evidence, regardless of the duration of the absence. Employees should consult their Agency-specific human resources guidance and review applicable policies set forth in collective bargaining agreements for information specific to their Agency."

a. When the Agency has reasonable grounds to suspect the employee of sick leave abuse, or if the employee is on sick leave restriction, a medical certificate may be required for any absence due to illness.

b. IAW 5 CFR 630.405, "An employee must provide administratively acceptable evidence or medical certification within fifteen (15) days of the Agency's request. If the employee is unable to provide evidence, despite the employee's diligent, good faith efforts, he or she must provide it within a reasonable period of time, but no later than thirty (30) calendar days after the Agency makes the request. If the employee fails to provide the required evidence within the specified time period, he or she is not entitled to sick leave."

c. "Medical certificate" means a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, including the nature of the condition, examination or treatment, and to the period of disability while receiving professional treatment.

2. If it appears that an employee is abusing sick leave, the employee may be notified in writing that, for a stated period not to exceed twelve (12) months, all future requests for sick leave must be supported by a medical certificate or other administratively acceptable evidence certifying the incapacitation from duty and the duration of the incapacitation prior to sick leave being approved. Employees already on restriction and not evidencing

substantial improvement may be subject to leave restriction beyond twelve (12) months or other action.

**Section 7-4 Changing Leave:** An approved absence which would otherwise be chargeable to sick leave may be charged to annual leave, or leave without pay when requested by the employee and approved by the Agency. However, substitution of annual leave, or leave without pay for earned sick leave previously granted and charged is not permitted.

**ARTICLE 8**

**ADVANCED SICK LEAVE**

**Section 8-1 Sick Leave:**

1. When an employee's sick leave balance has been exhausted, the Agency may approve requests for advanced sick leave when the following requirements are met:

- a. Leave is properly applied for in accordance with Article 7.
- b. The application is supported by a medical certificate as defined in Article 7.
- c. Repayment can reasonably be expected through leave accruals.

2. As a maximum, a permanent employee may be advanced up to 240 hours of sick leave.

**Section 8-2 Approval/Denial of Leave:** Requests for advanced sick leave must be recommended for approval by the first line supervisor and approved by the HRO.

**ARTICLE 9**

**ADMINISTRATIVE LEAVE**

**Section 9-1 Approving Authority:** Administrative leave is an excused absence from duty administratively authorized without loss of pay and without charge to other types of leave.

**Section 9-2 Weather/Emergency Situations:** For inclement weather or other emergency situations:

1. When the Agency determines that it is necessary to close the duty station due to hazardous weather or emergency conditions, during which it is not feasible to temporarily relocate employees, employees on duty will be released on administrative leave. However, it may be necessary to require certain employees to remain on duty to maintain critical functions.

2. If hazardous or inclement weather or other emergency situation warrants early dismissal, employees will be charged leave for the remainder of the workday if they wish to leave before the actual early dismissal time. Those on approved leave for the entire day will be charged leave for the entire day.

3. When the Agency closes a duty station under Section 2(a) above, the Agency will make a reasonable effort to inform employees through the public media or other internal notification procedures.

4. If severe weather conditions or an emergency condition exists which prevents employees from getting to work and the duty station is not closed, the Agency will adopt a liberal leave policy including advanced annual leave or leave without pay.

**ARTICLE 10**

**FAMILY LEAVE**

**Section 10-1 Family and Medical Leave Act (FMLA):**

1. Leave Entitlement:

a. Eligible employee is an employee that has worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles. Upon request, an eligible employee is entitled to a total of twelve (12) work weeks or sixty (60) workdays leave without pay during any 12 month period for the birth of a child, care of a newborn within one (1) year after birth, adoption, or foster care of a child within one (1) year after placement, or care of a spouse, son, daughter, parent, or legal ward who has a serious health condition.

b. Consistent with applicable laws, regulations, and this agreement, an employee may elect to substitute paid time off, including annual leave, sick leave, compensatory time, or credit hours for any or all leave without pay to which the employee is entitled under the Family and Medical Leave Act.

c. In addition to the leave without pay entitlement, an eligible employee may request other types of leave for which the employee meets legal and regulatory requirements. Such leave might include additional leave without pay, annual leave, sick leave, advanced annual or sick leave, earned compensatory time or credit hours, and leave made available under the Voluntary Leave Transfer Program.

2. Requests and Approvals:

a. When the need for leave is foreseeable, an employee shall request leave under the provisions of this article at least thirty (30) days in advance to allow the supervisor time to prepare for any staffing adjustments necessary to compensate for the employee's anticipated absence. However, the

parties recognize that due to the unpredictable nature of these situations, adjustments in the requested leave may be necessary.

b. No arbitrary date requiring a pregnant employee to cease work or to prevent her from returning to work after childbirth will be established. Decisions in such cases will be made by the Agency, in accordance with applicable policies and regulations, IAW FMLA after considering the employee's request and any required medical certification.

c. Requests for time off beyond twelve (12) weeks will be considered on an individual basis, and may be approved in accordance with applicable policies, regulations, and this agreement. The Agency shall make a reasonable effort to approve such requests consistent with budgetary considerations, workload, and staffing requirements.

### 3. Medical Certification:

a. The Agency may require administratively acceptable medical certification, at the employee's expense, when an employee requests leave for medical reasons, including treatment and convalescence related to childbirth, and care for a spouse, son, daughter, parent, or legal ward with a serious health condition.

b. The Agency may also require administratively acceptable medical certification, at the employee's expense, when an employee requests special consideration such as reassignment or other reasonable accommodation and there is a question as to the medical need for such accommodation.

c. The Agency may require, at the Agency's expense and by a health care provider designated or approved by the Agency, a second medical opinion to the validity of the certification provided by the employee. If the second opinion differs from the original certification, the Agency may require, at the Agency's expense, certification from a third health care provider selected jointly by the Agency and employee.

### 4. Protection of Employment and Benefits Upon Return to Duty:

a. An eligible employee who takes family leave shall be entitled to return to the same or equivalent position, with equivalent benefits, pay, status, and other terms and conditions of employment, unless termination of employment is otherwise required by reduction in force (RIF), for cause, or for similar reasons unrelated to the use of family leave.

b. An employee who has given birth and does not plan to return to work shall submit her resignation at the expiration of her period of incapacitation.

**ARTICLE 11**

**OTHER LEAVE PROVISIONS**

**Section 11-1 Military Leave:**

1. Any full time permanent employee who is a member of the National Guard or other reserve unit of the Armed Forces shall be entitled to accrue 120 hours of regular military leave in a fiscal year for active duty or active duty for training. Part time employees accrue leave IAW 5 USC 6323(a) (2).

2. Approval of the military leave provided in the foregoing shall be based on the copy of the orders directing the employee to active duty and a copy of the certification of completion of such duty.

**Section 11-2 Court Leave:**

1. IAW with applicable laws or regulations the employee is entitled to court leave to the extent necessary to serve on a jury or to participate in judicial proceedings in a nonofficial capacity as a witness on behalf of a local, state or federal government. Court leave will be granted from the report date stated in the summons through the date discharged from court. Court leave will not be granted when the employee is excused from jury duty for a day or a substantial part of a day. In such cases, the employee must request annual leave, credit hours, or leave without pay if the employee fails to return to duty or AWOL may be charged.

2. The employee must notify the Agency at least two (2) weeks in advance or upon receipt of the summons from the court. Court leave must be requested through ATAAPS (or on an OPM 71) with a copy of the jury duty or court summons submitted with the request. Upon return to duty, the employee must present to the Agency a duty certificate signed by an officer of the court, if the court leave was granted for jury duty.

**Section 11-3 Holiday Leave:** The Agency will authorize designated federal holidays for the purposes of pay and leave in accordance with applicable statute or Executive Order.

**Section 11-4 Blood Donation:** Employees are encouraged to serve as blood donors and will be excused from work without charge to leave for the time necessary to donate blood, for recuperation following blood donation, and for necessary travel time to and from the donation site. The maximum excused time will not exceed 4 hours on date of blood donation. When the employee must travel a long distance, or when unusual need for recuperation occurs, up to an additional 4 hours may be requested from HRO.

**Section 11-5 Examinations:** Examinations are required as a condition of employment in the National Guard. Technicians will be excused, without charge to leave or loss of pay, for periodic, baseline, or annual physical examinations as required by the military commander, HRO or safety. Administrative leave is also authorized for periodic health assessments, as required for military membership taken during regularly scheduled tour of duty hours. However, Dual Status Employees must provide their immediate supervisor a memorandum of record from their M-Day commander stating why the PHA could not be accomplished on the normal IDT/AT. This will also apply for annual Dental examinations required for military duty. Any procedure, medical, mental or dental, will require the usage of an earned source of leave.

**Section 11-6 Voting:** Employees may be excused by the Agency for a reasonable time, when practical to do so, without seriously affecting operations to register or vote in any election or referendum without charge to leave. An employee may be excused from duty so as to permit him to arrive at work three (3) hours after the polls open or to permit him to leave work three (3) hours before the polls close, whichever results in the lesser amount of time off.

## ARTICLE 12

### DUES WITHHOLDING AGREEMENT

**Section 12-1 Withholding Form:** The SF 1187 for dues deduction will be supplied by the LO and will be used as the authorization of payroll deduction for dues.

**Section 12-2 Processing:** The completed SF 1187 will be sent to the Customer Service Representative (CSR) by the LO.

1. The SF 1187 will be completed and certified as to the current amount of withholding and that the member has been advised of the contents of the form. The individual's earliest date of dues revocation will be annotated on the form and initialed by the individual.

2. The SF 1187 may be submitted at any time. The effective date for withholding will start the first pay period beginning after the submission of the form to the CSR. Adjustments to dues allotments will occur within two (2) pay periods from the date the member's rate of base pay changes.

3. An allotment shall be terminated by submission of an SF 1188 when the employee leaves the BU as a result of any type of separation, transfer or other personnel action, upon loss of exclusive recognition by the LO, when the agreement providing for dues withholding is suspended or terminated by an appropriate authority outside DOD or when the employee has been suspended from the LO.

a. When an employee is temporarily promoted or detailed to a position outside the BU, management agrees to notify the individual of the employee's responsibility for submitting a new SF 1187 in order for the employee to have dues withholding reinstated upon return to the BU.

b. The LO agrees to provide the HRO with SF 1187s to be used for this purpose.

c. It is the individual's responsibility to maintain dues allotment, if the employee so desires, in order to protect LO associated insurance, or other LO benefits.

**Section 12-3 Dues List:** A list will be provided to the LO, of those persons from whom a payroll deduction was made. The listing will contain the names of the employees within the BU having current dues withholding allotments on file, the amount withheld from each member's pay, and a statement showing the total amount withheld. The remittance check and one (1) copy of the listing will be forwarded to the mailing address as designated in writing by the LO.

**Section 12-4 Dues Revocation:** The Agency agrees to provide the LO with copies of the SF 1188 for use in revoking dues allotments. These forms will also be available from the CSR at USPFO to those individuals wishing to revoke their dues withholding.

1. The individual will submit the completed SF 1188 to the CSR.

2. The CSR shall date and initial all copies of the SF 1188 upon receipt from individual. The CSR shall forward the second copy of the SF 1188 to the LO within three (3) working days after receipt of the signed form from the employee.

3. The request (SF 1188) for dues revocation may be submitted to the CSR on any date prior to August 15. Revocation will be effective the first full pay period in September.

4. New members shall have the option of dues revocation on the first annual anniversary date after the employee's election to participate. The dues revocation form must be submitted to the CSR not later than the last working day in the month preceding the employee's anniversary date. The effective date of revocation will be the first full pay period after the anniversary date. After the first anniversary date, revocation may only be made in accordance with section 4(c) above.

**Section 12-5 Annual Notification:**

It is agreed that, at least once a year, NLT 30 July, Article 12 will be published by the HRO.

## ARTICLE 13

### CONTRACTING OUT OF WORK

**Section 13-1 Policy:** It shall be the policy of the Agency to openly and fully discuss with the LO, any review of a function for contracting out or consideration of contracting out of a new or revised function. The Agency agrees to take all reasonable actions to minimize the impact on employees when a function is contracted out. Affected employees will be reassigned and/or retrained to the maximum extent possible. Maximum retention of career employees shall be achieved by considering attrition patterns and restricting new hires.

**Section 13-2 Impact and Implementation (I&I) Bargaining:** When the Agency determines that certain services/activities are to be accomplished by contracting out to outside agencies, the LO will be provided the opportunity to participate in I&I bargaining. When a BU position becomes vacant and to be filled by other than a BU position, the LO will be provided the opportunity to participate in I&I bargaining.

**Section 13-3 Exceptions:** This policy will not preclude management from conducting contracting out functions that do not result in elimination of positions or impact the condition of employment of on board bargaining unit members.

**ARTICLE 14**

**EQUAL EMPLOYMENT OPPORTUNITY**

Any employee who believes they have been discriminated against in any matter because of race, color, religion, sex, age, national origin or handicap may file an EEO complaint through the statutory procedures by contacting a designated EEO counselor for that specific area of the occurrence.

**ARTICLE 15**

**MERIT PROMOTION**

**Section 15-1 Purpose:** To provide upward mobility for employees by giving full consideration to the on-board employee workforce, and ensure that each employee receives full consideration for all vacancies for which they qualify. To this end, Management officials are charged with a special responsibility for seeing that violations do not occur either by error or design.

**Section 15-2 Objectives:**

1. This article will be used for filling vacancies that management elects to fill in the dual status and non-dual status services of the Tennessee Army National Guard and will be used for all promotions.
2. To present for management's consideration qualified applicants.
3. To give employees an opportunity to receive fair and appropriate consideration for higher level positions.
4. To ensure maximum utilization of employees.
5. To provide an incentive for employees to improve their performance and develop skills, knowledge, and abilities.
6. To provide for upward mobility positions identified in the Upward Mobility Program.

**Section 15-3 Definitions:**

1. Promotion: is the movement of an employee, while serving continuously within the same agency, to a position at a higher grade level within the same job classification system and pay schedule, or to a position with a higher rate of basic pay in a different job classification system and pay schedule.
2. Internal Placement: Changing of an employee from one position to another through the competitive process, but with limitations to those employees currently employed by the unit at the time of the advertisement of the position.

3. Rating Panel: The Agency's representatives that rate all BU applications in accordance with the criteria established by this article for the purpose of reducing the list of qualified BU applicants to ten (10).

4. Selecting Official: Individual who will make the recommendation.

**Section 15-4 Employee Responsibilities:** Individuals are responsible for familiarizing themselves with the provisions of this article and assuring that applications are accurate and complete in relation to the present duties being accomplished and the position being applied for.

**Section 15-5 Exception to Competitive Procedures:** The following are examples of actions that may be exempt from competition:

1. Promotion due to the issuance of a new classification standard or the correction of a classification error.

2. Placement of over-graded employees entitled to grade retention as a result of RIF, reclassification or a management directed reassignment to a position of an equal or lower grade.

3. Promotion when competition was held earlier (i.e. position is advertised with known promotion potential).

4. Re-promotion to the same grade or an intervening grade of a position from which an employee was demoted without personal cause and not at his/her own request, if the down-grading has occurred within two (2) years.

5. Trainees to the full grade of the position if the trainee has received the position through previous competition.

6. Position changes required by RIF.

7. Selection of a former tenure one (1) employee for a position at the same or lower grade than the one last held within three (3) years of separation.

8. Temporary promotion of 120 days or less.

9. Detail for less than 120 days to a lateral or lesser position.

**Section 15-6 Indefinite Positions:** An indefinite appointment will normally be announced and filled using the procedures within this article.

**Section 15-7 Vacancy Announcement:** As a minimum, the vacancy announcement will contain the following information:

1. Title, series, grade, and salary range of the position
2. Type of appointment - dual status or non-dual status
3. Military requirements - compatibility and grade if applicable
4. Summary of duties and general and specialized qualification requirements
5. Organization and geographical location of the position
6. Information regarding known promotional potential, if any
7. Opening and closing dates and how to apply
8. Equal employment opportunity statement
9. The Supplemental Information (Competencies) by which applicants will be rated for the position
10. Whether or not developmental
11. Areas of consideration
12. Selection Placement Factors: Any special job requirements, i.e., driver's license, security clearance
13. A notification of required documentation needed for selection

**Section 15-8 Vacancy Posting:** A BU vacancy announcement will be posted a minimum of fifteen (15) calendar days on the USA Jobs website, official bulletin boards, and a copy will be distributed electronically via the Tennessee All Personnel distribution list. A BU vacancy announcement may have a shorter open period, for unusual circumstances, after consultation with the LO.

**Section 15-9 Areas of Consideration:** Areas of Consideration for all bargaining unit vacancies (T32 military technicians/ T5 National Guard employees):

1. **Area 1:** All Permanent employees (T32 military technicians/ T5 National Guard employees) of the Tennessee National Guard, who meet qualification standards.

2. **Area 2:** All qualified members of the Tennessee National Guard.

3. **Area 3A:** All qualified applicants eligible for membership in the Tennessee National Guard (T32 military technician vacancies ONLY).

4. **Area 3B:** All qualified applicants, currently employed by the Federal government (T5 National Guard employee vacancies ONLY).

5. **Area 4:** All qualified applicants, previously employed by the Federal government, eligible for re-employment (T5 National Guard employee vacancies ONLY).

6. **Area 5:** All other qualified applicants Statewide (T5 National Guard employee vacancies ONLY).

**NOTE:** Although positions may be advertised to areas of consideration 1, 2 and 3(A/B) simultaneously, the intent of this section is that permanently employed technicians will receive first consideration for internal placement or merit promotions.

**Section 15-10 Application Procedures:** The application is the document by which an individual's qualifications for the position are determined. Complete and accurate data is essential to ensure fair evaluation of candidates. APPLICANTS MUST ADDRESS THE BASIC ELIGIBILITY FACTORS, WHICH INCLUDE GENERAL AND SPECIALIZED EXPERIENCE WITHIN THE RESUME. THE SUPPLEMENTAL INFORMATION (COMPETENCIES) AS STATED ON THE VACANCY ANNOUNCEMENT SHOULD ALSO BE INCLUDED WITHIN THE RESUME. Applications will be submitted as follows:

1. The applicant must apply using USA Jobs website or faxing to OPM as identified on the announcement. A resume is required to be submitted with the application in all circumstances and any required documentation specified on the job announcement.

2. Lateral requests are also submitted by using the USA Jobs website or through HRO by memorandum.

**Section 15-11 Time Limits:** The selection process will be concluded normally within one-hundred eighty (180) calendar days after the vacancy announcement closing date. The closing date may be extended as the need arises with notification of the delay to the LO.

**Section 15-12 Establishment of Supplemental Information (Competencies):** Supplemental Information (Competencies) required for the position to be filled will be prepared by the HRO prior to the advertisement of the position. The HRO may consult with the selecting official regarding the preparation and determination of the Competencies.

**Section 15-13 Processing Application:** HRO will consider only applications received IAW section 15-10 above. HRO will evaluate each application to determine applicant meets basic qualifications of the advertised position.

**Section 15-14 Referral of Candidates:** Applications and selection certificate will be forwarded to the selection official (SO) if there are ten (10) or less qualified BU applicants.

**Section 15-15 Selecting Official Actions:** SOs have the right to select or not select any of the candidates referred to them. The SO will:

1. Every effort will be made to conduct personal interviews. If not possible, telephone interviews should be conducted. When one of the referred employees is interviewed, every effort should be made to interview all those on the certificate.

2. After interviewing the candidates, make the selection or provide written definitive justification to the HRO for the non-selection of each

candidate on the selection certificate. For the purpose of this section, "definitive" means: a reason for non-selection which provides a non-selected area 1 applicant with information as to an area or areas where the applicant needs to improve.

3. Once justification has been accepted by the HRO, the next area of consideration will be published. This certificate will include all of the applicant names from the first one as well as the newly identified applicants.

4. The SO will then complete the action in paragraph a (above) for those candidates.

5. After interviewing, should the SO conclude that none of the remaining candidates are to be selected, he will complete the requirements of this paragraph prior to requesting, in writing, any certificate from any other source.

6. Sign and return the certificate to the HRO.

7. Ensure employees hired in a trainee status will be informed of the approximate duration of the training necessary to become fully qualified.

8. If for some administrative reason the selection process cannot be completed, the selection package will be returned to the HRO.

**Section 15-16 Rating Panel:** Rating panels are established for the purpose of rating / ranking candidates for the position to be filled when there are more than ten (10) qualified BU candidates.

1. The rating panel will consist of not fewer than two (2), but preferably three (3) members. Members should be of a grade equal to or higher than the position bid. Rating panel members will be appointed by HRO.

2. To avoid the appearance of a conflict of interest, the SO, or candidate will not serve as a member of a panel convened for the purpose of rating / ranking candidates for vacancies.

3. Rating panel results may be reviewed by the LO upon request.

**Section 15-17 Rating and Ranking Applicants:** If there are more than ten (10) qualified BU applicants, HRO will appoint a rating panel, IAW this agreement and the TPR 300-335, to determine the ten (10) best qualified candidates. HRO will provide the SO with the top ten (10) applicants.

1. Multiple job vacancies: number of applicants forwarded to SO will be ten (10) times vacancies announced. Example - Announcement is to fill two (2) positions; the number of applicants will be  $2 \times 10 = 20$  applications forwarded to the SO.

2. By mutual agreement the LO and HRO may elect to waive the requirement of a rating panel on a case-by-case basis.

3. All candidates' applications meeting basic eligibility for promotion or internal placement from within the areas of consideration will be presented for evaluation by the rating panel.

4. A point system will be utilized to establish the grouping of candidates. Items to receive ratings are as follows:

a. Supplemental Information (Competencies) ratings (all factors):

i. **"A" level experience:** Candidate possesses type and quality of experience that substantially exceeds the basic requirements of the position including selective placement factors, and that would allow the candidate to perform effectively in the position almost immediately or with a minimum of training and/or orientation.

ii. **"B" level experience:** Candidate possesses type and quality of experience that exceeds that basic requirement of the position including selective placement factors, and that would allow the candidate to perform effectively in the position within a reasonable period of time (i.e., three to six months).

iii. **"C" level experience:** Candidate satisfies the basic requirement of the position with respect to experience, including selective placement factors. However, type and quality of experience beyond that which

is basically required are minimal, and/or extensive additional training/ orientation may be required to enable the candidate to satisfactorily perform the duties of the position.

b. The HRO will analyze the applicants Performance Annual Appraisal (PAA) record and document on NGB Form 300-4. Ratings that are more than three (3) years old will not be considered. Points are assigned as follows:

**Performance Rating**

Outstanding	5 points
Excellent	4 points
Fully Acceptable	3 points
Marginal	2 points
Unacceptable	1 point

c. In the event of a tie when rating the candidates, civilian education specifically related to the job applied for will be given the following point value:

1 point - for Vocational Technical College/Associates Degree

2 points - for Bachelors Degree

3 points - for Masters Degree or greater

d. Following the rating and ranking of candidates, the HRO will refer the ten (10) best qualified candidates to the SO. Applications and supporting documents submitted by those candidates will also be forwarded to the SO.

**Section 15-18 Supervisor/HRO Responsibilities after Selection is approved:**

1. The supervisor will notify the individuals on the Selection Certificate of the selection.

2. HRO will notify candidates that were not placed on the referral certificate.

3. HRO/Supervisor will arrange a release date of selectee.

4. The HRO will notify the candidates as to the reason for the delay (i.e., lack of funding).

5. When the selecting official non-selects the entire selection certificate, the supervisor will ensure the justification is provided to HRO.

**Section 15-19 Release of Selectee:** After selection for promotion/placement, employees must be released promptly from their present position. Release will normally be within two (2) weeks after the selection.

**Section 15-20 Records Required:** Sufficient records are required to allow reconstruction of the placement action to provide for an evaluation of the merit promotion/placement plan, for a clear record of the actions taken, for proof that the filling of employee vacancies are being made on a fair and equitable basis in accordance with this article.

1. The following records are to be maintained in the HRO:

- a. Copy of the vacancy announcement.
- b. Copy of all applications and attached documents.
- c. Forms used in the rating and ranking process.
- d. Copy of Selection Certificate.

2. Records are to be maintained for a minimum of two (2) years. If a grievance is pending, records will be maintained until resolution.

**Section 15-21 Grievances:**

1. An employee who believes that proper procedures were not followed in a particular placement action, for which they were an applicant, may present a grievance under the grievance procedure agreed to in this contract. A grievance will not be considered when it is based solely on non-selection.

2. The Agency, upon request, will allow the LO access to the selection material utilized in assessing the qualifications of the eligible candidates in an alleged or formal grievance action. Confidentiality of selection material will be maintained by the LO.

**Section 15-22 Comprehensiveness:** This article is designed to provide for the selection of BU positions in the most common type promotion opportunities that will occur. There may be unusual cases presented. In this event, the LO and LRS will review these situations.

**Section 15-23 Inquiries:**

1. Should a non-selected employee wish to know the reason(s) for non-qualification, they may request an administrative review of their rating with an HRO representative. HRO will address areas where improvement can be made to enhance the individual's promotion potential. The intent herein is to provide the employee an awareness of potential weakness. This will not preclude an employee from filing a grievance under provisions of this contract.

2. The LO President may inquire about a BU members application for qualification or non-qualification at any time during the hiring procedures.

## ARTICLE 16

### REDUCTION IN FORCE

**Section 16-1 General:** The Adjutant General is responsible for implementing a RIF.

**Section 16-2 Appropriate Arrangements:** Procedures relating to RIF will be governed by Public Law 95 454, current TPR 351, and this article. The Agency in recognizing the responsibility of the LO to represent the BU, agrees to negotiate appropriate arrangements for the BU personnel adversely affected by implementation of this article.

**Section 16-3 Definitions:**

1. **Reduction in Force:** A RIF occurs when an employee is released from a competitive level by separation, change to lower grade, furlough for more than 30 days, or reassignment involving displacement of another employee, due to lack of work or funds, reorganization, reclassification due to change of duties, or the need to make a place for a person exercising reemployment or restoration rights, requires the Agency to release the employee.

2. **Competitive Areas:** The area within which employees compete for retention and receive placement offers. A competitive area may be defined in terms of organizations and/or geographical location. It may be restricted to the commuting area, one organization or expanded to cover the entire state. The area may include both the ARNG and ANG or be restricted to one service. The competitive area should be identified during advanced planning for RIF.

3. **Competitive Levels:**

a. A competitive level consists of all positions within a competitive area, which are in the same grade, same service (dual status (DS) or non-dual status (NDS)) and are so alike in qualification requirements, duties, and responsibilities that the incumbents can be moved from one position to another without undue interruption to the work program.

b. Supervisory positions will not be placed in the same competitive level as BU employees.

c. Non-Employees will not compete with BU employees for BUs positions.

4. **Tenure Groups:** Employees are divided into three (3) tenure groups:

a. Group I; Employees under permanent appointments that are not serving on probation or trial periods.

b. Group II; Employees serving on probation or trial periods.

c. Group III; Employees who have been given indefinite appointments in dual status.

5. **Retention Registers:** In accordance with Presidential Executive Order 13839, agencies should prioritize performance over length of service when determining which employees will be retained following a reduction in force.

a. A list of competing employees, within a competitive level in descending order.

b. Employees are listed in descending order, within their competitive levels, starting with the employee with the most points. They shall be classified on a retention register on the basis of their tenure of employment, Annual Appraisal score, and length of service in descending order as follows.

i. Tenure Group I, Group II, Group III

ii. Within each group, add the points obtained in 1 and 2 below for a RIF score:

(a) The average score of the last three (3) official Annual Appraisal: Unsatisfactory equals zero points, Fully Satisfactory equals four (4) points, Excellent equals six (6) points and Outstanding equals eight (8) points.

(b) One (1) point for each year of the Service Computation Date (SCD).

iii. RIF actions would be performed on the lowest scores from this Order of Merit List (OML).

iv. The tiebreaker will be the employee with the earliest Employee Service Date.

**6. Voluntary Early Retirement Act (VERA) / Voluntary Separation Incentive Program (VSIP) (Buyout):** Prior to issuing written notices, VERA/VSIP shall be sought among the BU within the competitive level to reduce the overall impact.

**Section 16-4 Human Resource Office Responsibilities:**

1. When the Agency is notified of a RIF, it will immediately notify the LO to explain the need for a RIF. The parties will then negotiate the appropriate arrangements and accommodation procedures to be used.

2. If a general notice is issued, it will be issued as far in advance as possible. When a general notice is issued it will contain as a minimum:

a. The established agreed to competitive area.

b. The established date appraisals are to be/have been frozen. Once authority for a RIF has been received, receipt of a new PAA will not affect the employees standing in the current RIF.

c. The date personnel actions are frozen, i.e. reassignments, promotions, hiring, etc.

d. POC for program counseling.

e. Established date and times for appropriate separation briefings, etc.

3. Screen the manning document to determine if vacancies exist that may be used for placement action.

4. Develop a placement program to include utilization of agency vacancies and contact with other states, local federal activities, local government and private employers.

5. A separate written notice will be given to each affected employee no later than sixty (60) days prior to the effective date of the action. This notice will state specific actions and known alternatives to be offered to the individual. The following information, as applicable, is to be included when preparing a specific notice of RIF.

- a. Reason for the reduction.
- b. Specific action to take place (e.g., separation, furlough, offer of change to lower grade, etc.).
- c. Title, grade, and salary of current position.
- d. Competitive area and competitive level designated.
- e. SCD, Employee Service Date and retention rating.
- f. The position title, grade, salary, compatibility, and location of any position offer or the reason why no offer can be made. Also, include the military requirements.
- g. Reasons for any exceptions to retention order.
- h. Effective date of proposed RIF (other than 15 December through 3 January)
- i. Where the employee may review retention registers and RIF regulations and the HRO personnel specialist to contact for information.
  - (10) Appeal rights, how to file them and any time limits imposed.
- j. A clear explanation of the employee's grade and/or pay retention entitlement.
- k. Severance pay eligibility.
- l. Placement information and eligibility for reemployment priority list.
- m. Discontinued service retirement eligibility.
- n. A request for the employee to acknowledge receipt of the notice and to accept or decline any offer.

**Section 16-5 Placement Action:**

1. The Agency will take positive action to assist employees affected by RIF or transfer of function to be placed within the Tennessee National Guard.

2. Placement assistance will also include contacts with other states, local, federal activities, local government, and private employers.

3. Priority Placement List. A priority placement list must be maintained for tenure groups I and II employees separated in the RIF. Upon receipt of a specific notice of separation, employees will be placed on this list, but only if they have not declined an offer that preserves a non-temporary, full-time position in their present grade or intervening grades, step, or equivalent salary. Employees will remain on this list for two (2) years, unless they decline in writing, accept a full-time position, or decline the offer for a full-time position in the Federal Government.

**Section 16-6 Appeals:**

1. A competing employee may appeal to the Adjutant General when he/she has received a specific notice of RIF and he/she believes that the Agency incorrectly applied the provisions of this contract article, applicable laws, rules and regulations.

a. An appeal may be submitted upon receipt of a specific notice but no later than thirty (30) calendar days before the effective date of the action.

b. The appeal must be in writing and must include the following information: name, SSN, position title, series and grade, position description control number (PDCN), and the place of employment.

c. The appeal must clearly state the reason the employee believes the action affecting him/her is inappropriate and must show that the Agency failed to comply with the RIF procedures outlined in this Article (e.g., insufficient notice, improper tenure grouping, and errors in SCD).

2. Extension of Time Limit. The Adjutant General may extend the appeal time limit when the employee indicates that he/she was not notified of a time

limit and otherwise was not aware of it or that circumstances beyond his/her control prevented him/her from appealing within the time limit.

3. Decision on Appeal. The Adjutant General or his or her designee will issue a written decision and, where applicable, direct the HRO to take any necessary corrective action. A copy of the decision stating what corrective action will be taken is then forwarded to the employee. The decision of the Adjutant General is final and there is no further right of appeal. A copy of the decision issued by the Adjutant General will be furnished to all interested parties.

4. Corrective Action. The decision of the Adjutant General may require the HRO to take corrective action as follows:

- a. Correct the retention register.
- b. Correct the employee's specific notice.
- c. Restore the employee to his/her former grade/pay level or one of like seniority, status and pay when the employee was reduced or separated improperly.
- d. Reimburse the employee for all pay lost as a result of any improper RIF action.

5. When an employee's appeal uncovers an error that does not change the outcome of the RIF, the Agency will correct the error without requiring restoration or recall of the employee(s) involved.

## ARTICLE 17

### DISCIPLINARY AND ADVERSE ACTIONS

#### **Section 17-1 General:**

1. This article applies to matters of CONDUCT only; actions that relate to JOB PERFORMANCE will be accomplished in accordance with the Agency's PAA system and contract modifications. The parties agree that discipline and adverse actions will be based on just cause and be consistently applied equitably and promote the efficiency of the Federal Service.

2. The parties recognize that there are two types of employee actions that may be appropriate; informal action and formal action. Disciplinary action will be for the sole purpose of correcting offending employees and problem situations and maintaining discipline and morale among other employees. A supervisor should consider a closer degree of individual supervision and/or warnings to effect corrective action prior to undertaking a formal disciplinary action.

3. In order to be effective, constructive discipline must be timely. Disciplinary action must be initiated within a reasonable period of time after the offense becomes known to the individual's supervisor.

#### **Section 17-2 Non-Disciplinary Action:**

1. This type of action will consist of a counseling interview with the employee by his/her supervisor. The employee will be advised of the specific infraction or breach of conduct and exactly when it occurred. The employee will have a LO representative present if desired, and supervisors will advise the employees of this right prior to the interview. Where non-disciplinary action is appropriate, counseling is appropriate in the first instance.

2. Counseling is oral and is not recorded in the Supervisor's Work Folder on the Supervisor's Employee Brief for the employee.

3. Conduct admonishments will be recorded in pencil (date/subject) on the NGB Form 904-1 or on a Memorandum for Record (with employee initial). The

admonishment may not be retained longer than three (3) months, unless related to a recurring problem.

4. In accordance with applicable laws, rules and regulation, if after counseling the misconduct continues or is repeated, but non-disciplinary action is still appropriate, the Agency will determine the appropriate discipline. The admonition is written in the Supervisor's Work Folder on the NGB Form 904-1/Supervisor's Brief for the employee. The employee must be allowed to write on the brief his or her reply to the facts and reasons stated by the supervisor. If the employee replies orally and declines to reply in writing, the supervisor will write on the brief a summary of the reply. The supervisor will state the date on which the admonition and reply will be expunged, absent continuation or repetition of the misconduct. This date may not be more than one year after the date of the admonition. Expungement eliminating all record of the occurrence of the admonition will be accomplished on that date absent continuation or repetition of the misconduct.

5. To protect the confidentiality of the records (NGB Form 904 1/Supervisor's Brief) and to preserve the privacy of the individual, records will be maintained at the lowest level of supervision excluded from the BU and access will be limited to management/employees concerned and individuals to whom the employee has given written permission.

6. An appeal of a counseling/warning interview may be made through the negotiated grievance procedure. A successful appeal could cause any record of the counseling to be deleted.

**Section 17-3 Disciplinary Action:**

1. Formal disciplinary action consists of written reprimands, suspensions, reductions in grade, and removals. Even though these actions constitute formal discipline, only suspension, reduction in grade and removal actions are considered adverse actions since they affect the pay of an employee.

2. Before disciplining an employee, the supervisor will gather all available facts and discuss them with the employee, informing the employee of the reason for the investigation. After considering the employee's response, the supervisor will then advise the employee if the discussion resolved the matter. If a letter of reprimand is decided upon the following procedure will apply.

a. Written reprimand will:

i. Normally be signed by the appropriate supervisor and coordinated with HRO for contract and regulatory compliance.

ii. The employee may have a LO representative present if so desired. The supervisor will advise the employee of this right prior to the questioning and presentation of the letter of reprimand.

iii. Describe the offense in sufficient detail to enable the employee to understand why the reprimand is necessary.

iv. Inform the employee that the letter will be filed as a temporary document in the Official Personnel Folder (OPF) until a specific date. Retention period may not exceed twelve (12) months.

b. An appeal of a letter of reprimand may be made through the negotiated grievance procedure. A successful appeal could cause the action to be withdrawn and any record of the action to be deleted.

c. If adverse action is decided upon, the procedure in Article 17-4 applies.

**Section 17-4 Adverse Actions:**

1. Adverse Action is an administrative action that results in removal, suspension, or reduction in grade or denial of within-grade increase of any employee.

a. There must be a reason for taking adverse action; that reason is commonly referred to as a "cause" and is defined as "an offense against the

agency/employee relationship." What constitutes a "cause" is a decision that must be made on the merits of each situation.

b. Having a "cause" is not sufficient to warrant an adverse action. Management must also conclude that taking an adverse action will promote the efficiency of the service. This is done by establishing a relationship between the "cause" and its impact or effect upon the efficiency of the service (i.e., the employee's ability to perform his/her duties, the Agency's ability to fulfill its mission, etc.).

2. Adverse actions will not be initiated by any supervisor without consulting with the Deciding Official and obtaining approval from HRO before issuing a proposed adverse action and original decision. The following, as required by applicable laws, rules, and regulation will be the sequence of events for an adverse action:

a. Employees will be given at least a thirty (30) day notice of proposed adverse action, signed by the individual proposing the action. The employee or the representative will be given the opportunity to reply to the charges, in writing and/or in person, to the Deciding Official.

b. The employee will be given a Notice of Original Decision, signed by the Deciding Official that will state the specific action being taken. The Notice of Original Decision will be issued within twenty (20) days of employee's response or after the reply period has ended. Upon receipt of the decision the employee has twenty (20) days to file for an appellant review by the Adjutant General or an Administrative Hearing conducted by a National Guard hearing examiner, but not both.

i. Employees requesting an appeal shall state their dissatisfaction and include with the appeal any proof or other supportive documents. The appeal letter will also include whether or not the individual requests representation.

ii. If the employee requests a hearing, HRO will submit a written request to NGB for a list of examiners from which the Adjutant General may make a selection. A letter will be sent advising the appellant of the name of the hearing examiner. The hearing will be before the selected hearing examiner who will provide a recommendation to The Adjutant General, within forty five (45) days of the close of the hearing. The Adjutant General will consider the recommendation when making the final decision. The Adjutant General will issue his decision within fifteen (15) days of receiving the hearing examiners decision. The hearing examiners per diem and travel expenses will be paid by the Agency.

iii. An adverse action will be carried out if there is no appeal to the action or the appeal procedure has been exhausted and the action upheld in accordance with 32 USC 709e(5) and (6).

iv. In the event of a disciplinary suspension or removal, the appellant will exhaust the review provisions provided for in TPR 752 before the suspension or removal is effectuated, and the employee may, at management's discretion, remain in a pay status until a final determination is rendered. TPR 752 Chapter 4-1 d states:

*"Suspension with pay. The fact that an adverse action is being processed does not require that an employee be prevented from performing their normal duties. In cases where there is no good reason to do so the employee will continue with their normally assigned duties. Where the continued presence of the employee may have an adverse impact on the mission, cause a safety concern or will unduly disrupt the work area, the employee may be suspended from the duty with pay until such time as an original decision is rendered or the end of the 30 day notice of removal period. Suspension with pay is not an adverse action. If an employee is suspended with pay, arrangements must be made with the employee and/or their representative for the preparation of their reply and or appeal.*

*This must include access to documents and witnesses who voluntarily wish to meet with the employee or their representative."*

c. In accordance with Presidential Executive Order 13839:

i. When taking disciplinary action, agencies should have discretion to take into account an employee's disciplinary record and past work record, including all past misconduct – not only similar past misconduct. Agencies should provide an employee with appropriate notice when taking a disciplinary action.

ii. Agencies should not require suspension of an employee before proposing to remove that employee, except as may be appropriate under applicable facts.

iii. To the extent practicable, agencies should issue decisions on proposed removals taken under chapter 75 of title 5, United States Code, within 15 business days of the end of the employee reply period following a notice of proposed removal.

iv. To the extent practicable, agencies should limit the written notice of adverse action to the 30 days prescribed in section 7513(b)(1) of title 5, United States Code.

v. The agency retains discretion to remove an employee from Federal service without first engaging in progressive discipline.

**Section 17-5 Representation:**

1. Prior to discussions that may lead to any of the above disciplinary or adverse actions, the supervisor will notify the employee of the right to LO representation. If the employee accepts representation, no further questioning will take place until the representative is present. If the employee chooses not to have representation that waiver must be in writing. The LO will be served a copy of this waiver.

2. An investigatory interview will, if representation is requested, be delayed for a reasonable amount of time until the employee's representation can be present.

3. An employee has the right to remain silent and may refuse to give a written statement until a representative is present, or representation has been declined in accordance with Article 3 and Section 17-5a.

**Section 17-6 Records:**

1. All written documents/evidence which will be used by the supervisor/agency, which alleges infractions, tardiness and the like, will not be used in proceedings against the employee unless disclosed five (5) workdays prior to the appeals hearing.

2. No written entry will be made in an employee's files concerning disciplinary matters without the knowledge of the employee. The employee will initial the entry. The employee's initials acknowledge that the employee knows that an entry was made, but in no circumstance may initialing the entry be considered as an agreement with the entry or an admission of guilt.

## ARTICLE 18

### FEDERAL EMPLOYEE COMPENSATION ACT

**Section 18-1 Benefits:** Employees are entitled to benefits under Federal Employee Compensation Act (FECA) under Titles 5 and 18 of the USC.

**Section 18-2 Written Notice of Injury:** It is agreed that an employee must submit a written notice of injury to his immediate supervisor immediately, but in no case not later than thirty (30) days after an on the job injury. An injured employee will be required to file a written claim for disability compensation within three (3) years after the injury before he may be paid compensation.

**Section 18-3 Waiver:** The time requirements of Section 18-2 may be waived provided there is a reasonable acceptable cause given.

**Section 18-4 Administrative Leave:** An employee injured on the job will be placed on administrative leave for the remainder of the day on which the injury was sustained. If the employee is unable to continue work because of an on the job injury, he/she or someone acting on his/her behalf must file a CA 1 within two (2) working days to be placed on administrative leave for up to forty five (45) days if he/she has a traumatic disabling injury. He/she may elect to be placed on sick leave, annual leave or leave without pay while the claim is awaiting adjudication by Bureau of Employees' Compensation, U.S. Department of Labor. If the determination is made the injury results in temporary total disability, the employee may elect to take sick leave or annual leave, or both, to avoid possible interruption of income. If he/she does, and his/her claim for compensation is subsequently approved, he/she may arrange to buy back the leave used and have it reinstated to his/her account, and receives compensation from the Bureau of Employees' Compensation in accordance with applicable regulation. The compensation to which he/she is entitled would pay a part of the buyback cost and the employee would have to pay the balance.

**Section 18-5 Notice of Rights/Benefits:** Upon employment, employees will be informed of their rights and benefits under the Federal Technicians Compensation Program.

**Section 18-6 Counseling:** When an employee suffers an industrial illness, or is injured in the performance of his/her duties, the Agency will provide counseling through his/her supervisor and HRO with regard to the rights and benefits of the employee under the Federal Technicians Compensation Program.

**Section 18-7 Injury Compensation File:** An employee's injury compensation file will be available for review by the employee or his/her representative upon specific release by the employee and subject to restrictions regarding the disclosure of medical information.

## ARTICLE 19

### GRIEVANCE PROCEDURES

**Section 19-1 Purpose:** This article is intended to define a mutually accepted and agreed upon procedure for resolution of grievable issues presented by the employee, LO, and management. These procedures will clearly define the process to be used in reaching a swift and fair resolution. The terms and conditions of this Labor Management Agreement and this article do not apply to employees or positions outside the BU.

**Section 19-2 General:** Employees within the BU are required to use this article as the sole means of resolving all complaints covered by this article. The employee retains the right to request LO representation in the grievance procedure or to decline such representation. If the employee chooses not to have representation, that waiver must be in writing. The LO will be served a copy of this waiver. However, the LO will be given the opportunity to have a representative present during all grievance proceedings to ensure that the adjustments of the grievance are not inconsistent with the terms of this agreement. A grievance will be formally presented normally not later than forty-five (45) working days after the incident took place or the individual becomes aware of the events that constitute the grievance, whichever is later. Either party may seek interpretation of the meaning or intent of the agreement from representatives of the negotiating teams.

**Section 19-3 Definitions:** A grievance is:

1. Any complaint by which any employee, concerning any matter relating to the employment of the employee.
2. Any complaint by the LO, concerning any matter relating to the employment of any employee.
3. Any complaint by any employee, the LO, or agency concerning:
  - a. The effect of interpretation, or a claim of breach, of the collective bargaining agreement; or

b. Any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment.

**Section 19-4 Representation:** The LO is assured the right to represent itself and/or each and any employee in the BU in the presentation and processing of any grievance.

**Section 19-5 Exclusions:** To the extent consistent with law, the negotiated grievance procedure contained in this article does not apply with respect to any grievance concerning the following matters which are expressly excluded from this grievance and arbitration procedure:

1. Any claimed violation of subchapter 111 of chapter 73 of Title 5 USC relating to prohibited political activities (Hatch Act Violations);
2. Retirement, life insurance, or health insurance;
3. A suspension or removal under Paragraph 7532 of Title 5 USC (National Security);
4. Any examination, certification, or appointment;
5. The classification of any position which does not result in the reduction in grade or pay of an employee;
6. The provisions of 32 USC 709(f) are expressly excluded from the grievance and arbitration procedure;
7. Non-selection for appointment or promotion from among properly ranked and certified candidates for promotion;
8. An EEO compliant;
9. Re-employment rights, examination hearings, restoration after military service, position classification, position requirements and military related matters;

**Section 19-6 Exclusive Procedure:** The Agency and the LO agree that the negotiated procedure is the exclusive procedure available to the LO and the employee(s) in the BU for processing of any grievance.

**Section 19-7 Employee Rights:** All employees have the right to present their grievances to the appropriate management officials for prompt consideration. This procedure provides a means for the prompt and orderly consideration and resolution of employee(s) or LO grievances. In exercising this right, the employee(s) and the representative will be free from restraint, coercion, discrimination, or reprisal.

**Section 19-8 Grievance File:** A grievance file will be maintained by HRO.

**Section 19-9 Presenting a Grievance:**

1. A grievance must be presented using the agreed to grievance form which is included as part of this article (available electronically at [https://actnat.com/index.cfm?zone=/unionactive/view\\_article.cfm&HomeID=674975&page=Instructions2FForms](https://actnat.com/index.cfm?zone=/unionactive/view_article.cfm&HomeID=674975&page=Instructions2FForms))

2. The LO has the right, on its own behalf or on the behalf of the BU employee(s), to present and process grievances.

3. If an employee or group of employees elect to present a grievance without the assistance of the LO, adjustments of the grievance may not be inconsistent with the provisions of this agreement. In this instance, the appropriate supervisor or manager involved will notify the LO of grievance proceedings and inform them of the time and place of such proceedings. The point of contact will be a chapter officer.

**Section 19-10 Official Time:** As authorized under Presidential Executive Order 13837, an employee may use Official Time to prepare for, confer with an exclusive representative regarding, or present a grievance; or to appear as a witness in any grievance proceeding. ***Reference Article 4A Official Time of this Collective Bargaining Agreement for additional information regarding the authorized usages of official time.***

1. A reasonable amount of official time, without charge to leave, will be afforded in accordance with the following:

a. To the technician to discuss, informally, with his/her first line supervisor and/or their LO representative, any dissatisfaction the technician may have.

b. To a LO representative to discuss informally or formally with the appropriate management official any complaint the LO may have concerning matters under this agreement.

c. To the technician and the designated LO representative for preparing and presenting the grievance at all levels.

**Section 19-11 Informal Resolution:** The Agency, the Union and bargaining unit employees shall make reasonable efforts to resolve potential grievances prior to the filing of a formal grievance. Attempts at informal resolution of grievances will not automatically extend the time limits for filing grievances.

**Section 19-12 Time Limits on Grievances:**

1. A grievance will be formally presented not later than forty-five (45) working days after the incident took place or the individual becomes aware of the events that constitute the grievance, whichever is later. Any extension of grievance time limits must be agreed upon by the Parties to this Agreement.

2. The grievant will in this step reduce his/her grievance to writing, utilizing the agreed to form within fifteen (15) calendar days from the termination of the informal process. The written grievance will include a detailed statement of the problem, a clear statement of the remedial action or relief sought, and the signature of the employee and his/her designated LO representative if he/she so chooses one.

3. A formal grievance will attempt to be resolved by the second line supervisor. In the event that the grievance cannot be resolved by the second

line supervisor, it will be elevated to the Position Management Officer (PMO).

**Section 19-13 Requirements for Grievances:**

1. Grievances shall use the mutually agreed upon Grievance Form and provide the information requested on that form.

2. The grievance form shall be used throughout the process if the matter proceeds through the steps described below.

**Section 19-14 Formal Grievance Procedure:**

**STEP ONE.** If the informal procedure is not resolved the grievance will be submitted in writing within 15 calendar days using the established form to the next level supervisor with resolution authority. The next in line supervisor will provide a determination of settlement, in writing, to the individual and/or the LO within fifteen (15) calendar days.

**STEP TWO.** In the event that the grievance cannot be resolved by the next level supervisor, it will be elevated to the Position Management Officer (PMO) within fifteen (15) calendar days. The PMO will provide a determination of settlement, in writing, to the individual and/or the LO within fifteen (15) calendar days.

**STEP THREE.** If the grievant is dissatisfied with the settlement offered at step two, an appeal may be made to the Adjutant General within fifteen (15) calendar days. TAG will render a decision in writing within fifteen (15) calendar days to the grievant and/or the LO.

**Section 19-15 Right To Information:** Upon written request and subject to law, rule or regulation, management will supply the LO with any investigation reports and/or documents used in the original action when denying a grievance. This is to insure the LO has all the necessary information for a determination to invoke or not invoke the provisions of section 19-15.

**Section 19-16 Arbitration Procedures:**

1. Arbitration may be used to settle unresolved grievances.

2. Only the LO or the Agency may invoke the provisions of this section.

3. If either party questions the arbitrability of a matter because of alleged conflicts with applicable existing law or circumstance(s), the arbitrator will simultaneously hear the question of arbitrability and the merit(s) of the case. The arbitrator will then rule on the question of arbitrability and when applicable, the subsequent question(s) on the merits of the case.

4. The decision to invoke arbitration must be submitted to the other party within ten (10) workdays of the date of the final decision of the grievance.

**Section 19-17 Arbitrator Selection:** When arbitration is invoked, the party invoking arbitration may request a list of seven arbitrators from the Federal Mediation and Conciliation Service (FMCS) and concurrently inform the other party of its intent. Within seven (7) working days of receiving the list, both parties shall meet to select an arbitrator. If agreement cannot be reached regarding the selection of an arbitrator, then the parties will alternately strike the names from the list until only one (1) name remains. The individual's name remaining will be duly selected to hear the grievance. The parties agree that if the selected arbitrator is unavailable to hear the grievance within thirty (30) days the parties may select a new arbitrator using the above procedures. If either party fails to participate in the selection process, the arbitration action will proceed with the requesting/remaining party accomplishing the selection. If either party should refuse to participate in the hearing, an ex parte hearing may be held.

**NOTE:** If the chosen arbitrator cannot hear the case within thirty (30) days the intent of this Section is to allow the parties to select from the remaining names on the list or request a list of seven additional names.

**Section 19-18 Arbitration Expenses:**

Total expenses incurred for the arbitration will be shared equally by the Agency and the LO.

**Section 19-19 Date and Location:** The arbitration hearing shall be held on a date and at a location mutually agreed upon by the parties.

**Section 19-20 Federal Labor Relation Authority Exceptions:** The parties understand the Federal Labor Relation Authority (FLRA) has promulgated regulations providing for filing of exceptions to an arbitrator's award. The period for filing of exceptions is not later than thirty (30) days from the date the award is served on the parties. The date of service is the date the arbitration award is deposited in the U.S. mail or is delivered in person. It is understood that if no exceptions to an award are filed during this thirty (30) day period, the award shall be final, binding and effective on the thirty-first (31st) day.

**Section 19-21 Compliance:** Certificate of compliance with the decision of the arbitrator, to include corrective action where appropriate, shall be provided to the other party as soon as practical.



## ACT Official Grievance Form

Date Received (MMDDYYYY) <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span>
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**INFORMAL STEP — Shop Steward Completes This Section (See instructions on page 2.)**

1. Grievant's Name (last, first, middle initial)		2. Grievant's Telephone No. (Include area code)	
3. Seniority Date (MMDDYYYY)	4. Status (Check one) <input type="checkbox"/> Fulltime <input type="checkbox"/> Indefinite <input type="checkbox"/> Temp		5. Grievant's Employee Identification Number
6. Work Section		7. Work Telephone No.	
8. ACT Chapter No.	9. ACT Grievance No.	10. Incident Date (MMDDYYYY)	11. Date Discussed With Supervisor (Filing date)
12a. MSPB Appeal? <input type="checkbox"/> Yes <input type="checkbox"/> No		12b. EEO Appeal? <input type="checkbox"/> Yes <input type="checkbox"/> No	
13a. Supervisor's Printed Name, Initials, and Telephone No.		13b. Steward's Printed Name, Initials, and Telephone No.	

**FORMAL STEP 1 — Parties Complete This Section (See instructions on page 2.)**

14. Mgmt. Grievance No.: Obtain prior to Formal Step 1 meeting.	
15. Issue Statement: Provide contract provision(s) and frame the issue(s).  <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
16. Undisputed Facts: List and attach all supporting documents. Use additional paper if necessary.    Attachments? <input type="checkbox"/> No <input type="checkbox"/> Yes    Number <input type="text"/>	
17. <b>UNION'S</b> full, detailed statement of disputed facts and contentions: List and attach all supporting documents. Use additional paper if necessary.    Attachments? <input type="checkbox"/> No <input type="checkbox"/> Yes    Number <input type="text"/>	
18. <b>MANAGEMENT'S</b> full, detailed statement of disputed facts and contentions: List and attach all supporting documents. Use additional paper if necessary.    Attachments? <input type="checkbox"/> No <input type="checkbox"/> Yes    Number <input type="text"/>	
19a. Union Representative: Enter the remedy requested by the Union.  <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
19b. Settlement Offer: List any settlement offers by either party on page 3.	
20. Disposition (Check one) <input type="checkbox"/> Resolved <input type="checkbox"/> Withdrawn <input type="checkbox"/> Not Resolved    Date of Formal Step 1 Meeting (MMDDYYYY) <input type="text"/>	
21a. Mgmt. Representative's Name	21b. Telephone No. (Include area code)
21c. Mgmt. Representative's Signature	21d. Date (MMDDYYYY)
22a. ACT Representative's Name	22b. Telephone No. (Include area code)
22c. ACT Representative's Signature	22d. Date (MMDDYYYY)



## Instructions

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If the initial filing discussion between the steward (and/or employee) and the supervisor at Informal Step does not resolve the grievance, the union steward may appeal the grievance by:

- Completing the Informal Step section at the top of page 1;
- Obtaining the supervisor's initials in Item 13; and
- Forwarding the form along with all relevant documents that were shared and discussed at the Informal Step meeting to Union and management Formal Step 1 representatives (**Contractual Time LIMITS**) of the discussion.

### INFORMAL STEP — Shop Steward Completes This Section

#### Item Explanation

- 1-9 Self-explanatory. All items are essential.
- 10 Enter the date when the event causing the grievance occurred or when the employee or union first became aware of the event.
- 11 Enter the date the employee and/or the union first discussed the grievance with the immediate supervisor at the Informal Step. **Some of the contracts may differ.**
- 12a Determine whether the grievant has filed an MSPB appeal on the same issue. Indicate "yes" or "no."
- 12b Determine whether the grievant has filed an EEO appeal on the same issue. Indicate "yes" or "no."
- 13a To be completed by supervisor, whose printed name and initials confirm the date of the Informal Step discussion.
- 13b To be completed by steward, whose printed name and initials confirm the date of the Informal Step discussion.

### FORMAL STEP 1 — Parties Complete This Section

Item Explanation **(NOTE: For Grievance steps past FORMAL Step 1 just add more Steps on a NEW PAGE(s))**

- 14 Management Representative: Obtain the Grievance Tracking Number from the LRS before the Formal Step 1 meeting. If necessary, call HRO / LRS for assistance. Record Grievance Tracking Number.
- 15 Frame the issue statement in the form of a question. For example:
- Was there just cause for the letter of warning dated 7/15/2011 issued to the grievant for unsatisfactory work performance, and if not, what is the appropriate remedy?
  - Did management violate **(What GRIEVANCE ARTICLE)** when the grievant was required to work overtime on 8/15/2011, and if so, what is the appropriate remedy?
  - List specific contractual / statute / regulation provisions that apply to the grievance.
- If discipline is involved:
- Always indicate the type of discipline (letter of warning, 7-day suspension, indefinite suspension, etc.) in the issue statement.
- The Union steward may write a suggested issue in Item 15 when appealing to Formal Step 1. The parties at Formal Step 1 are responsible for defining the issue as they see fit.

**Note:** If the grievance is resolved at Formal Step 1, skip to Item 20, note the principles of the agreement, and complete items 21-22. If the grievance is not resolved at Formal Step 1, complete Items 16 through 22.

- 16 Management and / or Union Representative: List all relevant facts not in dispute.
- 17 Union Representative: List any facts in dispute based on your understanding of the facts. Provide concise, descriptive statements outlining the Union's position on the grievance.
- 18 Management Representative: List any facts in dispute based on your understanding of the facts. Provide concise, descriptive statements outlining managements' position on the grievance.
- 19a Union Representative: Enter the remedy requested by the Union.
- 19b Management and/or Union Representative: On page 3, list any settlement offers made at Formal Step 1.
- 20 Management and/or Union Representative: Note whether the case is resolved, withdrawn, or not resolved. If resolved, note the principles of the agreement.
- 21-22 Formal Step 1 parties must enter names, telephone numbers, signatures, and date form is completed.

## ARTICLE 20

### DETAILS

**Section 20-1 Temporary Assignment:** A detail is the temporary assignment of an employee to a different position for a specified period. Detailing to positions or work assignments requiring higher or different skills will be based on valid need as determined by appropriate authority and will be consonant with appropriate regulations, with the employee returning to his/her regular assignment at the conclusion of the detail.

**Section 20-2 Manpower Shortages:** The detail method may be used to meet agency needs occasioned by such factors as abnormal workload, changes in mission or organization, or unanticipated absences, pending authorization and classification of new positions or other types of manpower needs that cannot be met by normal personnel replacement actions.

**Section 20-3 Temporary Promotion:** An employee temporarily placed in a higher graded position for more than thirty (30) days will be temporarily promoted and paid commensurate with the position provided he/she is qualified for the higher grade. Temporary promotions of one hundred twenty (120) days or more will be based on competitive procedures.

**Section 20-4 Rotation:** The detail procedure will not become a device to afford some employee an undue opportunity to gain qualifying experience unless the detailed employee was selected through merit promotion procedures.

**Section 20-5 Personnel Actions:**

All details will be reported on the appropriate forms and maintained as a record in the Official Personnel Folder. In turn, the employee will be provided a copy of the SF 50/52 affecting such detail.

**Section 20-6 Additional Duties:**

1. Employees must also be aware that from time to time, they may be required to perform duties other than those reflected as principle duties. Consequently, position descriptions contain a statement "performs other

duties as assigned". These assignments should be reasonably related to the employee's position and/or qualifications. However, an employee may be assigned to unrelated additional duties when this assignment is necessary to appropriately accomplish the mission. Distribution of additional duties will be made among employees of a particular skill in an equitable manner as determined by the supervisor to cause the least disruption of work and the least interruption to the mission. In no case will additional duties be assigned to an employee as punishment.

2. Management will in their best judgment ensure the assignment of extra duties is done in a fair and equitable manner. Consideration shall be given to excusing an employee from an assigned extra duty if a qualified volunteer is available.

## ARTICLE 21

### JOB DESCRIPTIONS

**Section 21-1 Job Description Change:** Whenever formal action is initiated locally to significantly modify the job description of any position in the BU that could result in a grade change, the proposed changed job description will be submitted to the LO.

**Section 21-2 Job Classification Complaints and Appeals:** Any employee in the BU who feels that he/she is performing duties outside the scope of their job description that may affect classification, may request, through the immediate supervisor, that the job description be reviewed. The Agency shall conduct an audit of the employee's duties and responsibilities to determine the proper description. During the audit, the Agency's representative shall discuss the audit with the employee and supervisor. Upon completion of the audit, the finding shall be discussed with the employee. If a satisfactory solution to the employee's complaint is not reached, the employee may proceed as follows:

1. If the duties and responsibilities identified in the position description do not match the employee's standards, the employee may file a grievance under the negotiated grievance procedures to have their standards modified to match their position description.

2. If the position description is correct and the classification is not correct, the employee may appeal the classification. Wage Grade and General Schedule employees may appeal their grade through the Agency or the Office of Personnel Management (OPM). If the Agency's decision is not favorable, it may then be taken to OPM.

**ARTICLE 22**

**ORIENTATION OF NEW EMPLOYEES**

**Section 22-1 Agency Responsibilities:** All new employees shall be informed by the Agency that the LO is the exclusive representative of employees in the BU. Each new employee shall receive a copy of this agreement from the Agency, together with a list of the officers and representatives of the LO, provided this list is furnished by the LO.

**Section 22-2 Steward Responsibilities:** The Steward that represents a newly hired employee shall meet with him/her within two (2) weeks of hire, to brief new employees on labor/management agreement during normal duty hours, normally not to exceed thirty (30) minutes.

**ARTICLE 23**

**INCENTIVE AWARDS**

The LO will be given the opportunity to inform management of the options available for recognizing sustained superior performance thru the state incentive awards program. The State Incentive Awards Committee will, within its limits, assure prompt processing and just administrative appraisals of all suggestions submitted under the State Incentive Awards Program. The State Incentive Awards Program will be administered in accordance with locally published supplement(s). All incentive awards shall be administered in a fair and equitable manner.

## ARTICLE 24

### SERVICES AND FACILITIES

**Section 24-1 Bulletin Boards:** The LO will be provided bulletin board space in all facilities and they will be specifically designated for LO use only. LO will post a list of elected LO Officials and work numbers in all work areas. Items placed on such bulletin boards will be kept in an orderly manner.

**Section 24-2 Internal Distribution:** The internal distribution mail system may be used by the LO under the following conditions:

1. The utilization of the internal distribution system must not violate any law or regulation.
2. Material to be distributed will be placed in an appropriate receptacle provided by the LO for that purpose.

**Section 24-3 Break Areas:**

Break areas will be provided in facilities where space is available.

**Section 24-4 Office Space:**

1. The LO will be provided office space, for exclusive use by the LO, where it may keep files, where its Executive Council may meet during non-duty hours and where individual grievances can be heard during the normal workday. The size, location, and conditions of usage will be determined by mutual agreement. Furnishings presently in existing LO office shall continue to be made available for the use of the LO.

2. Other space will be made available, where practical, for larger meetings of the LO that may be attended by personnel not on duty. The LO normally will request use of this space three (3) days prior to expected date of usage.

**Section 24-5 List:** Agency agrees to furnish to the LO, at least monthly, an up-to date list of each employee in the unit reflecting name, position title and number, and official duty station at no cost to the LO.

**Section 24-6 Policy:** The Agency agrees to make available, to the LO and employees, OPM publications such as the Federal Personnel Manual (FPM), FPM Supplements, and Classification Standards. The Agency will provide the LO with one (1) copy of all current and future agency and activity policy directives, regulations, etc., relating to LO employees and their working environment and one (1) copy of all agency and/or activity instructions or reports appropriate to affecting the Labor Management Relations Program. The Agency agrees to place the LO on distribution for all pertinent Employee Personnel Regulations and assure that additional policies and directives of NGB and OPM are made available during normal duty hours.

**Section 24-7 Copy Machines:** Access to copy machines shall be made available to appropriate LO representatives when it does not interfere with normal operations. This provision does not include internal LO business.

## **ARTICLE 25**

### **WAGE SURVEYS**

The Agency recognized the value of the contributions that can be made by its employees in developing wage policies and in conducting wage surveys, and will continue to seek the benefits which accrue from keeping the employees informed on wage matters. Opportunity will be afforded to the LO to make comments, suggestions, and recommendations pursuant to the development of wage policy. The Agency agrees to notify the LO after receipt of a notification of a pending wage survey from DOD. When requested to do so by the Area Wage Survey Committee, the Agency will notify the LO. The LO will nominate LO representatives to serve as data collectors of the Area Wage Survey Committee, on the basis of their qualifications, to assist in the collection of wage data. It is agreed that due consideration will be given to selecting BU members who have a job experience and who meet the necessary qualifications as data collectors, outlined in the National Guard Bureau instructions. In the event the Tennessee National Guard is not the lead agency, representatives of the LO shall, in any event, be afforded time to meet with and discuss overall survey concerns with personnel conducting the survey.

## ARTICLE 26

### ENVIRONMENTAL DIFFERENTIAL PAY/HAZARD DUTY PAY

**Section 26-1 Objective:** The Agency and LO should have as its objective, the elimination or reduction to the lowest level possible of all hazards, physical hardships, and working conditions of an unusually severe nature. When the Agency action does not overcome the unusually severe nature of the hazard, physical hardships, or working conditions, environmental differential/hazardous duty pay may be authorized. Nothing in this section shall preclude employees from submitting, through the LO representative or supervisor, work situations which could be considered by the EDP/HD (Environmental Differential Pay and Hazardous Duty Pay) committee.

**Section 26-2 Pay:** Premium and differential pay shall be paid in accordance with applicable Law, Rule, or Regulation and this agreement (i.e. - 5 CFR 532.511).

**ARTICLE 27**

**PRINTING OF CONTRACT**

**Section 27-1 Printing and Distribution:** The Agency is responsible for posting the updated contract and any amendments to this agreement on the HRO Website. Officers and Stewards are authorized to print a copy of the contract without cost to LO.

**Section 27-2 Art Work:** The Agency and the LO shall agree to any art work on the cover of the contract prior to publishing.

## ARTICLE 28

### PERFORMANCE STANDARDS AND EVALUATION

**Section 28-1 Responsibilities:** The Agency and the LO recognize the vital nature of the performance appraisals/evaluation systems to the entire BU work force. The effectiveness of the performance/evaluation system is a combined responsibility of each employee and their supervisor. Performance appraisals shall be related to the duties, as set forth in the position description and will be based on performance. Items of a disciplinary nature that do not relate to the employee's performance will not be addressed as part of the performance appraisal.

**Section 28-2 Appraisal Period:** The Performance Management Program will be conducted in accordance with applicable laws, rules and regulations. This will not preclude Impact and Implementation (I&I) Bargaining when changes to applicable laws, rules and regulations occur.

1. Employees will be given a performance appraisal annually. The established appraisal period is 1 April through 31 March. The performance appraisal will normally be given in April each year.

2. A minimum of 90 days supervision is required before a performance appraisal can be rendered.

3. When a major change (a change in any critical element) to the performance appraisal occurs within 90 days prior to the end of the rating period, the performance appraisal will be delayed to accommodate the 90 day requirement.

4. Closeout Assessment. A supervisor shall complete the appraisal process when it is known the supervisor will cease to exercise duties related to monitoring, developing and rating employee performance (due to job change, extended absence, retirement etc.) for such employees. This condition may result from a job change by either the supervisor or the employee.

**Section 28-3 Responsibilities (Supervisors):** Will meet with each employee within 30 days of appointment to establish performance standards/critical elements. The performance standards will be developed from the position description for the position in question and will be based on the employee's normal duties and responsibilities. The employee will have the opportunity to provide input into the development of their performance standards/critical elements.

1. The supervisor retains the right to establish the performance standard for the position and will ensure the standards are written to the appropriate level of performance.

2. Will, as a minimum, meet semi-annually with each BU employee to provide interim reviews. The purpose of the meeting is to exchange information concerning the performance of the employee as compared to the established performance standards since the time of the preceding review meeting. Additional questions that may arise relating to the performance appraisal system may be raised by the employee at any time. The interim review will be documented on the in the MyPerformance appraisal tool.

3. New standards will be issued for an employee authorized light duty for 30 days or more due to an injury received at work. An appraisal will be completed if the employee is in the position for 90 days when the appraisal is due. Eligible employees who are still on the Agency rolls at the end of the appraisal period but who are absent due to a work-related injury will be rated based on the work performed during the appraisal period provided they have satisfied the minimum 90 days performance period.

**Section 28-4 Responsibilities (Employees):** Will participate in and provide input in the development of performance standards and critical elements for their position.

1. Will advise their supervisor when there is a need to revise the performance standards and critical elements at any time during the appraisal period.

2. May request to meet with their supervisor during the rating period to review their performance as compared to the established standards.

**Section 28-5 End of Cycle Performance Assessment:**

1. Employee Self-Assessment. Employees are encouraged to provide a self-assessment for each Critical Element and provide contributions made to the organization for the current appraisal period.

2. Supervisory Annual Assessment of Employee. The supervisor will prepare a narrative assessment for each eligible employee, addressing each critical element and describing the employee's accomplishments and contribution. The annual assessment will be documented in the MyPerformance appraisal tool.

3. Any performance rating of less than "Fully Successful" requires immediate supervisory remedial action to improve, or provide the employee the opportunity to improve performance, including establishment of a written Performance Improvement Plan (PIP), submitted to HRO and the rating documented in the MyPerformance appraisal tool. Components of the PIP will address what critical elements the employee is failing, examples of how the employee failed, what the employee must do to bring performance to the satisfactory level, the length of time for the improvement period (i.e. 30-90 days), how the supervisor will monitor and evaluate the employee, what the supervisor will do to help, the consequences if performance does not improve (i.e. reassignment, change to lower grade, separation), question about medical problems, referral to rehabilitation (optional) and withholding of Within-Grade Increases. If the performance improves after the improvement period the supervisor will initiate a new official rating to "Fully Successful" granting a Within-Grade Increase, if due, effective the first pay period after the Fully Successful determination is made.

4. The supervisor and employee will discuss any needed changes in the performance plan for the new rating period. The supervisor will prepare NGB Form 430 (automated) and review any changes with the employee.

**Section 28-6 Appeals:** The appeal process will be IAW applicable laws, rules and regulations.

**Section 28-7 Appraisal of LO Officials:** The time spent away from the assigned job by LO representatives in the performance of their representational duties should not be taken into account when establishing a performance appraisal. Rather, the performance appraisal should be based only on the performance of their officially assigned work.

**Section 28-8 Performance Improvement Plan (PIP):** The PIP will be implemented by the supervisor when it becomes apparent that the employee is performing their duties in an "unacceptable" manner in one or more critical elements of the Performance Standards. The supervisor should not wait until the end of the appraisal period to make the determination that the employee's performance is unacceptable.

1. The supervisor is responsible to provide an opportunity for the employee to improve the substandard performance by establishing a formal PIP. The PIP serves to notify an employee of the need to improve performance, to identify specific performance deficiencies and to identify what must be done to improve performance.

2. The supervisor will develop a PIP for unacceptable performance that addresses specifically the deficiencies of the employee. The PIP will outline the methods, if appropriate, and the subject area element needing improvement. Employees will be assisted in improving areas of unacceptable performance by proactive counseling and increased supervisory assistance, additional training, etc. The PIP will not run less than thirty (30) working days and will normally not exceed ninety (90) working days.

3. The employee (and his/her representative, if representation has been requested by the employee) will be advised that the employee may be reassigned, reduced in grade or removed from employment. Before initiating a reduction in grade or removing an employee for unacceptable performance, consideration may be given to reassignment to another position for which the employee is qualified.

4. When the PIP is issued, consideration should also be given to advise the employee of the Employee Assistance Program (EAP).

5. No action based on unacceptable performance may be taken until critical job elements and performance standards have been identified in writing and the employee has been given a copy of those standards, and the employee has been given an opportunity to improve their performance.

6. Upon the completion of the PIP, the supervisor shall inform the employee of either sufficient improvement or failure to improve to the fully successful level. Should a determination be made to reduce in grade or remove from employment following the formal PIP, an employee is entitled to:

a. A minimum thirty (30) day advance written notice of the action to be taken (reduction in grade or removal), which identifies the critical job element(s) and documented instances of unacceptable performance on which the action is based. This is not a proposed notice, but is to be considered as the final notice of action to be taken because the employee would have previously been given adequate assistance and time to improve performance.

b. If an employee submits a request to their supervisor to change an unacceptable performance appraisal, the supervisor will carefully review this information and advise the employee in writing whether the unacceptable performance appraisal was sustained or will be changed. The employee has the right to grieve the unacceptable performance appraisal.

**Section 28-9 Trial/Probationary Periods:** The first year of employment constitutes the trial period. New employees should be carefully observed and

appraised during the trial/probationary period to determine whether they have the qualities needed for permanent government service. During this period, supervisors should provide specific training and assistance to improve the employee's work performance if needed. For retention beyond the trial/probationary period, the employee's work performance must be minimally at the fully successful level.

1. If retention is not recommended, supporting documentation will be forwarded to HRO, who will then take the appropriate action to remove the employee from Federal Service. Initiation of a removal action may be taken at any time during the trial/probationary period.

2. An employee serving a trial/probationary period is not to be given an official performance appraisal until after completing the required 12 months of federal service. After completing the 12 months of service, he/she will be given an official performance rating in accordance with the established rating period.

## ARTICLE 29

### TOOLS, EQUIPMENT AND CLOTHING

**Section 29-1 Tools and Equipment:** The Agency agrees to provide tools and equipment necessary for the accomplishment of individual shops and facilities missions and duties, as provided by current authorization documents with input from the LO.

**Section 29-2 Clothing:** Employees that are assigned in a Wage Grade (WG) or Wage Leader (WL) position and are employed at a Field Maintenance Shop (FMS), Unit Training Equipment Site (UTES), Combined Support Maintenance Shop (CSMS) or United States Property and Fiscal Office (USPFO) Warehouse will be authorized two (2) additional sets of duty uniforms. This is subject to budgetary and regulatory restrictions.

**Section 29-3 Computer Access:** Management will allow sufficient time daily, during duty hours (non-break time) for employees to conduct work related business, (i.e., ATAAPS, emails, My Biz, DTS Travel, etc.) with consideration of slower internet speeds, software updates, and lack computer accessibility at some locations.

**Section 29-4 ID Cards:** Employees will be allotted reasonable time, at the discretion of the supervisor, during working hours to renew ID Cards without being in a leave status.

**Section 29-5 DA Photos:** Dual Status Technicians, who are required to have a DA photo (currently E-6 and above) will be allotted reasonable time, at the discretion of the supervisor to schedule and complete their DA photo once every five years, without being in a leave status.

**ARTICLE 30**

**HOURS OF WORK AND TOURS OF DUTY**

**Section 30-1 Reference:**

FPMS 990 2, Appendix B. (Flex tour)

**Section 30-2 Authorized Workweek Schedules:** The following schedules denote current workweeks, as approved by The Adjutant General of Tennessee. The Adjutant General retains the unfettered discretion to change or modify these basic workweeks for employees to include the possibility of an alternate work schedule for future use. The Agency recognizes its responsibility to conduct impact and implementation bargaining, as prescribed by law, with respect to changes in the work schedule. A situation which imposes immediate and unforeseen work requirements as a result of natural phenomena or mission related circumstances beyond the Agency's reasonable control or ability to anticipate and is in accordance with 5 CFR 610.121 (a) (1) is excluded from the seven (7) day notice requirement.

**Section 30-3 Flexible Work Schedule:** Management agrees to provide a flex tour to better accomplish the unit's mission within the following guidelines:

1. The parties have established tours of duty:
  - a. Flexible time band from 0600 1800
  - b. Core time 0930 1430 hours (includes meal period)
2. Work unit pre selects arrival time with fixed schedule until next bi weekly pay period.
3. If the employee chooses to remain on the same flex schedule as the previous pay period, no notification needs to be given.
4. Flexible work deviation: At the request of the employee made at least one day in advance, management may approve an adjusted arrival time for the employee.
5. Time off during an employee's basic work requirement must be charged to the appropriate leave category.

**Section 30-4 Request to Change Work Hours:** Management will consider requests from units and organizations for flexible work schedules during daylight savings time.

**Section 30-5 Holiday Rules:** When an employee has three consecutive non-workdays off and a holiday falls on one of these non-workdays, the following rules shall apply in designating the workday as the "in lieu of holiday". When the holiday falls on the employee's first or second non-workday, the preceding workday shall be designated as the "in lieu of holiday". When the holiday falls on the third non-workday, the next workday shall be designated as the "in lieu of holiday".

**Section 30-6 Cleanup Time:** The Agency will allow a reasonable amount of time for employees to cleanup immediate work areas; put away equipment and personal clean-up. The time span will normally not exceed 15 minutes.

## ARTICLE 31

### IMPACT AND IMPLEMENTATION (I&I) BARGAINING

**Section 31-1 Purpose:** Prior to implementation of an event that could adversely affect the working condition of one or more members of the BU, management will negotiate with the LO (I&I) regarding the impact of the event(s). Such negotiations will take place prior to any announcement of the proposed management action, which could adversely affect a BU member's condition of employment.

**Section 31-2 Appropriate Matters for I&I Bargaining:** Matters appropriate for negotiations and consultation between the parties shall include, but are not limited to personnel policies, practice, and matters, which affect working conditions.

**Section 31-3 Changes Affecting Working Conditions:** Management agrees to a personal exchange between the Agency and a LO official, copies of appropriate regulations/policies affecting working conditions for review prior to implementation. If the LO desires formal discussion concerning the contents, management should be contacted within ten (10) working days after receipt, to establish a meeting time/place to discuss the matter.

**Section 31-4 Meetings:**

1. Upon notification by the LO, management agrees to meet and confer within five (5) workdays or as agreed by mutual consent.
2. The Agency and the LO agree to render decisions on issues not resolved at the meetings within ten (10) working days or mutually agreed otherwise.

## ARTICLE 32

### TRAVEL

**Section 32-1 TDY:** TDY shall be performed in the status preferred by Management subject to budgetary constraints unless otherwise authorized or directed by higher authority, or dictated by mission requirements or special projects in accordance with Volume II of JTR.

**Section 32-2 Scheduling Travel:** Travel will be scheduled in a fair and equitable manner to meet the needs of the Agency. Employees will receive their travel orders in sufficient time when practical to ensure that the necessary arrangements for obtaining transportation requests may be accomplished in a duty status during working hours prior to departure. Employees selected to accomplish the mission on TDY will be selected so as to effectively accomplish the mission.

**Section 32-3 Hours Worked During Travel Status:** Time spent traveling (but not other time in travel status) away from an employee's official duty station is "hours worked" when it cuts across the employee's workday. The time is not only "hours worked" on regular workdays during normal work hours, but also during the corresponding hours on non-workdays.

**Section 32-4 Transportation:** Transportation of TDY personnel will be in accordance with DoD JTR's and in conjunction with NGB and the Adjutant General policies.

**Section 32-5 Request for Travel Excuse:** An employee selected for assignment involving travel may request that he/she be excused and such request may be favorably acted upon provided other qualified employees, as determined by the Agency, are available for the assignment.

**Section 32-6 Per Diem:** All TDY travel will be performed in accordance with the provisions of JTR. Per diem and travel rates will be paid IAW JTR.

**Section 32-7 Government Travel Card:** The government sponsored travel card should be used by all full-time personnel to pay for all costs incidental to official business travel.

1. All full time support personnel who are likely to perform TDY are eligible to apply for the travel charge card.

2. Personnel designated as having financial difficulty, may be issued a limited charge card.

3. ATM cash withdrawals are authorized for an amount necessary to cover the meals and incidental expense portion of per diem.

4. Employees should be advised that utilization of government credit cards is routinely monitored and charges are scrutinized. Appropriate disciplinary action will be applied for willful misuse.

5. Card abuse can result in reduction of ATM withdrawal limits, revocation of ATM privileges, suspension of card privileges, or cancellation of the travel charge card.

**Section 32-8 Telephone Calls:** Employees in TDY travel status may use the government telephone system for calls (including calls over commercial systems), which will be paid for by the government as follows:

1. To notify family, doctor, etc., when an employee is injured on the job.

2. An employee traveling on government business is delayed due to official business or transportation delay, and calls to notify family of a schedule change.

3. An employee traveling for more than one (1) night on government business can make calls to their residence. Commercial calls will be limited to two (2) per week with a duration not to exceed three (3) minutes. When available, the employee will use DSN lines.

## ARTICLE 33

### SAFETY AND HEALTH

**Section 33-1 General:** The Agency and LO agree to exert every reasonable effort to provide and maintain a work environment conducive to the safety and well-being of employees. Rules, laws, and regulations relating to safety shall be available to all employees and departments and shall be adhered to.

**Section 33-2 Safety Council Representation:** The LO shall have one representative on the Safety Council.

**Section 33-3 LO Support of Safety Program:** The LO will cooperate in efforts to promote safety and health, and will encourage employees to work safely and report any observed unsafe or unhealthy conditions to the appropriate responsible individual within whose authority corrective action has been delegated.

**Section 33-4 Protective Clothing/Safety Equipment:** The Agency, subject to availability of funds, will provide suitable protective clothing and safety equipment for employees such as extreme cold weather gear, Gore-Tex jackets, pants, gloves, extreme cold weather underwear, coveralls and safety boots whenever such is authorized by regulation (per memorandum: Procedure for Requesting Safety Boots and Coveralls for Civilian Technicians dated: 07 March 2011). Employees working in hazardous areas shall be provided with proper protective equipment and safety devices as determined to be necessary by the appropriate regulations. The Agency agrees to replace, as needed/required, OCIE equipment. Employees working in hazardous areas shall be provided with proper protective equipment and safety devices as determined to be necessary by the appropriate regulations. The LO agrees that employees will be required to utilize proper equipment and safety devices as determined to be necessary by the appropriate regulations. The parties agree that certain tasks performed may involve varying degrees of hazard. The types of employees normally assigned to perform hazardous tasks should be those who

have received appropriate briefings, instructions, training or schooling pertinent to the hazardous task to be performed. The Agency shall determine the appropriate safety and health training for employees. The methods and means of performing hazardous tasks shall be those that incorporate all immediately available safety precautions and devices.

**Section 33-5 Report of Injury:** The LO agrees that employees are required to immediately report all injuries which occur, no matter how slight, to the immediate supervisor. The Agency agrees to process and promptly forward documentation required of the Agency when an employee sustains an on the job injury and elects to file a claim. The Agency agrees to consult with injured employees and inform them of their rights.

**Section 33-6 Transportation of Injured Employees:** The Agency agrees to provide transportation for employees to obtain traumatic medical care, or to his/her home for employees who become ill or injured on the job and are incapacitated.

**Section 33-7 First Aid Training:** The Agency shall provide basic first aid training to a limited number of employees who may be used on a voluntary basis to augment and assist medical employees during periods of temporary absence and emergencies. The Agency shall provide a first aid kit in all activities.

**Section 33-8 Temperature Rest Periods:**

1. It is agreed that when the work site temperature reaches ninety five (95) degrees Fahrenheit/thirty six point five (36.5) degrees Celsius, with average or above humidity rates, the Agency will allow persons affected rest periods necessary to prevent heat exhaustion. This will be permitted as often as necessary to protect the health and well-being of the employee(s). In the event of severe cold weather, uncommon to the locale, like provisions will apply for severe cold weather.

2. The Agency agrees to provide adequate light and ventilation in work areas. The parties agree that decisions regarding the adequacy of light, ventilation and space in any questionable work area will be made after taking into consideration the findings of the Safety Officer and availability of funds.

3. The Agency agrees to provide contract laundry services (coveralls only) per request to the following shops: FMS, UTES, CSMS and USPFO, based on availability of funds.

**Section 33-9 Computer Terminal Working Time:** BU Employees that key and/or type at a computer (or computer terminal) may be assigned other duties to ensure the safety and health and reduce the risk of repetitive motions injury and errors.

**Section 33-10 Representative During Safety and Health Inspections:** A representative from the BU will be permitted to accompany a Safety and Occupational Health Team during the inspection and meetings of their unit/facility. A copy of the inspection team's findings and recommendations will be forwarded to the LO upon request.

**Section 33-11 Tobacco Use Policy:** Tobacco use will be permitted in designated areas. The Agency and LO agree that the existing tobacco use policy is required to ensure that employees are not exposed to harmful effects of another individual's tobacco use habit. The Agency will ensure that the tobacco use policy is implemented throughout the employee's workforce. Change in the existing tobacco use policy is subject to Article 31 (Impact and Implementation). The tobacco use policy will be posted on all official bulletin boards. The parties shall jointly identify existing outdoor areas where employees utilize tobacco products, and is reasonably accessible to employee's work sites. The Agency agrees to pursue a means of providing an area protected from the elements subject to availability of appropriate funds.

**ARTICLE 34**

**DURATION AND CHANGES TO AGREEMENT**

**Section 34-1 Effective Date:** The effective date of this agreement shall be executed by the parties and approved by the Agency. Both dates will be made part of the agreement prior to distribution.

**Section 34-2 Defense Civilian Personnel Advisory Service (DCPAS) Approval:**

1. DCPAS shall approve the agreement within thirty (30) days from the date the agreement is executed by the parties if the agreement is in accordance with the provisions of applicable law, rule, or regulation.

2. If DCPAS does not approve or disapprove the agreement within the thirty (30) day period, the agreement shall take effect and be binding on the Agency and the LO subject to the provisions of applicable law, rule or regulation.

3. In the event that a particular article or section of an article is not approved by DCPAS, the remainder of the agreement will take effect as provided by law. The articles or sections of an article not approved by DCPAS shall later be incorporated as negotiations or appropriate remedies dictate and subsequent approval by DCPAS.

**Section 34-3 Agreement Duration:** This agreement will remain in effect for three (3) years from the date of approval by DCPAS, or, under provision of 5 USC § 7114 (c) (3), whichever is applicable.

**Section 34-4 Agreement Precedence:** Upon approval, this collective bargaining agreement takes precedent over any conflicting provisions in agency regulations which predate this agreement, IAW 5 USC 7116. This agreement supersedes all past agreements and practices between the LO and the Agency.

**Section 34-5 Agreement Amendments/Supplements:**

1. This agreement may be subject to amendments or supplements during the agreement lifetime.

2. A request for an amendment or supplement to this agreement by either party shall be in writing setting forth the need or reason for the proposed change and a summary of the change.

3. Representatives of the Agency and the LO will meet within thirty (30) days to commence negotiations of the proposed amendment or supplement, unless a later date is mutually agreed upon. No changes other than those specified in the summary provided for in paragraph 32-5 b of this article will be considered.

4. Approval of an amendment or supplement to the agreement will be accomplished in the same manner as provided for approval of the basic agreement as specified in Section 32-2.

**Section 34-6 Negotiating A New Agreement:**

1. Negotiations for a new agreement will commence no earlier than one hundred fifty (150) calendar days or later than ninety (90) calendar days prior to the termination of this agreement.

2. In the event either party fails to request negotiations for a new agreement within the established time frame, this agreement will automatically extend for a period of one (1) year.

3. The provision provided for in Section 32-6 b, shall continue in effect until such time as the terms of Section 32-6 a, are executed.

4. Thirty (30) days prior to the start of negotiations of a new agreement, representatives of the Agency and representatives of the ACT will meet to initiate a memorandum of understanding establishing the ground rules for the conduct of negotiations.