

**AGREEMENT**

**Between**

**WESTERN AREA POWER ADMINISTRATION**

**And the**

**AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES**

**May 10, 2013**

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## Preamble

The American Federation of Government Employees, AFL-CIO (Union) and the Western Area Power Administration (Agency or Employer or Management), also known as the Parties, recognize that employees have the right to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, safeguards the public interest, contributes to the effective conduct of public business, and helps and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

Because the Parties recognize that the public interest demands the highest standards of employee performance and carrying out modern progressive work practices to help and improve employee performance and the efficient accomplishment of the operations of the Government; and

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

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

The Parties further agree as follows:

This Agreement constitutes a collective agreement between the Agency and the Union. The Union is the exclusive representative for all employees in the following units of recognition for Local 3807:

Unit I: **INCLUDED:** All nonprofessional GS employees of the Western Area Power Administration.

**EXCLUDED:** All wage board employees, temporary employees with less than 90-day appointments, employees engaged in Federal personnel work in other than a purely clerical capacity; management officials, confidential employees, supervisors, and professional employees as defined in the Federal Service Labor Management Relations Statute.

Unit II: **INCLUDED:** All professional employees of the Western Area Power Administration.

**EXCLUDED:** Wage board employees, temporary employees with less than 90-day appointments, nonprofessional GS employees, employees engaged in Federal personnel work in other than a purely clerical capacity; management officials, confidential employees, and supervisors as defined in the Federal Service Labor Management Relations Statute.

For Local 3824:

Unit I: **INCLUDED:** All nonprofessional GS employees of the Western Area Power Administration, includes all secretarial and clerical staff.

**EXCLUDED:** All wage board employees; temporary employees with less than 90-day appointments; employees engaged in Federal personnel work in other than a purely clerical capacity; management officials; confidential employees; supervisors; professional employees as defined in the Federal Service Labor Management Relations Statute.

Additional exclusions are positions designated by FLRA under cases: SF-CU-30041, DE-RP-02-0026, DE-RP-02-0027 and DE-RP-02-0036.

Unit II **INCLUDED:** All professional employees of the Western Area Power Administration.

**EXCLUDED:** Wage board employees, temporary employees with less than 90-day appointments, nonprofessional GS employees, employees engaged in Federal personnel work in other than a purely clerical capacity; management officials, confidential employees, and supervisors as defined in the Federal Service Labor Management Relations Statute.

This Agreement constitutes a multi-unit agreement and will apply uniformly to units of recognition throughout the jurisdictional area of the Western Area Power Administration.

## **ARTICLE 1 AWARDS**

### Section 1.0 Incentive Awards

Performance awards (monetary or time-off awards); Quality Step Increases (QSI); Time-Off Awards; Special Outstanding Achievement Rewards, including Honorary awards; are granted by the Agency on the basis of merit, and within applicable budget limitations, to individuals or groups. Such awards will be granted in a consistent and objective manner without discrimination.

### Section 2.0 Performance Awards

2.1 Performance awards for bargaining unit employees will be allocated and distributed following the current Employee Performance Management and Recognition Program MOA.

2.2 Once a performance award has been earned and approved, the fact an employee is the subject of an investigation for misconduct or has been disciplined during the rating period will not preclude payment of the performance award. The merits of the Agency's decision to withhold a performance award are subject to the negotiated grievance procedure.

### Section 3.0 Time-Off as an Incentive Award

3.1 The purpose of the Time-Off Award (TOA) is to recognize an outstanding accomplishment or other personal effort (individual or group) that contributes to the quality, efficiency, or economy of Government operations.

3.2 A TOA provides an employee with an approved absence without loss of pay. All bargaining unit employees will be eligible for a TOA.

3.3 A TOA must be scheduled and used within one (1) year from the date the award was granted or it will be forfeited. If an employee requests sick leave for a period when using their TOA, sick leave may be approved, subject to any documentation requirements.

### Section 4.0 Other Awards

Nothing in this Article or Agreement prevents the Agency from developing any additional award recognition programs.

## **ARTICLE 2 CHANGES IN CONDITIONS OF EMPLOYMENT**

### Section 1.0

1.1 Advance notice of proposed Western-wide changes affecting working conditions of unit employees will be provided to each Local President. Within fourteen (14) calendar days from acknowledged receipt of the notice by both Local Presidents, the Union will notify CSO Labor Relations of either its agreement with the proposals or request to bargain. In these matters, opened E-mail may serve as acknowledgment of receipt. The Union will also notify the Labor Relations Officer which Union official will be authorized to submit proposals and make an agreement on behalf of both locals which form the combined bargaining unit.

1.2 If bargaining is requested the Union will submit its proposed ground rules to the CSO Labor Relations Officer within twenty-eight (28) calendar days after acknowledged receipt of management's notification of the proposed change. Within forty (40) calendar days after acknowledged receipt of management's notification, the Union will submit its' substantive and/or impact and implementation proposals to the CSO Labor Relations Officer. The time period for the Union to submit proposals may be extended by mutual agreement.

### Section 2.0

2.1 Advance notice of proposed changes at the local level (i.e., Corporate Services Office, Regional Offices, and Colorado River Storage Project (CRSP) Management

Center) which affect working conditions of unit employees will be provided to the local AFGE President. Within fourteen (14) calendar days from acknowledged receipt of the notice by the local AFGE President or their designee, the local President or their designee will notify the local Human Resources Manager of either its agreement with the proposals or request to bargain. In these matters, opened E-mail may serve as acknowledgment of receipt.

2.2 If bargaining is requested, the Union will submit its ground rules, substantive proposals, and/or impact and implementation proposals to the local Human Resources office staff within twenty-four (24) calendar days after acknowledged receipt of management notification of the proposed change. The time period for the Union to submit proposals may be extended by mutual agreement.

Section 3.0 The notices in sections 1 and 2 above will, at a minimum, contain the following information:

3.1 The description of the nature and scope of the proposed change;

3.2 An explanation of the initiating Party's plans for implementing this change;

3.3 An explanation of why the proposed change is necessary;

3.4 The proposed implementation date; and

3.5 The statement, "Formal Notice of Changes" in order to differentiate from a "Pre-decisional Involvement Opportunity."

Section 4.0 Ground Rules will be jointly negotiated by the parties.

Section 5.0 Negotiations not completed will be continued not later than thirty (30) calendar days after recessing the session. No changes in conditions of employment will be implemented prior to the completion of the statutory duty to bargain, unless the change:

5.1 corrects an unlawful practice, or

5.2 is due to an emergency or compelling business need.

### **ARTICLE 3 CLASSIFICATION OF POSITIONS**

Section 1.0 Within the parameters of current OPM classification standards, the concept of equal pay for substantially equal work for all unit employees within Western Area Power Administration (Western) will be applied. The terms "other duties as assigned" and similar phrases are construed to mean other duties as assigned and related to the employee's position and are of a temporary nature.

Section 2.0 The supervisor will discuss any changes to the position description with the employee and will furnish a copy of the proposed position description to the employee at least 10 working days before submission to the human resources office.

Section 3.0 If the employee should desire to appeal the classification of their position, the human resources office will provide information and assistance. The employee may review classification standards and other related materials.

Section 4.0 When the highest level of work is a smaller portion of the job, it may be grade-controlling only if the work is assigned to the position on a regular and continuing basis, it is a significant and substantial part of the overall position (i.e., occupying at least 25 percent of the employee's time), and the higher level knowledge and skills needed to perform the work would be required in recruiting for the position if it became vacant.

#### **ARTICLE 4 CONTRACTING OUT**

Section 1.0 Contracting out.

1.1 For the purposes of this agreement “contracting out” shall be defined as a situation in which the Employer makes a determination to award work performed by a Federal employee to a private contractor.

1.2 When Western anticipates contracting out work or duties presently or most recently performed by bargaining unit employees, the Union will be notified.

1.3 Assigning duties to contractors to meet workload fluctuations, and to perform new duties, where Federal employees are not displaced, may not be considered contracting out situations under this agreement.

1.4 Information relating to contracting out decisions may be obtained by the union by submitting requests in accordance with 5 U.S.C. § 7114(b)(4).

1.5 Adverse affects on bargaining unit employees

When bargaining unit employees are adversely affected by the decision to contract out, Western will make reasonable efforts to find available positions and make appropriate arrangement per 5 U.S.C. § 7106(b)(3).

## **ARTICLE 5 DETAILS AND REASSIGNMENTS**

### **Section 1.0 Details**

1.1 A detail is the temporary assignment of an employee to a different position or different duties, for a specified period, with the employee returning to their regular duties at the end of the detail. While on detail, the employee continues to hold their official position from which detailed.

1.2 Details will be used to meet temporary needs of the Agency's work program. When detailing becomes necessary, first consideration will be given to detailing the employee with the skills necessary to perform the job. If more than one employee has the required skills for a non-competitive detail, it may be offered on a rotational basis. Details may be used to help provide career development opportunities for employees.

1.3 To the extent possible, the Employer will provide the employee a minimum of 48 hours advance notice of a detail.

1.4 Details/temporary promotions of 30 calendar days or more will be documented as required and a copy furnished to the employee. For details of less than 30 calendar days the employee will be furnished with documentation regarding the work to be performed.

### **1.5 Details to Higher Graded Duties**

Details to higher graded positions or to positions of known promotion potential will be accomplished following the procedures contained in the Merit Promotion Plan. If an employee is detailed to the duties of a higher graded position for thirty (30) calendar days or more, and meets employer personnel regulatory requirements, the employee shall be temporarily promoted into and receive the rate of pay of the position commencing on the first day of the assignment. Non-competitive temporary promotions will not exceed 120 calendar days within a 12-month period.

### **Section 2.0 Reassignments**

2.1 A reassignment is the change of an employee from one position to another without promotion or change to lower grade. Reassignment includes: (1) movement to a position in a new occupational series, or to another position in the same series; (2) assignment to a position that has been re-described due to the introduction of a new or revised classification or job grading standard; (3) assignment to a position that has been re-described as a result of position review; or (4) movement to a different position at the same grade but with a change in salary that is the result of different local prevailing wage rates or a different locality payment.



2.2 An employee who receives a directed reassignment within the local commuting area, that will require a change in transportation arrangements, will be given written notification at least fifteen (15) calendar days in advance of the reporting date.

2.3 When an employee receives a directed reassignment to a different position, the employee will be given a reasonable period in which to become proficient. If they cannot attain satisfactory performance, consideration will be given to returning the employee to the previous position or a different position at the same grade level for which they are qualified.

#### 2.4 Voluntary Reassignment

Employees may voluntarily request a reassignment. Such requests may be considered by the Agency and a good faith effort will be made to balance the needs of the employee with the Agency's program needs.

#### 2.5 Relocation Expenses

Employees who receive a directed reassignment outside the local commuting area are entitled to relocation expenses under the Federal Travel Regulations.

## **ARTICLE 6 DISCIPLINARY AND ADVERSE ACTION**

### Section 1.0 Definitions

The following definitions are used for the purposes of this Article

1.1 **Oral admonishments** are the lowest level corrective action without a permanent written record. They are informal discussions or meetings for correcting unacceptable behavior. An employee will be informed by the supervisor that this discussion is considered an oral admonishment.

1.2 **Disciplinary action** is an official personnel action, usually taken for conduct reasons, which adversely affect an employee. Disciplinary actions include written reprimands and suspensions for 14 days or less.

1.3 **Written Reprimand** is a formal disciplinary notice issued to an employee. It should be used in situations which require action more stringent than an oral admonishment and in cases where an employee has not responded constructively to oral admonishment for the same or similar breaches.

1.4 **Adverse action** is an official personnel action, usually taken for conduct or performance reasons, which adversely affect an employee. Adverse actions are of a more severe nature than a disciplinary action. They include removal, suspension for more than 14 days, reduction in grade or pay, and furlough for 30 days or less.

1.5 **Day** is a calendar day, unless specified otherwise.

1.6 **Furlough** means the placing of an employee in a temporary status without duties or pay for 30-days or less because of lack of work or other non-disciplinary cause.

1.7 **Suspension** means placing an employee in a temporary status without duties or pay for either conduct or performance-based cause.

1.8 **Removal** is an involuntary separation from Federal service which terminates the employer-employee relationship.

1.9 **Indefinite Suspension** means the placing of an employee in a temporary status without duties or pay pending investigation, inquiry, or further agency action. The indefinite suspension continues for an indeterminate period of time and ends with the occurrence of the pending conditions set forth in the suspension notice.

1.10 **Investigation** means to gather, analyze, and consider carefully all facts and circumstances before taking or recommending corrective action.

## Section 2.0 Statement of Purpose and Policy

2.1 Normally discipline should be preceded by oral or written counseling which are informal in nature. Disciplinary or adverse action will be taken consistent with DOE Order 3750.1 when the alleged offense becomes known to management, and only for just and sufficient cause which will promote the efficiency of the Federal Service. The objective of discipline is to correct and improve employee behavior and is not to be punitive in nature. The concept of progressive discipline will guide managers in making decisions regarding discipline. A common pattern of progressive discipline is reprimand, short-term suspension, long-term suspension and removal. Any of these steps may be bypassed when the severe nature of the behavior makes a lesser form of discipline inappropriate or when required by regulation or law.

2.2 An employee may not be required to perform any activity they believe would place themselves or others in danger of death or serious bodily harm.

2.3 The action taken must be reasonable based upon the factual circumstances. Disciplinary actions will be fair and equitable, impartial and uniform, and will comply with relevant law, regulation and this collective bargaining agreement. Corrective action is taken only when necessary and then, to correct an adverse situation promptly and with equity. When possible, notices of proposal, decision and reprimand will be delivered personally in a private setting and explained to the employee. The employee shall be given the opportunity to acknowledge receipt in writing on a copy of the notice.

2.4 The employee will be guaranteed their due process right to have a fair hearing by an impartial hearing officer. The deciding official in a disciplinary action is the next higher

level manager/supervisor in the employee's chain of command. If the manager/supervisor in the employee's chain of command has a specific conflict of interest, the deciding official shall be a designee (management official at the same or higher level) with full authority to render an impartial decision.

2.5 The procedures of this Article do not apply to the termination of any bargaining unit employee serving a probationary or trial period or an employee under a temporary appointment except as provided by law.

2.6 Title 5 USC § 4303 (c)(2), places a one (1) year time restriction on the age of instances used to support the demotion or removal of an employee for unacceptable performance. Instances of unacceptable performance more than 1 year old as of the date of the notice of proposal may not be used as a basis for action in connection with the decision.

2.7 When appropriate, management and union will consider the use of the Employee Assistance Program as part of remedial action.

### Section 3.0 Investigations

3.1 Before issuing any proposed disciplinary or adverse action, the Agency will conduct an examination that will determine whether such action is warranted. Management shall schedule any meetings in advance so the employee can contact and obtain union representation. An investigation will include the following facets:

3.1.1 Employees who are alleged to have committed an offense may be interviewed and told they are the subject of an examination;

3.1.2 All employees being interviewed will be told the nature of the interview; signed statements may be obtained from employees or others who are interviewed in the course of the examination; employees may be held responsible for any false statements they provide;

3.1.3 All evidence considered to support an action will be provided to the employee;

3.1.4 An employee may invoke their rights to representation under 5 U.S.C., Section 7114 (a)(3) at any time before or during any discussion where they believe it may result in disciplinary or adverse action. If an employee requests a representative, no further questioning will take place until the representative is present.

### Section 4.0 Timeliness of Discipline

If the Agency believes a disciplinary or adverse action is necessary, such action will be initiated in a timely manner, normally in a reasonable time after the offense was committed or made known to the Agency.

## Section 5.0 Agency Action

5.1 Disciplinary or adverse actions are not grievable at the proposal stage. The time limit for grieving such actions runs from the effective date of the action.

5.2 Employees who are issued proposed notices, will be given a reasonable amount of official time to review the material relied on to support the action, to prepare an answer, and to secure affidavits, if they are otherwise in an active duty status. If the employee needs more than the amount of time deemed "necessary and justified" by the employer, they may use annual leave or leave without pay. In the event the employee prevails in the action or in appeal, annual leave used in defending against the action will be restored in full.

5.3 Any action proposed may be held in abeyance upon mutual consent of the Agency and the employee or their representative.

5.4 If the employee elects to be represented by the Union, copies of all subsequent correspondence addressed to the employee will also be furnished to the Union Representative.

5.5 Copies of any and all documents relating to the disciplinary/adverse action the Agency is relying on to support the disciplinary/adverse action will be made available to the employee as per Public Law 95-454, Oct. 13, 1978, 92 Stat. 1135, or as per 5 U.S.C. § 7503 (c). The employee in preparing and presenting a reply to the proposed action may represent themselves, be represented by a union representative or, for adverse actions, a representative of their choosing. The deciding official will be given a copy of the employee's written designation.

5.6 The employee shall be given 20 days to respond to the proposed suspension or removal. (Admonishments and reprimands do not require a proposal prior to effecting the disciplinary action). Employees may respond orally, in writing, or both. Requests for extensions of the reply shall be granted when reasonable. If the employee chooses to make an oral reply, their representative also has the right to attend. The deciding official on the adverse action will hear the oral reply.

5.7 Decisions of proposed disciplinary or adverse action shall inform the employee of their right to seek Union representation and the name and phone number of the respective Union President.

5.8 The employer shall issue a written decision within 20 days from the expiration of the time allowed for reply. Requests for extensions of the reply shall be granted when reasonable.

5.9 The negotiated Grievance Procedure under Article 13 in this Agreement shall be the exclusive procedure available to bargaining unit employees for the review of disciplinary actions.

## Section 6.0 Off-Duty Conduct

In cases where a disciplinary or adverse action is proposed for reasons of off-duty misconduct, the Agency's written notification will also contain a statement of the nexus, i.e., the connection, between the off-duty misconduct and the efficiency of the service.

## **ARTICLE 7 DISTRIBUTION AND COST OF AGREEMENT**

Section 1.0 The Employer shall be responsible for printing and distributing copies of the Agreement.

Section 2.0 The Employer shall make initial distribution of this Agreement by providing one copy to each employee in the units. Memorandums of Agreement agreed to by the various locals will also be distributed to the unit employees of that locality. Thereafter, the Employer will post this Agreement and any Memorandums of Agreement on the internal Western HR Web page. The Union will be provided with a sufficient quantity of contract agreements to enable the Union to furnish one copy to each new employee covered by the bargaining agreement. In addition, each of the locals will receive an extra 20 copies of the Agreement for administrative training purposes.

## **ARTICLE 8 DUES WITHHOLDING**

Section 1.0

1.1 This agreement is for the purpose of permitting eligible Western Area Power Administration (Western) employees who are members of the AFGE to pay dues through the authorization of voluntary allotments from their salary. This agreement covers all eligible Western employees:

- 1.1.1 Who are members in good standing in the AFGE;
- 1.1.2 Who voluntarily complete Standard Form 1187, Request for Payroll Deductions for Labor Organization Dues;
- 1.1.3 Who receive bi-weekly compensation sufficient to cover the total amount of the allotment; and
- 1.1.4 Who are in an exclusively recognized AFGE bargaining unit of Western employees.

1.2 Voluntary cancellation of dues withholding submitted during the first year after the employee first authorizes dues deductions shall be effective the first full pay period after the first year anniversary date of the employee's dues authorization. Thereafter, voluntary cancellation of dues withholding may be submitted at anytime, but will only be effective on the first full pay period following July 1 of each year, providing that the employee's dues authorization has been in effect for at least 1 year as of July 1.

Section 2.0 The Union is responsible for:

2.1 Informing its members of the voluntary nature of this system for allotment of employee organization dues including the conditions under which the allotment may be revoked.

2.2 Purchasing and distributing to its members Standard Form 1187.

2.3 Notifying the Payroll Office in Germantown, Maryland, in writing of:

2.3.1 Currently authorized official who will make the necessary certification of Standard Form 1187;

2.3.2 Any change in the amount of dues to be deducted; and

2.3.3 Any employee who is no longer in good standing within 10 days of the date of determination.

2.4 Forwarding properly executed and certified Standard Form 1187 to the Payroll Office in Germantown, Maryland.

2.5 Promptly forwarding an employee's revocation (memorandum or Standard Form 1188, Cancellation of Payroll Deductions for Labor Organization Dues) to the Payroll Office in Germantown, Maryland, when such revocation is submitted to the Union.

2.6 Keeping the Payroll Office in Germantown, Maryland, informed of name, title, and address of the allottee to whom remittance should be sent. This shall be the Treasurer of each established local.

2.7 Keeping the Payroll Office in Germantown, Maryland, informed of the allottee to whom checks shall be payable.

Section 3.0 The Department of Energy is responsible for:

3.1 Processing voluntary allotment of dues in accordance with this agreement.

3.2 Withholding dues on a bi-weekly basis. Deduction of dues to the Union shall begin with the first pay period which begins after receipt of a properly completed and signed Standard Form 1187 by the Payroll Office of the Employer.

3.3 Withholding new amounts of dues upon certification from the authorized Union official.

3.4 Transmitting remittance checks to the allottee together with a listing of employees by AFGE Local from whom deductions were made.

3.5 Providing the following information on the remittance listing:

3.5.1 The name and social security number of each employee for whom the deduction has been made;

3.5.2 Amount withheld for each employee, and the total withheld by Local;

3.5.3 The code number of the Local to which each employee member belongs.

Section 4.0 Western is responsible for promptly notifying the Union when a dues paying employee is not eligible for an allotment.

## **ARTICLE 9 EMPLOYEE ASSISTANCE PROGRAM**

Section 1.0 The Employer and the Union support the objective of assisting employees with personal problems. This assistance includes finding treatment for employees, following up during their recovery, and helping them return to full productivity. In evaluating an employee's work performance and job-related conduct, the supervisor may consider whether an employee is cooperating with a recommended plan of counseling.

Section 2.0 Given this common objective, the Employer and the Union agree to work together to promote the Employee Assistance Program (EAP), which is designated to assist employees and their families affected by problems including alcoholism, drug abuse, emotional illness, and other personal problems that may affect job performance.

Section 3.0 Employees shall be allowed up to one hour (or more necessitated by travel time) of excused absence for each counseling session during assessment/referral. If an employee is required to participate, Administrative leave will be granted for this purpose.

Section 4.0 Employees may voluntarily seek counseling, referral, and information from the EAP on a confidential basis.

Section 5.0 The confidentiality of medical/counseling records of all employees will be preserved in accordance with the Privacy Act and other applicable laws and regulations. Western is prohibited from contacting EAP representatives or counselors to solicit information on any bargaining unit member, except to verify attendance at management

directed counseling sessions, or upon receipt of an employee's written release of specific work related information.

Section 6.0 The Union and Management recognize the program is designed to deal forthrightly with a range of problems at an early stage when the situation is more likely to be correctable. If an employee requests assistance under the Program for problems affecting the workplace, and participates in the Program, the responsible supervisory official must weigh this fact in determining whether appropriate disciplinary action is necessary.

Section 7.0 Managers and supervisors may refer employees to the EAP. The Union recognizes some personal employee problems, such as alcoholism or drug abuse, sometimes require firm action on the part of those counseling the employee in order to induce enrollment in a treatment program. In these cases, the Union agrees to support management actions in attempting to convince an employee to enroll in a treatment program.

Section 8.0 Employees who voluntarily seek assistance for illegal drug use or alcohol/prescription drug abuse and are first-time offenders will be offered rehabilitation assistance. Disciplinary action related to the drug/alcohol use/abuse will be held in abeyance provided the employee refrains from drug/alcohol use/abuse. Abeyance of the disciplinary action for the use of illegal drug or the abuse of alcohol/prescription drugs does not preclude management from initiating disciplinary action for misconduct. Should an agreement be reached between the employee and the supervisor to hold a disciplinary or adverse action in abeyance, the employee will not be required to forfeit their statutory rights to appeal an Agency decision should the employee fail to comply with its terms.

Section 9.0 Each Regional Office and the Corporate Service Office (CSO) will apprise the designated Union representatives regarding EAP and invite them to attend seminars, workshops, or training sessions designed to acquaint Western supervisors, managers, and employees with the program and its operation.

#### Section 10.0 Promoting the Program

10.1 At least once a year, Management will make employees aware of the EAP and the services it provides.

10.2 Newly hired employees will receive appropriate EAP materials at their Western orientation.

10.3 Within sixty (60) days of the change in any EAP contractor, or any change in the nature of services provided, all affected employees will be notified in writing.



Section 11.0 Joint Union-Management Alcohol/Drug Policy Statement:

- 11.1 The Agency recognizes alcohol/drug abuse as a treatable illness.
- 11.2 Alcohol/drug abuse may be defined as an illness that impairs the employee's job performance as a direct consequence of the abuse of alcohol/drugs.
- 11.3 The employee having alcohol/drug problems will receive the same careful consideration and offer of assistance extended to employees having other illness.
- 11.4 The confidential nature of the medical and counseling records of the employee with the alcohol/drug problem will be preserved in the same manner as all other medical records.
- 11.5 Sick leave, annual leave, or leave without pay may be granted for the purpose of treatment or rehabilitation as in any other illness. This includes leave for the treatment or rehabilitation of the employee's spouse, children, or parents.
- 11.6 An employee who suspects they may have an alcohol/drug problem, even in the early stage, will be encouraged to voluntarily seek counseling and information. When such counseling is sought on an individual basis, it will be, at the outset, on an entirely confidential basis. If a person seeks aid from the Employee Assistance Program, as a result of this Article, or if the subsequent visits indicate a deep alcohol or drug abuse problem exists, information regarding the problem may be released by the EAP as limited by existing regulations.
- 11.7 The Union will support the Employee Assistance Program by publishing the injurious effects of drug and alcohol abuse.

**ARTICLE 10  
EMPLOYEE RIGHTS AND OBLIGATIONS**

Section 1.0 Each employee has the right, freely and without fear of penalty or reprisal, to form, join and assist a labor organization or to refrain from any such activity; and each employee shall be protected in the exercise of this right. Except as otherwise provided in Title 5 U.S. Code, Chapter 71, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of the views of the labor organization to heads of agencies and other officials of the Executive Branch, the U. S. Congress, or other appropriate authorities and to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.

Section 2.0 Any employee has the right, regardless of Union membership, to bring matters of personal concern to the attention of appropriate management officials, with or

without the intervention of Union officials, in accordance with applicable laws, rules, regulations, or established policies. Management officials should review the concerns of an employee without regard of Union membership and/or role within the Union.

Section 3.0 Nothing in this Agreement requires an employee to become or remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

Section 4.0 If an employee reasonably believes that questioning may result in disciplinary action against the employee they may request Union representation. If an employee requests a representative, no further questioning will take place until the representative is present.

#### Section 5.0 Prevention and Detection of Waste, Fraud, Misuse, Mismanagement and Abuse

5.1 The Employer and the Union acknowledge their mutual responsibility and the obligation of every employee to cooperate in the promotion of economy and efficiency in the administration of the programs and operations of the Employer and in the prevention and detection of waste, fraud, abuse, mismanagement, and misuse of Government property and equipment.

5.2 All employees are encouraged to report incidents of waste, fraud, abuse, mismanagement, and misuse of Government property and equipment, without fear of reprisal.

Section 6.0 Employees shall have a designated payday and the Employer will make a reasonable effort to insure employees are paid on that day.

#### Section 7.0 Personal Rights.

7.1 Managers and employees will interact with each other in a professional manner and with courtesy, dignity, and respect.

7.2 Employees shall be free from coercion, interference, or discrimination based on off duty personal activities so long as such activities do not conflict with job duties and responsibilities as determined by the MSPB's standard of nexus, or otherwise violate applicable law or regulations, including, but not limited to, the Hatch Act restrictions on political activities of Federal employees. Employees have the right to equal representation from the Union without discrimination in accordance with 5 U.S.C. § 7114 (a) (1).

Section 8.0 Upon request, the Agency will provide lockable accommodations, if available, for the secure storage of appropriate personal belongings for employees.

Any search of personal items located within these accommodations must be done for good reason and in compliance with applicable laws and regulations.

## **ARTICLE 11 EQUAL EMPLOYMENT OPPORTUNITY**

Section 1.0 The Employer and the Union agree that discrimination in employment because of race, color, religion, sex, national origin, age (40 years or older), disability or protected genetic information is prohibited.

Section 2.0 In all aspects of personnel management the employer shall be bound by Title VII of the Civil Rights Act of 1964 (as amended), Rehabilitation Act (as amended), Age Discrimination in Employment Act, Genetic Information Non-discrimination Act, Equal Pay Act, and the regulations of the EEOC, including 29 CFR Part 1614.

Section 3.0 Filing of a formal EEO complaint constitutes an election to use statutory appeal procedures and precludes the filing of a grievance under the negotiated procedure. Upon contact from an employee, EEO counselors shall advise employees of their right to representation and the right to file a grievance under this agreement or proceed with the consideration of their informal complaint under the agency EEO program.

Section 4.0 The Employer recognizes that the Union may represent an individual who has filed a complaint under either the Agency EEO procedures or the negotiated grievance procedure.

### Section 5.0 Participation in EEO and Affirmative Employment Plans

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

5.2 The Agency will continue to provide overall management support and budgetary planning to achieve affirmative employment objectives and to establish and maintain effective EEO programs that cover all aspects of equal employment opportunity throughout the Agency.

5.2.1 The Agency will provide the Union with its EEO/Affirmative Employment plans and the EEOC Management Directive 715 (MD-715) report annually.

5.2.2 Information sharing, discussion and formulation of action plans will take place with the Union at the CSO/Region EEO committees to accomplish EEO objectives.

5.2.3 If a numerical objective is established for a category of employees, job category or major occupation in which a barrier exists, this information will be provided to the Union. Any numerical objective that is used will be in accordance with law.

5.3 The Employer agrees to provide written notice to the local AFGE President regarding settlement agreements with bargaining unit employees, consistent with law, regulations and legal agency department policy or directives, where it is believed a term of the settlement may result in changes in a condition of employment or violate the negotiated agreement.

## **ARTICLE 12 GOVERNING LAWS AND REGULATIONS**

### **Section 1.0 Purpose**

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

### **Section 2.0 Laws and Government-Wide Rules and Regulations**

In the administration of this Agreement, the Parties will be governed by all statutes and existing government-wide rules and regulations, as defined in 5 U.S.C. 7101 *et seq.*, and by subsequently prescribed government-wide rules and regulations implementing 5 U.S.C. 2302 (the prohibited personnel practices).

### **Section 3.0 Past Practices**

3.1 Past Practices are existing workplace practices sanctioned by use and acceptance that are not specifically included in this Agreement. To qualify as an enforceable established practice, the practice must be a working condition, consistently exercised for an extended period of time, and known by both parties without protest or significant attempt to stop the behavior by the other party.

3.2 Any past practices and/or memoranda of understanding which were in effect on the effective date of this Agreement, will remain in effect unless superseded by the new agreement or under 5 U.S.C. Chapter 71. If management wants to modify or change a lawful past practice prior to the expiration of this agreement they must provide notification per Article 2 of this agreement.

## **ARTICLE 13 GRIEVANCE AND ARBITRATION PROCEDURES**

### **Section 1.0 Purpose**

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

Management and the Union agree:

- 1.1 The success of their relationship depends on a spirit of cooperation. Grievances do occur and shall be addressed in order to maintain a harmonious work environment.
- 1.2 The filing of a grievance shall not reflect unfavorably on an employee's good standing, an employee's performance, or their loyalty to the organization. Grievances should not be viewed as personal attacks on supervisors or other managers and should not negatively reflect on their credibility or ability to perform.
- 1.3 Most grievances arise from misunderstandings or disputes that can be settled promptly and satisfactorily on an informal basis at the immediate supervisor or next higher level. Management and the Union agree that every effort will be made to settle grievances at the lowest possible level.
- 1.4 Management and the Union will discourage the processing of frivolous grievances.
- 1.5 In no case may a grievance otherwise timely be terminated or denied on the basis of presentation at the wrong step or to the wrong official.
- 1.6 In situations where the grievant(s), Union representative and Agency representative are on different work schedules and/or locations, the Parties will make every reasonable effort to schedule all steps in the grievance process during common work times unless the parties mutually agree otherwise.

### **Section 2.0 Coverage and Scope**

A grievance means any complaint defined under 5 USC 7103(a)(9). A substantive or threshold issue may be raised at any time during the grievance process. All disputes of grievability or arbitrability shall be deferred to arbitration as a threshold issue. The Parties will address the merits of the grievance even when there is a claim of non-grievability, timeliness, and/or procedural defects during the grievance process.

- 2.1 This procedure applies to Bargaining Unit employees and shall be the exclusive procedure for resolving grievances which fall under its coverage.

## 2.2 A grievance means any complaint:

- by a Bargaining Unit employee(s) concerning any matter relating to the employment of the employee(s);
- by the Union concerning any matter relating to the employment of any Bargaining Unit employee(s); or
- by a unit employee(s), the Union, or Management concerning:
  - ❖ the effect or interpretation or a claim of breach of the collective bargaining agreement; or
  - ❖ any claimed violation, misinterpretation of any law, rule, or regulation affecting conditions of employment.

## 2.3 This procedure shall not apply to any grievance concerning:

- any claimed violation of Subchapter III of Chapter 73, Title 5 U.S.C. (relating to prohibited political activities);
- retirement, life insurance, or health insurance;
- a suspension or removal under Section 7532 of Title 5 U.S.C (relating to National security);
- any examination, certification or appointment;
- the classification of any position which does not result in the reduction in grade or pay of an employee;
- termination of a probationary/trial period employee consistent with law;
- termination or expiration of temporary employees; and
- any other subjects prohibited by law.

## 2.4 Employee Options:

2.4.1 A Bargaining Unit employee may raise the matters in 2.4.2, 2.4.3, and 2.4.4 below under only one of the following: statutory procedures (Merit System Protection Board (MSPB), Equal Employment Opportunity (EEO) or formal grievance procedure. While an employee may use both the informal EEO process and informal grievance process at the same time, for the purpose of this article an employee shall be deemed to have exercised their option to grieve or appeal only when the employee files a written, timely

notice of appeal under the appellate procedures or files a timely written formal grievance under the negotiated grievance procedures.

2.4.2 Adverse Actions: Removals, Suspensions for more than 14 calendar days, reduction in grade or pay and furlough for 30 calendar days or less.

2.4.3 Unacceptable performance actions: Demotions and removals.

2.4.4 EEO Complaint: An allegation of discrimination based upon race, color, religion, sex, age, national origin, marital status, political affiliation or a physical handicap. If an employee appeals to the MSPB they cannot file a grievance under the grievance procedure or EEO complaint process.

2.4.5 An employee is entitled to Union representation at any stage of the grievance procedure. Any unit employee may present and process a grievance under this procedure without intervention of the Union except only the Union or Employer may invoke arbitration. If the employee represents themselves, the Union will be given an opportunity to be present at all steps of the grievance process, and will receive a copy of the grievance within seven (7) calendar days of the filing date. Where the grievant elects Union representation, meetings and communication with regard to the grievance and any attempts at resolution must be made through the designated Union representative. The Agency will provide the Union reasonable advance notice of any grievance meeting/discussion when the Union is not the designated representative. A copy of each grievance decision will be provided to the Union within seven (7) calendar days.

2.4.6 When the last day of a period provided for filing a grievance or for arbitration, falls on a weekend or a holiday, the deadline will be extended to the next workday. The time limits for initial filing of a grievance may be extended upon good cause shown. Requests for extensions of time, throughout the grievance process, if received by the opposing party before the original deadline expires shall be granted, when reasonable.

2.4.7 A grievance over a continuing practice or condition may be filed at anytime.

2.5 Failure to Meet Timelines/Requirements. Failure of the Agency to respond at any level of the time limits identified below will constitute an agreement with the grievant and their requested relief will be granted if not prohibited by law. Failure to meet the established time limits by the employee/Union will terminate the grievance.

2.6 In processing matters under these procedures, the grievant(s) and Union Representative(s) are entitled to use a reasonable amount of official time.

2.7 At each step of the Grievance Procedure below (excluding arbitration procedures), the parties including the grievant, their Representative(s), and Management may interview witnesses to provide information relevant to the grievance.

## Section 3.0 Grievance Steps

### 3.1 Informal Process

3.1.1 The Parties agree that informal resolution of employees' grievances is desirable. To this end, Bargaining Unit employees(s) and/or their Union representative(s) should present any grievance informally to the manager/supervisor. Such informal presentation should take place within thirty (30) calendar days of the act or incident giving rise to the grievance. The supervisor/manager should arrange for a meeting within seven (7) calendar days of the informal presentation of the grievance to fully discuss the issue and attempt resolution. Within fifteen (15) calendar days of the meeting, the supervisor notifies the employee of their determination. If the informal grievance is presented in writing the decision shall be in writing. If the employee desires further review, they may file a formal grievance.

3.1.2 If the employee grievance results from an adverse action decision or a disciplinary action, the employee may go directly to Step 1, formal procedure, within thirty (30) calendar days of the action complained of or the date the employee learns thereof, whichever is later. For adverse actions appealable to the Merit Systems Protection Board (MSPB) filing a formal grievance constitutes a waiver of using the statutory appeal process.

3.1.3 Only one of the options (3.1.1 or 3.1.2) may be used by the employee at the informal process.

### 3.2 Step 1 – Formal

3.2.1 For actions other than adverse or disciplinary actions, the Bargaining Unit Employee or their Union representative must present the formal grievance, in writing, to the appropriate manager or supervisor within fifteen (15) calendar days of the informal decision. For adverse or disciplinary actions, the Bargaining Unit employee or their Union representative must present the grievance, in writing, to the appropriate supervisor/manager within thirty (30) calendar days of the act or incident giving rise to the grievance, or after they became aware of the act or incident or upon receipt of a decision letter from an adverse or disciplinary action.

3.2.2 The deciding official will conduct a meeting within ten (10) calendar days after receipt of the grievance. The deciding official will deliver a written decision to the employee and the union representative within ten (10) calendar days from the date of the meeting. The decision will include whether the requested relief is granted, partially granted, or denied. Copies of relevant documents cited in the decision that are not readily available to the employee will be provided. The Step 1 decision will include the name, title, work location, e-mail address and work telephone number of the Step 2 official.



### 3.3 Step 2 Formal – Final Authority

When the grievance has not been resolved at Step 1, the grievant or their Union representative may submit their grievance in writing to the Step 2 official (normally the next higher level official) within fifteen (15) calendar days after the completion of Step 1. The final authority or their designee has the option of meeting with the grievant(s) and their Union representatives(s) within seven (7) calendar days after receipt of the written grievance and issuing a written decision within fifteen (15) calendar days after the meeting, or reviewing the information on record without a meeting and providing the grievant(s) and their Union representative with a written answer within fifteen (15) calendar days of receipt of the grievance.

### 3.4 Step 3 – Arbitration

If Management and the Union fail to settle any grievance processed under this Negotiated Grievance Procedure, such grievance, upon written request by either party within thirty (30) calendar days after issuance of the final decision by the final authority or designee (Step 2), shall be submitted to arbitration under Section 7 below. Only Management or the Union may invoke arbitration.

### Section 4.0 Group Grievance

When a group of Bargaining Unit employees have identical grievances, they will normally be consolidated and processed as a group grievance or, if elected by the Union, as a Union grievance. All Bargaining Unit employees electing to join in the grievance will normally be identified at the stage it is put in writing. The final grievance decision will apply to all members of the group and each member of the group will receive one (1) copy of the final decision.

### Section 5.0 Union Grievance

5.1 The Union may initiate grievances as follows, including Unit-wide grievances.

5.1.1 The Union representative informally discusses and attempts to resolve the grievance with the appropriate management official within thirty (30) calendar days of the occurrence of the event or the date on which it became known to the Union, whichever is later.

5.1.2 If unresolved, the Union may file a written grievance with the Final Authority within thirty (30) calendar days from the date of the informal discussion.

5.1.3 The parties shall meet within fifteen (15) calendar days to discuss the grievance. The Final Authority shall render a written decision on the grievance within thirty (30) calendar days of the meeting. If the Union is dissatisfied with the decision, it may invoke arbitration. The Union is not precluded from seeking relief personal to the employees in a Union grievance.

## Section 6.0 Employer Grievance

6.1 The Employer may initiate grievances as follows:

6.1.1 The Employer informally discusses and attempts to resolve the grievance with the Union President or their designee within thirty (30) calendar days of the occurrence of the event which gave rise to the grievance or the date on which it became known to the Employer, whichever is later.

6.1.2 If unresolved, the Employer files a written grievance with the President of the Union involved within thirty (30) calendar days after said discussion.

6.1.3 The Union President or their designee provides a written decision within thirty (30) calendar days after receipt of the written grievance from the Employer. If still unresolved, the Employer may invoke arbitration.

## Section 7.0 Arbitration Procedure

This Procedure is administered following the Federal Service Labor-Management Relations Statute, Title 5, U.S. Code Chapter 71, and this Negotiated Agreement. Binding arbitration shall be the procedure used for any grievance not satisfactorily resolved under the negotiated grievance procedures. Both parties agree that good faith resolution of all grievances shall be attempted through the grievance process, settlement and mediation procedures.

7.1 If the Agency and the Union fail to resolve any grievance processed under the Negotiated Grievance Procedure above, such grievance, upon written request by either party within thirty (30) calendar days after issuance of the final decision by the final authority or their designee (Step 2), may be submitted to arbitration. Only The Agency or the Union may invoke arbitration. Failure to comply with this time limit, and any negotiated extension, shall constitute acceptance of the final authority review decision and the matter will not be subjected to any further review. Invocation is accomplished by e-mailing the non-grieving party notice of the desire to arbitrate. The union notification must be submitted to the Supervisor, Workforce Relations, at the Corporate Services Office. The Agency notification must be submitted to the applicable Union President. In these matters, an opened e-mail will serve as acknowledgment of receipt.

7.2 Not later than thirty (30) calendar days after invoking arbitration, the parties shall jointly request a list of seven (7) names from the Federal Mediation and Conciliation Service (FMCS). If one party refuses to join in the request for arbitrators the other party may make a unilateral request to FMCS for a panel of arbitrators. A copy of the request to FMCS will be served on the other party. The parties will alternate paying the fee to FMCS for each requested list of arbitrators. The paying party will have the option of striking the first name from the list. Normally, within fifteen (15) calendar days after receipt of an FMCS list of arbitrators, the parties will select an arbitrator by alternately

striking names from the list. The person whose name remains will be selected as the arbitrator. The Agency and Union can mutually agree to request a new list from FMCS.

7.3 If, for any reason, the Agency or Union refuses to participate in the selection of an arbitrator, the other party may unilaterally select an arbitrator from the list.

7.4 With the consent of both parties, more than one arbitration case may be consolidated for review by the same arbitrator.

7.5 If the parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate submission and the arbitrator shall determine the issue or issues to be heard. Once the Parties have selected an arbitrator, they will jointly communicate with the arbitrator and to select an agreeable date for the hearing. The arbitration hearing normally will be conducted at the work site where the grievance was initiated, unless the parties decide otherwise.

#### 7.6 Ex Parte Communication with Arbitrator

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

7.7 All Bargaining Unit employees who are participants, including witnesses, in the hearing shall be in a duty status. The costs of any witnesses or relevant participants who are not Federal employees shall be borne by the party requesting their appearance.

7.8 When an arbitration hearing concerns a complaint of sexual harassment, as defined in Article 11, Equal Employment Opportunity, the hearing will be closed to observers upon request of either party and consideration will be given to the employee's privacy interests.

7.9 The arbitrator shall be requested to render their decision not later than thirty (30) calendar days after the conclusion of the hearing unless the parties mutually agree to extend the time limit. The award shall be in writing and shall specifically address each issue raised by the parties.

7.10 The arbitrator's award will be final and binding subject to the parties' right to file an exception to the award in accordance with the Federal Service-Labor Management Relations Statute, or the grievant's right, if applicable, to initiate court action. However, the arbitrator must be bound by the terms of this Agreement and will have no authority to add to, subtract from, alter, amend or modify any provision of this Agreement. The arbitrator may retain jurisdiction over a case when necessary to clarify the award, and will retain jurisdiction in all cases where exceptions are taken to an award and the Federal Labor Relations Authority sets aside all or a portion of the award.

## 7.11 Arbitration Costs

7.11.1 The arbitrator shall be empowered to determine the percentages of their fee for which each party is liable. In making the determination the arbitrator shall be bound by the relative merits of each party's case. If the arbitrator determines the parties' cases have equal merit, they shall each pay 50 percent of the fee; in cases where the arbitrator finds either party's case to be frivolous or totally without merit the party shall pay the entire fee. The arbitrator shall prepare written justification for their determination.

7.11.2 Arbitration costs will include the arbitrator's fee, travel, per diem, and If one party withdraws the grievance from the scheduled arbitration it will bear the full costs of any arbitration costs or fees. If by mutual agreement both parties agree to withdraw the grievance from the scheduled arbitration any arbitration costs or fees will be split 50 percent.

7.11.3 The cost of a reporter or transcript, if used, must be shared equally by the Parties if it is mutually agreed by the Parties to have one, or where requested by the arbitrator. Absent mutual agreement, either Party may unilaterally request a transcript be prepared but must bear all costs incurred in its preparation and they must provide the other party with a copy of the transcript.

7.12 Employee participants in the hearing will be in a duty and pay status. Witnesses shall be granted a reasonable amount of duty time to prepare for, travel to, and testify at the arbitration hearing. The Agency will pay appropriate travel and per diem expenses for employees, to the extent necessary to participate in the arbitration hearing. However, the parties agree to consider opportunities to use available technology (e.g., video conferencing) to limit travel expenses.

7.13 The Union will request and obtain approval, in writing, for official time to prepare Bargaining Unit witnesses for its case. The Agency will promptly respond in writing to such requests. The Agency will verbally and/or in writing notify the Union of its intent to interview Bargaining Unit witnesses and afford the Union the opportunity to be present at such interviews. The parties will normally notify each other of their witnesses to be called at least two weeks prior to the hearing.

## 7.14 Time Limits

All time limits under this procedure may be extended in writing by mutual consent and, in addition, both parties agree to make a maximum effort to comply with time lines established in the grievance procedure.

## 7.15 Attorney Fees and Expenses

7.15.1 Reasonable attorney fees and expenses may be awarded by the arbitrator to the prevailing party consistent with governing statute.

7.15.2 The arbitrator's award on the issue of attorney fees will be issued within thirty (30) calendar days of the arbitrator's receipt of the party's response to the request. The arbitrator will provide a detailed explanation of why fees were or were not granted, as well as the hours and rates allowed.

## **ARTICLE 14 HOURS OF WORK**

### Section 1.0 Purpose

This Article must be administered following Title 5, United States Code ("U.S.C."), Chapter 61; Title 5, Code of Federal Regulations, Part 610 and this Agreement. The purpose of this Article is to prescribe the policies covering hours of work for all employees following applicable law and regulation.

### Section 2.0 Definitions

**2.1 Administrative workweek** means any period of seven consecutive 24-hour periods designated in advance by the head of the Agency under 5 U.S.C. 6101.

**2.2 Adverse Agency Impact** is the condition for which the Agency may cancel an alternative work schedule, or exclude some positions or employees from any particular alternative work schedule. Adverse agency impact means a reduction of the productivity of the Agency, a diminished level of services furnished to the public by the Agency, or an increase in the cost of Agency operations (other than a reasonable administrative costs relating to the process of establishing a flexible or compressed schedule).

**2.3 Alternative work schedule (AWS)** means both flexible and compressed work schedules.

**2.4 Basic work requirement** means the number of hours, excluding overtime hours, an employee is required to work or to account for by charging leave, credit hours, excused absence, holiday hours, compensatory time off or time off as an award. For full-time employees, the basic work requirement is 80 hours per biweekly pay period. A part-time employee's basic work requirement is the number of hours the employee is scheduled to work in a biweekly pay period.

**2.5 Biweekly pay period** means the two-week period for which an employee is scheduled to perform work.

**2.6 Compressed work schedule (CWS)** means:

2.6.1 in the case of a full-time employee, an 80-hour biweekly basic work requirement that is scheduled by the Agency for less than 10 workdays; and

2.6.2 in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours that is scheduled by the Agency for less than 10 workdays and may require the employee to work more than eight hours in a day.

**2.7 Core hours** means the time periods during the workday, workweek or pay period that are within the tour of duty during which an employee covered by a flexible work schedule is required to be present for work.

**2.8 Credit hours** means any hours within a flexible work schedule which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday.

**2.9 Flexible hours** (or "flexible time bands") means the times during the workday, workweek or pay period within the tour of duty during which an employee covered by a flexible work schedule may choose to vary their times of arrival to and departure from the work site consistent with the duties and requirements of the position.

**2.10 Flexible work schedule (FWS)** means a work schedule established under 5 U.S.C. § 6122, that:

2.10.1 in the case of a full-time employee, has an 80-hour biweekly basic work requirement which allows an employee to determine their own schedule within the limits set by the Agency; and

2.10.2 in the case of a part-time employee, has a biweekly basic work requirement of less than 80 hours which allows an employee to determine their own schedule within the limits set by the Agency.

**2.11 Flexitour** means a type of flexible schedule in which an employee is allowed to select starting and stopping times within the flexible hours. Once selected, the hours are fixed until the agency provides an opportunity to select different starting and stopping times.

**2.12 Gliding Schedule** means a type of flexible work schedule in which a full-time employee has a basic work requirement of eight hours in each day and 40 hours in each week, may select a starting and stopping time each day, and may change starting and stopping times daily within the established flexible hours.

**2.13 Maxiflex Schedule** means a type of flexible work schedule that contains core hours in fewer than 10 workdays in the biweekly pay period, and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in

which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the organization.

2.14 **Tour of duty** under a *flexible work schedule* means the limits set by this Agreement within which an employee must complete their basic work requirement. Under a *compressed work schedule* or other *fixed schedule*, **tour of duty** is synonymous with basic work requirement.

2.15 **Variable Day Schedule** means a type of flexible work schedule containing core hours on each workday in the week, and in which a full-time employee has a basic work requirement of 40 hours each week of the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday within the week within the limits established for the organization.

2.16 **Variable Week Schedule** means a type of flexible work schedule containing core hours on each workday in the biweekly pay period, and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the organization.

### Section 3.0 General

3.1 Management will notify the Union in accordance with the law and this collective bargaining agreement of changes in hours of operation, work schedules or core hours affecting all employees.

3.2 The administrative workweek will be a period of seven consecutive calendar days beginning on Sunday.

### 3.3 Time Keeping

Employees will self-certify their arrival and departure times, as well as any other exceptions to the normal work day.

3.4 Working under a telework agreement under Article 27, Telework will not in and of itself disqualify an employee from working an AWS.

### 3.5 Terminating Alternative Work Schedules

If the head of the Agency finds a particular AWS schedule has had an “adverse Agency impact,” as defined in 5 U.S.C. 6131 (b), the Agency must promptly provide notice to the Union of its desire to reopen this Article to seek its termination. Upon a request to bargain by the Union, the Parties will then negotiate over the Agency’s proposal. If an impasse results, the dispute will go to the Federal Service Impasses Panel. The AWS schedule may not be terminated until agreement is reached or the Panel acts.

## Section 4.0 Provisions for administrative employees who are not under a Continuous-Duty/Shift work schedule per Section 5.0.

4.1 The basic workweek is normally Monday through Friday. Exceptions may occur when mission requirements make it necessary to include Saturdays or Sundays as part of the basic workweek for certain employees. Normally, an employee's workweek must not extend over more than five (5) days of the period Sunday through Saturday or be more than seven (7) consecutive days in a two (2) week period. This does not include overtime.

### 4.2 Breaks

Employees must take a lunch break sometime between one hour after the beginning of the tour of duty, and one hour before the end of the tour of duty. Lunch periods will be at least 30 minutes but not more than 120 minutes in duration for each workday. Employees should be allowed a 15 minute break during the first and last half of the workday. Breaks will not be in conjunction with the lunch period or with the start or end of the workday. Work ordered and performed in excess of employees' normal work schedule will include paid 15-minute break periods at the end of every two hours of work.

4.3 Western business hours are from 7:30 a.m. to 4:30 p.m. Core hours are from 9:00 a.m. to 3:00 p.m. These hours must be included in all full-time work schedules. The flexible band of work hours during which tours of duty may be established are from 6:00 a.m. to 6:00 p.m. The Agency may change the core hour or flexible band restrictions should the workload require it in abnormal, unusual, or unforeseen circumstances. The time accounting methods will be established by the employer.

4.4 Employees are expected to cooperate with co-workers, supervisors and managers to ensure the mission is accomplished. While managers and supervisors are expected to make every effort to schedule meetings and other special activities during core times, there may be times when a supervisor will ask an employee to arrange their schedule to meet the needs of the organization. For pay periods in which travel or training occurs, supervisors may adjust work schedules to meet the requirements of the travel or training while adhering to the 80-hour pay period work requirement.

4.5 The employer retains the right to approve or disapprove specific scheduling options or individual work schedules due to Adverse Agency Impact, such as productivity and/or office coverage considerations. Alternative work schedules that conform to applicable Office of Personnel Management (OPM) regulations, on the OPM Web site at <http://www.opm.gov/oca/aws/html/define.asp#FWS>, and the guidelines contained in this agreement are permissible.



4.6 To be considered for work under an AWS, or to continue to work a previously approved AWS, an employee must meet the following criteria:

4.6.1 The employee's performance has not dropped below the meets/exceeds level.

4.6.2 The employee has not received any disciplinary/adverse actions in the last six months impacting the integrity of an AWS.

4.6.3 The work is suitable for an AWS arrangement. Work suitable for AWS depends on job content rather than on job title, type of appointment.

4.7 If a supervisor denies a request for an established alternative work schedule or proposes to terminate an individual employee's participation in an alternative work schedule, the supervisor will provide the basis for the denial or termination and provide an alternate schedule to the employee. The employee may request the supervisor provide this notification in writing.

4.8 Employees may request changes in hours or days of work under their AWS option as frequently as permitted by the first-level supervisor. Denial of such a request will be due to Adverse Agency Impact and communicated to the employee.

4.9 Employees may request changes from one approved work scheduling option to another on a quarterly basis. Requests for tour of duty changes are completed using WAPA Form 3000.13 (<http://www.cso.wapa.gov/wapa/forms/wordforms/W3000-13.doc>).

#### Section 5.0 Provisions for Continuous Duty/Shift Work Employees

5.1 Rotational work schedule assignments and tours of duty shall be made in compliance with applicable laws and regulations.

5.2 Employees involved in rotational shifts/tours of duty shall have their schedule posted in their work area at least 2 weeks in advance. For pay periods in which travel or training occurs, supervisors may adjust work schedules to meet the requirements of the travel or training while adhering to the 80-hour pay period work requirement.

5.3 Voluntary shift changes within the same pay period by employees of the same grade and classification may be made by consent of the employees concerned, with immediate supervisor's approval.

5.4 It will be the policy of the Employer to provide as much time as practical between rotating shifts, including the relief personnel.

5.5 If an emergency, or event, does occur requiring more than one short change, the local union president will be notified and the reasons provided. A short change is defined as changing from nights to days or vice versa within a 24 hour period.

5.6 The Employer agrees it is in the interest of all parties to limit short changes and to allow as much time as possible between shifts.

5.7 Continuous-duty employees, including relief workers', hours will be continuous 8-, 10-, or 12-hour shifts. A relief worker is an employee whose duties are those of relief for shift workers. The relief worker may be utilized on any shift when relieving a regularly scheduled shift worker.

5.8 Once a relief employee has reported for duty, the Agency will not send the employee home to report for work on the nightshift without 8-hours off-duty, unless agreed to by the employee. If no voluntary alternative staffing arrangements are available, the relief employee may be the first required to adjust their schedule.

#### 5.9 Pre-Shift and Post-Shift Activity

When an employee who is turning a shift over to another employee is required by the Agency to brief that employee on the status of the system, they will be provided fifteen (15) minutes.

5.10 If a continuous duty/shift work schedule is not meeting the needs of management or employees, the designated representatives, after notifying the other party, may discuss the need for a schedule change. If both parties are agreeable to a schedule change, the change will be negotiated in accordance with Article 2 of this collective bargaining agreement. Notwithstanding, if management alone determines a need for a schedule change, the union will be notified per Article 2 and given the opportunity to bargain. Any new schedule will require review by the Human Resources, Workforce Relations office, prior to implementation.

#### Section 6.0 Credit Hours

6.1 Employees who work flexible schedules (i.e., flexitour, gliding schedule, variable day schedule, variable week schedule, or maxiflex) may earn credit hours. Employees who are in designated fixed schedule positions and employees who work compressed work schedules are not eligible to earn credit hours.

6.2 Each employee is responsible for the proper use and tracking of credit hours earned and taken. Credit hours may be earned or used in 15 minute increments and will require supervisory approval the same as annual leave.

6.3 Credit hours may not be used prior to being earned. They may, however, be earned and used within the same pay period provided they have been earned before they are used. For example, an employee may work to earn credit hours Monday through Thursday with the intent of using credit hours to take Friday off; they may not, however, take a Monday off and then work credit hours Tuesday through Friday to pay back the credit hours used.

6.4 Credit hours may be earned to mirror or reflect a compressed work schedule. As an example an employee may work four 10-hour days earning 8 credit hours thus giving the employee a four-day work week. Or an employee may work 8 nine hour days, one 8 hour day during a pay period thus earning 8 credit hours giving the employees a 9 working day pay period rather than the traditional 10.

6.5 Full-time employees may accumulate and carry over from one pay period to another a total of no more than 24 credit hours. Part-time employees may accumulate and carry over from one pay period to another a total of no more than  $\frac{1}{4}$  of the hours in the biweekly basic work requirement. A full-time employee who has accumulated more than 24 credit hours (or a part-time employee who has accumulated more than the maximum allowed) is subject to forfeiture of the excess credit hours if they are not used before the end of the pay period.

6.6 Employees may not earn credit hours for training extending outside their tour of duty.

6.7 Employees may use credit hours while on travel in lieu of pre-approved leave.

6.8 A union official who is conducting Union/representational business outside of their approved tour of duty may not earn additional credit hours outside their normal AWS hours of duty for this purpose. A union official who is leaving or returning to a Western facility after conducting official business outside of Western may not earn credit hours.

6.9 When an employee leaves the organization, or moves from a flexible work schedule, the employee must be paid for the earned credit hours at their current rate of pay. Payment for earned credit hours is limited to not more than 24 hours for a full time employee. Credit hours may not be traded or exchanged in any way between employees.

## Section 7.0 Holidays

7.1 All employees will be entitled to all Federal holidays, declared by law or Executive Order. Holidays shall not affect the designation of the basic work week and shall not be adjusted to avoid paying, or to pay, Holiday pay. More specific information about Federal holidays is available on the OPM Web site at <http://www.opm.gov/oca/worksch/html/holiday.asp>

7.2 For full time employees working a Monday-Friday schedule, if a holiday falls on a Saturday, it will be observed the preceding Friday. If a holiday falls on a Sunday, it will be observed the following Monday. This is referred to as an "in lieu of" holiday.

7.3 For full time employees working other than a Monday-Friday schedule, if a holiday falls on a regular weekly non-work day the holiday will be observed on what is referred to as an "in lieu of" holiday.

7.4 When a holiday falls on a non-work day of a part time employee, the employee is not entitled to an “in lieu of” day for that holiday.

## **ARTICLE 15 LABOR/MANAGEMENT COOPERATION**

### **Section 1.0 Policy**

The Employer and the Union will establish a Western Labor/Management committee (WLMC) with the purpose of having a forum of the parties to discuss a wide variety of issues pertaining to the Agency's mission, providing efficient and effective service to the public, and improving morale and the quality of work life for employees. Management and Union will discuss the workplace challenges and problems in a cooperative, collaborative manner in an endeavor to develop solutions jointly.

### **Section 2.0 Purpose**

The parties agree to have periodic meetings (at least semi-annually or more often if mutually agreed) between Senior Western Management and Union leadership to implement and maintain a cooperative working relationship between Labor and Management through pre-decisional involvement to achieve common goals. WLMC leadership must be committed to the principles of cooperation for this effort to be successful.

### **Section 3.0 The WLMC**

3.1 The structure, nature, scope, and operation of the Committee will be jointly determined by the Parties. The Committee would use consensus decision-making to:

- Identify problems and develop solutions to better serve Western's customers, mission, and employee needs
- Identify issues and areas essential to ensure AFGE's participation in carrying out Western's strategic plan
- Promote open communications at all levels for purposes of enhancing customer service
- Promote and facilitate programs for training, development, and career opportunities for carrying out Western's strategic planning goals.
- Set goals, measure performance and communicate results

3.2 The Council will be comprised of the following nine members:

- Two Senior Executives as designated by the Administrator
- The Human Resource Director, Western Area Power Administration
- An Ad Hoc member of management to be designated by the Administrator
- Each local AFGE President or their designee

- One additional AFGE representative from each local
- AFGE District Representative selected jointly by the Local Presidents

3.3 Additional participants may be invited to address specific issues, as necessary.

3.4 The meetings will be held at Western facilities.

#### Section 4.0 Agenda

Each Party will present agenda items to the other not less than two (2) weeks before the next scheduled Committee meeting

#### Section 5.0 Regional LMCs

Similar cooperation committees may be developed at the Regional level. The design will be determined at the Regional level.

## **Article 16 Leave and Absence**

#### Section 1.0 Purpose

The purpose of this Article is to prescribe the policies covering the different types of leave pertinent to all employees under applicable law and regulation. This Article must be administered following Title 5, United States Code, Chapters 63; Title 5, Code of Federal Regulations, Part 630 and this Agreement.

#### 1.1 Purpose of Leave

The purpose of leave is to allow employees time for rest, recreation, and to provide periods of time off for personal, medical, family, emergency, and/or other purposes.

#### 1.2 Accrual and Use of Leave

Employees will be entitled to accrue and use leave following applicable laws, regulations, and this Agreement. The Parties agree the use of accrued annual leave is the right of the employee and not a privilege and should be used by employees. Leave may not be used or charged in increments of less than fifteen (15) minutes.

#### 1.3 Unscheduled Leave

Unscheduled leave requests are defined as those not submitted prior to the day for which leave is requested. If an employee does not report for any scheduled tour of duty, it will be the responsibility of the employee to call their leave approving official/designee and request leave as close to the start of the shift as is reasonably

possible, but in no event, more than two (2) hours after the start of the shift. Failure to follow this procedure may result in charge of absence without leave (AWOL).

1.3.1 Non-emergency leave requests must be submitted to the requesting employee's leave approving official/designee, who will approve or disapprove the request as soon as possible thereafter.

1.3.2 Emergency leave requests must be submitted to the requesting employee's leave approving official/designee, normally within two (2) hours, who will approve or disapprove the request within a reasonable time. If the unscheduled leave request is for emergency annual leave, the request shall clearly state the nature of the emergency. The employee may use voice mail or e-mail to notify the leave approving official of the need for emergency leave, but must leave a contact number so the supervisor may contact the employee. Denial of an unscheduled leave request for emergency annual leave will be for just cause. In case of an emergency if an employee is unable to notify their supervisor personally of the need for annual leave, then this may be accomplished by another person.

## Section 2.0 Annual Leave Procedures

2.1 An Office of Personnel Management Form 71 (OPM-71), "Request for Leave or Approved Absence," shall be submitted for any absence in excess of 3 consecutive workdays. The employee may submit their leave requests through the automated timekeeping system which would replace the OPM-71. Available annual leave in excess of the maximum carryover of 240 hours, which has not been scheduled and posted by November 1, may be scheduled by management. Employees may change previously authorized annual leave to sick leave following 5 CFR 630.405.

2.2 Each employee shall schedule annual leave so as to avoid forfeiture at the end of the leave year. When properly scheduled annual leave is lost at the end of the leave year because of urgent necessity of public business leave shall be restored by Management. When properly scheduled annual leave is lost at the end of the leave year because of administrative error or documented medical reasons, leave shall be restored by Management upon request of the employee.

2.3 Employees may request use of annual leave at any time, in any duration, or pattern.

2.4 Annual leave will be granted, subject to workload demands, on a first come first serve basis in a manner which permits each employee who wishes to take up to two (2) consecutive weeks of annual leave each year. Upon request, a denial of annual leave must be accompanied by a written statement of the reasons for the denial. If workload permits, employees may request and supervisors may approve periods of annual leave that exceed two (2) consecutive weeks. Leave will not be requested more than one (1) year in advance.

2.5 If conflict arises when two or more employees request leave on the same date for the same period and cannot be granted annual leave at the same time because of workload requirements, leave requests will be honored on the basis of Service Computation Date (SCD) for retirement first, then the service time in the organization (i.e., fourth tier, e.g., A7900) as a tie-breaker. An employee who was granted leave using the tie-breaking procedure will be given the lowest priority if another conflict arises where two or more employees cannot be granted annual leave at the same time because of workload requirements. Once annual leave has been scheduled, an employee's request for a change in their scheduled leave will be honored, subject to the needs of the organization, only if the change does not adversely affect the leave schedule of another employee.

2.6 Employees will be informed of whether their requests for leave have been approved in a timely manner, normally within five (5) workdays. Requests to use leave on the following day will be delivered verbally or on an OPM-71 to the approving official. The approving official will approve or disapprove the request no later than the end of the employee's work shift.

### 2.7 Cancellation of Pre-Approved Leave

In instances where employees have received advanced approval for leave, before the leave is rescinded, the Agency will make every reasonable effort to accomplish the employee's work, to include seeking volunteers to relinquish their scheduled leave.

### 2.8 Tardiness

Supervisors may excuse up to one (1) hour of tardiness without charge to leave.

### 2.9 Advancing Annual Leave

The Agency may grant an employee's request for advanced annual leave in situations where the employee lacks sufficient leave to cover the period being requested and can be expected to accrue sufficient annual leave to repay the advance; provided that workload permits a granting of leave.

## Section 3.0 Sick Leave Procedures

The Union and Management recognize the insurance value of sick leave and agree to encourage employees to conserve sick leave so it will be available to them in cases of extended illness.

### 3.1 Privacy

The Agency will treat as confidential any medical information provided by an employee to any agent or representative of the Agency in support of a request for sick leave. The Agency may disclose such information subject to the Privacy Act of 1974 (552a) and 5 CFR 339 only for purposes of making informed management decisions and only to individuals who have a need to know.

## 3.2 Definitions

3.2.1 **Family member** means the following relatives of the employee.

- Spouse and parents thereof;
- Children, including adopted children and spouses thereof;
- Parents, and spouses thereof;
- Brothers and sisters, and spouses thereof;
- Grandparents and grandchildren, and spouses thereof;
- Domestic partner and parents thereof, including domestic partners of any individual in paragraphs b through e of this definition; and
- Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

3.2.2 **Medical certificate** means a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.

## 3.3 Approval

The Agency will approve an employee's request for sick leave when the employee:

- Receives medical, dental, or optical examination or treatment;
- Is incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth;
- Provides care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment;
- Provides care for a family member with a serious health condition;
- Makes arrangements necessitated by the death of a family member or attends the funeral of a family member (may use up to 104 hours of sick leave in a leave year for bereavement);
- Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by their presence on the job because of exposure to a communicable disease; or
- Must be absent from duty for purposes relating to their adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

## 3.4 Scheduling

### 3.4.1 Scheduling in Advance

Employees should schedule and request sick leave for non-emergency medical, dental, optical, psychological, or alcohol/drug counseling appointments as soon in advance as practicable.



In the case of a need for an extended period of sick leave, daily requests for leave will not be required, as long as the employee has informed the employer of the expected duration of their need for the leave.

### 3.5 Medical Evidence

A medical certificate shall be acceptable evidence for determining that an employee was incapacitated for duty. A medical certificate may be required for more than three consecutive sick days.

Except for employees on leave restriction, employees who are released from duty because of illness will not be required to furnish a medical certificate to substantiate sick leave for the day they were released from duty. Subsequent days of absence may be subject to this provision.

### 3.6 Sick Leave Abuse

3.6.1 Counseling and sick leave restriction letters will be directed at the abuse of sick leave not the use of sick leave.

3.6.2 Where there is probable cause to believe an employee is abusing the sick leave entitlement (e.g., an employee calls in sick every Friday for a period of time), the employee may be formally counseled and advised of the possibility of future medical certification requirements should the abuse continue. If the abuse continues, the employee may be required to furnish a medical certificate for each sick leave request.

3.6.3 If reasonable grounds continue to exist for questioning an employee's use of sick leave, the Agency may request that the employee provide a medical certificate indicating the employee is under the care of a physician, is incapacitated for duty, and the expected duration of such incapacitation. The employee may be required to provide specific medical information such as diagnosis and prognosis, and may choose to provide this information only to the Regional Administrative Officer (the Human Resources Manager for CSO employees).

3.6.4 If reasonable grounds continue to exist for questioning an employee's use of sick leave, the employee may be placed on leave restriction. The notification will be in writing and inform the employee that no request for sick leave, or other leave in lieu of sick leave, will be approved for a stated period (not to exceed six (6) months) unless supported by a medical certificate. Any such written notice will describe the frequency, patterns or circumstances which led to its issuance, and will specify the termination date of the leave restriction. At the end of the stated period, the Agency will review the employee's situation and will notify the employee in writing if the leave restriction is no longer in effect. Restrictions may be renewed if there are reasonable grounds to believe the abuse is continuing.

### 3.7 Chronic Medical Condition

3.7.1 An employee with a medically certified chronic condition resulting in periodic absences from work may be required to furnish an updated medical certificate which clearly states the continuing need for periodic absences.

3.7.2 Medical certification must include a statement that the employee is incapacitated for work, the reason for and periods of potential incapacitation. This will be considered sufficient for medical certification purposes.

### 3.8 Advanced Sick Leave

3.8.1 Employees who are incapacitated for the performance of duties because of serious disability or ailment may request advance sick leave not to exceed 30 days. A maximum of 30 days of sick leave may be advanced to an employee with a medical emergency related to the adoption of a child, for family care or bereavement purposes, or to care for a family member with a serious health condition.

3.8.2 Requests for advanced sick leave will normally be granted following governing regulations when all of the following conditions are met:

- the employee is eligible to earn sick leave;
- the employee's request does not exceed 30 days, or for temporary employees only the amount to be earned during the period of temporary employment if appropriate;
- there is reason to believe the employee will return to work after having used the leave for a period sufficient to repay the advance; and
- the employee has provided acceptable medical documentation of the need for advanced sick leave.

### 3.9 Family and Medical Leave Act

For additional information on the types of absences covered under the Family and Medical Leave Act, reference Appendix 1.

3.9.1 Employees shall be entitled to a total of up to 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- The birth of a son or daughter of the employee and the care of such son or daughter;
- The placement of a son or daughter with the employee for adoption or foster care;
- The care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or

- A serious health condition of the employee that makes the employee unable to perform the essential functions of their position.

3.9.2 An employee may elect to substitute the following paid time off for any or all of the period of leave taken under paragraph 3.9.1 of this part:

- Accrued or accumulated annual or sick leave under Subchapter I of Chapter 63 of Title 5, United States Code, consistent with current law and regulations governing the granting and use of annual or sick leave.
- Advanced annual or sick leave approved under the same terms and conditions that apply to any other agency employee who requests advanced annual or sick leave.
- Leave made available to an employee under the Voluntary Leave Transfer Program consistent with Subpart I of 5 CFR Part 630 (Family and Medical Leave 5 CFR Parts 630 and 890).
- Compensatory time off.
- Credit hours accrued under a flexible work schedule.

3.9.3 The Agency may not deny an employee's right to substitute paid time off under paragraph 3.9.2 of this section for any or all of the period of leave taken.

## Section 4.0 Other Leave

### 4.1 Leave Without Pay

4.1.1 Leave without Pay (LWOP) is a temporary non-pay status and absence from duty for a specific period of time, which may be granted to an employee following applicable laws, rules, and regulations. The granting of LWOP will be in a fair and equitable manner. LWOP may be requested in the same manner and for the same purposes as annual leave and sick leave. This includes employees who have applied for a disability retirement. Employees may request LWOP for educational purposes. Requests for LWOP will be given serious, bona fide consideration. Reasons for the denial of a request for LWOP will be provided to the employee in writing if the request is in writing.

4.1.2 Upon written request from the appropriate office, an employee may be granted LWOP to engage in union activities on the national, district, or local level to work in programs sponsored by the Union or the AFL-CIO. Such requests will be referred to the appropriate management official. Such employees shall continue to accrue benefits in accordance with applicable OPM regulations. LWOP for this purpose is limited to one year, but may be extended or renewed upon proper application.

4.1.3 Approval of LWOP is mandatory for the following:

- Military training or active duty for members of the Reserves or National Guard, who are not entitled to, or have exhausted their military leave (38 USC 4316(d)).
- Medical treatment for disabled veterans.
- Employees exercising LWOP rights under the Family and Medical Leave Act.
- When requested by an employee who has suffered an incapacitating job related injury or illness and is waiting adjudication of a claim for compensation by the Office of Workers' Compensation Program.

4.1.4 Upon return to duty after a period of LWOP, management will restore the employee to the position which the employee held prior to the leave or to a similar position at the same grade and pay within the commuting area.

4.2 Excused Absences (Administrative Leave) Administrative leave is an approved absence from duty without loss of pay and without charge to leave. Administrative leave is treated as time worked for all purposes except that the employee is excused from their regular assigned duties. Workload permitting, administrative leave may be granted to an employee under the following sections.

4.2.1 Blood Donations An employee may be granted up to four (4) hours administrative leave for purposes of travel, testing, and recuperation associated with donating blood. Additional administrative leave for this purpose may be approved in unusual circumstances, if needed.

4.2.2 Bone Marrow Donations Employees may use up to seven (7) workdays of paid leave each year, in addition to annual and sick leave, to serve as a bone marrow donor.

4.2.3 Organ Donations Employees may use up to 30 workdays of paid leave each year, in addition to annual and sick leave, to serve as an organ donor.

4.2.4 Religious Observances Time off for Religious Observance will be administered under Subpart J, 5 CFR 550.1001 and Article 16 of this Agreement.

4.2.5 Funeral Leave Upon request, an employee will be granted up to three (3) workdays of leave without loss of or reduction in pay to make arrangements for or attend the funeral or memorial service of a family member who died as the result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone. The leave need not be consecutive, but the employee will provide the supervisor justification for the requested non-consecutive workdays.

## 4.2.6 Court Leave

4.2.6.1 Under law and regulations, an employee with a regular scheduled tour of duty is entitled to administrative leave/court leave for:

- jury duty (including time spent waiting to be called or selected, and related travel time) when required by any Federal, State or local court, in any State, territory, or possession of the United States; or
- serving as a witness (including time spent waiting to testify, and related travel time) when summoned by a court or authority responsible for the conduct of the proceeding to appear as a witness on behalf of any party when the United States, the District of Columbia, or a State or local government is a party.

4.2.6.2 Employees who are normally assigned to evening shift, night shift or other work schedules and are required to appear in court, whether on jury duty or as a witness during the day may be granted an adjustment in their regular schedule to coincide with the court day(s), at their request. In the alternative, the employee may request court leave for the employee's regularly scheduled tour of duty, to allow for sufficient rest to perform their court duties. In such cases, the employee will not suffer any loss of pay.

4.2.6.3 If an employee on court leave is excused from court with sufficient time to enable the employee to return to duty for at least two (2) hours of the scheduled workday, including travel time, the employee will return to duty unless granted appropriate leave by the Agency. Employees will request and receive approval before going on leave to the extent practicable, using procedures as set forth above.

4.2.6.4 Employees may keep any expense money received for mileage, parking, or required overnight stay, to the extent consistent with law. (See Appendix 2)

## 4.2.7 Workplace Closings

4.2.7.1 Whenever it becomes necessary to close a workplace because of inclement weather or other emergency situation, non-essential employees may be granted administrative leave per Agency policy. For telecommuting employees, administrative dismissals are based only on the workplace affected by the dismissal. Existing telecommuting agreements as of the effective date of this agreement shall not be modified by this section.

4.2.7.2 If emergency conditions prevent employees' timely arrival at work, even though the workplace is not closed, the employee may be granted administrative leave for absence from work for a part or all of the employee's workday. Employees are obligated to contact their supervisors as early as practicable to explain the circumstances and provide an estimated time of arrival at work. In addition, the Agency may request documentation that the employee made reasonable efforts to reach work, but was prevented from timely arrival by emergency conditions. Determinations to grant

administrative leave and the duration of the leave will be uniformly applied to all similarly situated employees within the area affected by the emergency. For telecommuting employees, this section would also apply when they are required to report to the official duty station.

4.2.7.3 If the President, the Office of Personnel Management, or other appropriate authority declares a natural disaster area, employees who are faced with a personal emergency caused by that natural disaster may be eligible for a reasonable amount of administrative leave, based on the facts and circumstances of the personal emergency. An employee requesting administrative leave under this Section may be required to provide an explanation and/or documentation in support of their claim.

4.2.7.4 An early release from duty may also be provided in non-emergency/hazardous situations at the discretion of an agency or department head. An example of this would be an early release by the Secretary of Energy or the Administrator prior to a holiday. During an early release, employees who have reported to work and non essential employees may be excused from work for the specified period of time. The agency will implement administrative leave for early release consistent with its authority under an executive order.

4.2.8 Voting An employee will not be denied the opportunity to vote. As a general rule, when the voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, employees may be granted an amount of excused leave to vote which will permit the employee to report to work three (3) hours after the polls open or leave work three (3) hours before the polls close, whichever requires the lesser time amount.

4.2.9 Transfers The employer may authorize up to 16 hours of administrative leave to employees who are transferring to or within WAPA for activities which the employee cannot accomplish during off duty hours.

## Section 5.0 Military Leave

5.1 As provided in 5 U.S.C. 6323(a), eligible employees may earn fifteen (15) calendar days of military leave per fiscal year for active duty, active duty training, and inactive duty training. An employee can carry over a maximum of fifteen (15) calendar days into the next fiscal year.

5.2 Military leave must be granted without any loss of pay. Military leave will be credited to a full time employee on the basis of an eight (8) hour workday. The minimum charge to leave is one (1) hour as required by law. An employee may be charged military leave only for hours the employee would otherwise have worked and received pay. Employees who request military leave for inactive duty training (which is generally two (2), four (4), or six (6) hours in length) will be charged only the amount of military leave necessary to cover the period of training and necessary travel. Members of the

Reserves and National Guard will not be charged military leave for weekends and holidays that occur within the period of military service.

5.3 Inactive Duty Training is authorized training performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods and equivalent training.

5.4 Employees requesting approval of military leave will provide a copy of the orders directing the employee to active duty and/or a copy of the certificate on completion of such duty.

5.5 Emergency Military Leave may be authorized by 5 U.S.C. 6323(b).

5.6 Leave for Reserve and National Guard Technicians may be authorized by 5 U.S.C. 6323(d).

5.7 The Uniformed Services Employment and Reemployment Rights Act (USERRA), provisions are contained in 38 U.S.C. § 4301, *et al.*

5.8 Service members returning from a period of service in the uniformed services must be reemployed by the "pre-service" employer if they meet all five (5) eligibility criteria as set forth in USERRA.

- the person must have held a civilian job;
- the person must have given notice to the Agency that they were leaving the job for service in the uniformed services unless giving notice is precluded by military necessity or otherwise impossible or unreasonable;
- the period of service must not have exceeded five (5) years;
- the person must not have been released from service under dishonorable or other punitive conditions; and
- the person must have reported back to the civilian job in a timely manner or have submitted a timely application for reemployment.

## Section 6.0 Absence without Leave (AWOL)

When the Agency determines it will charge an employee AWOL, it will notify the employee as soon as possible of the reason for charging AWOL and the date and time period in question. The notice will be provided to the employee verbally or in writing if the employee is present in the workplace. If the employee is not present and/or is not expected to be present within a reasonable period of time, a notice may be mailed to the employee's last known address. AWOL will be changed to appropriate leave if it is later determined the absence was excusable.

## Section 7.0 Miscellaneous

For other types of leave not explicitly addressed in this Article, leave will be granted in accordance with 5 CFR 630 and other applicable laws and DOE Orders.

# **ARTICLE 17 MANAGEMENT RIGHTS AND OBLIGATIONS**

## Section 1.0: Management Rights

This Article will be administered following 5 U.S.C. § 7106 of the Federal Service Labor-Management Relations Statute and the provisions of this contract.

## Section 2.0 Statutory Rights

2.1 Nothing in this Agreement will affect the authority of any management official:

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

2.1.2 Following applicable laws:

- to hire, assign, direct, layoff and retain employees in the agency or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
- to assign work, to make determinations with respect to contracting out and to determine the personnel by which Agency operations shall be conducted;
- with respect to filling positions, to make selections for appointments from
  - ❖ among properly ranked and certified candidates for promotion; or
  - ❖ any other appropriate source; and
- to take whatever actions may be necessary to carry out the Agency mission during emergencies.

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

- at the election of the Agency, on the numbers, types and grades of employees or positions assigned to any organizational subdivision;
- work project or tour of duty, or on the technology, methods and means of performing work;
- procedures which management officials of the Agency will observe in exercising



any authority under this section; or

- appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

## **ARTICLE 18 MERIT PROMOTION PROCEDURE**

Section 1.0 The promotion procedure in effect at the time of approval of this Agreement is hereby adopted and made a part of this Agreement.

Section 2.0 The merit promotion plan will be available on-line on the Western HR Web page as well as a copy of this agreement.

### **Section 3.0 Career Ladder Promotions**

3.1 Employees in career ladder positions will be given the opportunity to reach the full potential of their assigned career ladders. Upon placing an employee in a career ladder position, the supervisor will discuss the job requirements and expectations (e.g., critical elements, position description, etc . . .) for the employee to reach the next higher level (i.e., the employee should demonstrate they are performing at the Meets Expectations level of the higher grade). The supervisor will hold these discussions at each level of the employee's progression within the career ladder.

3.2 At the time the employee reaches their earliest date of promotion eligibility, the Agency will decide whether or not to promote the employee.

3.2.1 If an employee is meeting the promotion criteria, the Agency will initiate the promotion effective at the beginning of the first pay period after the requirements are met.

3.2.2 If an employee is not meeting the promotion criteria, the employee will be provided with a written notice at a minimum during the required progress review and/or performance appraisal discussions. The written notice will state what the employee needs to do to meet the promotion criteria. The supervisor and employee will develop a plan tailored to assist the employee to acquire pertinent skills and knowledge to demonstrate they meet the promotion criteria. The plan may include applicable training as well as other appropriate support.

3.3 If a promotion action is not initiated timely in accordance with the Office of Personnel Management personnel processing guidelines the employee may seek resolution through settlement agreement, grievance arbitration or court order as set out by law, regulation and this agreement.

## **ARTICLE 19 OFFICIAL TIME FOR UNION TRAINING**

### Section 1.0 Joint training

Employees who are officials or stewards of the Union may be excused without charge to leave for the purpose of attending joint training sessions, provided that the parties mutually agree that the training is of mutual benefit to Western and AFGE, and that the parties determine that attendance by representatives of management and labor is beneficial. Requests and course agendas will be submitted to the Workforce Relations Supervisor. Western will pay for appropriate travel, training and per diem to attend such training.

### Section 2.0 Union training

Employees who are officials or stewards of the Union may be excused without charge to leave for the purpose of attending mutually beneficial union sponsored/union only training. The union will provide the Workforce Relations Supervisor an agenda to indicate that the training session is beneficial to both Western and the union. Approval for official time to attend a training session will be contingent upon the supervisor's determination that the employee can be spared from his or her assigned duties for the specific period. Local 3824 and 3807 may be granted up to 700 hours per Fiscal Year for such training. The Local Presidents will be responsible to determine how to allot the hours when requests to use such time are submitted. No one union official or steward can use more than 80 hours in any one Fiscal Year. If a union official or steward requires more than 80 hours for union training, either local Union President may make a request to the Workforce Relations Supervisor to determine if additional hours will be granted. Travel, training, and per diem expenses shall be borne by the union or the employee for such training.

## **ARTICLE 20 OFFICIAL TRAVEL**

### Section 1.0 General

1.1 The nature of the mission of the Agency is such that it might be necessary for bargaining unit employees to travel officially on behalf of the government.

1.2 Compensation during travel is governed by applicable law, rule, regulation, and Article 21, Pay Administration, of this Agreement.

## Section 2.0 Government Travel Charge Cards

2.1 The Western Travel Card Program in effect at the time of approval of this Agreement is hereby adopted and made a part of this Agreement.

2.2 The Travel Card Program Guide is available on-line on the Western Web page. (add link)

## Section 3.0 Scheduling Travel

3.1 To the maximum extent practicable, the Employer will schedule and arrange for the travel of bargaining unit employees to occur during normal working hours within the employee's regularly scheduled work hours.

3.2 If circumstances require the employee's presence on Monday, too early to permit travel that day, the employee may perform the travel on the preceding day (Sunday), leaving home or post-of-duty (POD) at a reasonable time. If the employee prefers, travel may be permitted during duty hours on the preceding Friday. In this event, per-diem reimbursement may be allowed to start with the departure time, but will be limited to what would have been payable if the departure was made on Sunday.

3.3 When travel results from an event that cannot be scheduled or controlled administratively, such travel may be considered hours of employment for pay purposes pursuant to appropriate provisions of 5 CFR 550.112, and statute.

## Section 4.0 Per-Diem Allowances

4.1 The per diem allowance (also referred to as subsistence allowance) is a daily payment instead of reimbursement for expenses for lodging, meals, and related incidental expenses. The per diem allowance is separate from certain transportation expenses and miscellaneous expenses. The per diem allowance covers all charges, including taxes and service charges where applicable for lodging, meals, and incidental expenses as allowed by applicable law, rule, regulation, and the terms of this Agreement.

4.2 In instances where an employee's actual expenses for lodging will be in excess of the established per-diem allowance, the employee may file a request in advance, and actual expense may be authorized under the provisions of the applicable regulations.

## Section 5.0 Temporary Lodging

Bargaining unit employees traveling on official business will normally not be required to share a room.

## Section 6.0 Accommodating Special Needs

Consistent with its obligations under applicable laws, rules, regulations, and the provisions of this Agreement, the Agency must provide reasonable accommodations to employees with special needs. Depending on the circumstances, the Agency may pay for any expenses deemed necessary to accommodate a traveling employee. These additional expenses may include, but not be limited to: (add FTR link)

6.1 Transportation and per diem expenses incurred by a family member or other attendant who must travel with the employee to make the trip possible;

6.2 Specialized transportation to, from, and/or at TDY duty locations;

6.3 Specialized services provided by a common carrier to accommodate employees' special needs;

6.4 Costs for handling baggage that is a direct result of employees' special needs;

6.5 Renting and/or transporting a wheelchair;

6.6 Premium-class accommodations when necessary to accommodate employees' special needs; and

6.7 Services of an attendant, when necessary, to accommodate employees' special needs.

## Section 7.0 Privately Owned Vehicles (POVs)

When an employee elects to use their POV and the use is authorized by the Agency, the mileage allowance and related expenses allowed by applicable law, rule, regulation, and the provisions of this Agreement will also be authorized.

# **ARTICLE 21 PAY ADMINISTRATION**

## Section 1.0 Purpose

1.1 This Article covers overtime/compensatory time, on-call, and other types of premium pay.

1.2 The parties recognize that Title 5 USC § 5301 states it is the policy of Congress that Federal pay fixing for employees under the General Schedule be based on the principles that:

1.2.1 There be equal pay for substantially equal work within each local pay area;

- 1.2.2 Within each local pay area, pay distinctions be maintained in keeping with work and performance distinctions;
  - 1.2.3 Federal pay rates will be comparable with non-Federal pay rates for the same levels of work within the same local pay area; and
  - 1.2.4 Any existing pay disparities between Federal and non-Federal employees should be completely eliminated.
- 1.3 The Employer will not direct employees to work without compensation.

## Section 2.0 Overtime

2.1 If an employee is required by management to work hours which are in excess of the basic tour of duty, these hours must be compensated in accordance with the applicable pay provisions of law and/or regulation. Overtime must be approved in advance.

2.2 General Schedule FLSA non-exempt bargaining unit employee overtime pay is equal to one and one-half times the employee's hourly rate of pay.

2.3 General Schedule FLSA exempt bargaining unit employee overtime pay is equal to one and one half times the employee's hourly rate of pay. However, if the employee's rate of pay exceeds the minimum applicable rate for a GS-10 (i.e., GS-10, step 1), including a locality-based comparability payment, or any applicable special rate of pay, the overtime rate is the greater of:

2.3.1 One and one-half times the applicable minimum hourly rate of basic pay for GS – 10; or

2.3.2 The employee's hourly rate of basic pay.

2.4 Opportunity for overtime assignments will be distributed and rotated equitably among those qualified employees who are under the supervisor or supervisors having the work to be performed.

2.5 First consideration for overtime will be given to those employees who are normally working on the specific task or position for which overtime is required. Second consideration will be given to volunteers who possess the required knowledge and skills.

2.6 Volunteers may be solicited within the CSO/Regional Office to which the overtime is required. If more employees volunteer than are needed, the supervisor will refer to the record and make selections in the appropriate job classification from among the volunteers according to the least amount of overtime offered and worked. In the event

of equal amounts of overtime offered and worked, overtime shall be allocated on a rotational basis.

2.7 The Agency retains the right to not assign voluntary overtime to an employee when safety or health considerations are a factor.

## 2.8 Disputes

The negotiated grievance procedure is available as a remedy for the resolution of disputes concerning overtime.

2.9 Use of annual or sick leave shall have no effect on the distribution of overtime.

2.10 Call-back Overtime. An employee called into work outside of, and unconnected with, their basic workweek shall receive a minimum of two (2) hours compensation regardless of whether they are required to work the entire two (2) hours. An employee who is called and performs work from home outside of, and unconnected with, their basic workweek shall receive a minimum of fifteen (15) minutes compensation.

## 2.11 For Continuous Duty Employees

2.11.1 Volunteers will be solicited, starting with employees having the least amount of overtime on record.

2.11.2 Suitable records of overtime worked and declined will be maintained by unit supervisors to assure each employee receives substantially the same consideration. Such records can be reviewed by a Union representative or a department bargaining unit employee. For the purpose of record keeping, overtime declined will be counted as overtime worked.

2.11.3 Records will be maintained for each calendar year. At the start of each year the overtime record for the employee with the lowest number of overtime hours worked will be returned to zero. Overtime records for all other employees in the workgroup will be adjusted by the amount of hours the employee with the lowest number of overtime hours worked. This will indicate the number of overtime hours worked above the lowest overtime employee during the previous year. A new employee will be assigned the average hours in the group.

2.11.4 Management shall provide as much notice for unanticipated overtime as circumstances permit.

2.11.5 If the overtime is scheduled over 2 weeks in advance, the supervisor is not required to contact the employee, unless the employee is not scheduled to work before the overtime date.

## Section 3.0 Compensatory Time

3.1 Accrued compensatory time not taken within 26 pay periods from the date earned will be paid at the applicable overtime rate.

3.2 For purposes of compensatory time earned and used under the overtime provisions, increments in 15 minutes are authorized.

3.3 Employees can elect to earn compensatory time in lieu of overtime for irregular or occasional overtime work.

### 3.4 Compensatory Time-Off for Travel

3.4.1 The Federal Workforce Flexibility Act of 2004, allows employees to earn compensatory time off for official travel during uncompensated, non-work hours, under certain conditions. For purposes of compensatory time earned and used for travel purposes, increments in 15 minutes are authorized.

3.4.2 Guidance to assist in determining the appropriate compensation for time in a travel status is available on-line at <http://www.int.wapa.gov/HR/hr/Guidance.htm>

3.4.3 To earn compensatory time off for travel the time must be officially authorized and be approved by an authorized Agency official. There is no limit on the amount of compensatory time for travel an employee may earn, but accrued compensatory time off for this purpose must be used by the end of the 26<sup>th</sup> pay period after the pay period in which it is earned or it will be forfeited. If an employee separates from Federal service or transfers to another agency before the compensatory time off for travel is used, it will be forfeited.

3.4.4 A union official who is traveling for the purpose of conducting union/representational business, i.e., official time, is not entitled to earn compensatory time off for travel.

## Section 4.0 On-Call Compensation

### 4.1 On-Call Duty Status

Employees who are required to carry an electronic paging device when in an on-call duty status will remain within one-half hour travel time of their primary place of residence (or approved on-call place of residence) and will sustain themselves in an able to respond and perform work condition. Management, at its option, will provide either a cellular telephone or electronic pager for the purpose of contacting the on-call employee. Employees may elect to use their own cellular phone or pager for their personal convenience at their expense. Employees who provide their own paging device shall provide the device's phone number, permitting Western to contact them when the need arises.

## 4.2 Inconvenience Compensation

Inconvenience compensation for being on-call will be one hour of overtime for every calendar weekday (close of business Monday through start of business Friday), five hours for every weekend (close of business Friday through start of business Monday) and two hours for every Federal holiday a person is requested to carry an electronic paging device. Inconvenience compensation will be in addition to any call-back compensation.

## 4.3 Eligibility for On-Call Work

The on-call duty will be rotated among all qualified and eligible employees at the same work location. Team-leads and supervisors may be part of the on-call rotation.

## Section 5.0 Night Work

5.1 General Schedule employees working a regular schedule with a tour of duty that includes hours (not to include credit hours) that are worked after 6:00 p.m. and before 6:00 a.m. are entitled to a night shift differential equal to 10% of their regular rate of pay for those regularly scheduled work hours.

5.2 No employee may receive night differential pay when engaged in training, except when the training takes place during hours in the employee's regular tour of duty that otherwise qualify for night differential.

## Section 6.0 Sunday Work

6.1 A full-time General Schedule employee working a regular, flexible, or compressed schedule under this Article, who performs scheduled non-overtime work, a part of which is performed on a Sunday, is entitled to pay at their regular rate of pay plus premium pay at a rate equal to 25% of their rate of basic pay for the entire daily tour of duty, not to exceed 8 hours.

6.2 Part time employees are not entitled to Sunday premium pay.

Section 7.0 Employees on Military Leave under 5 USC 6323(a) or Court Leave under 5 USC 6322 are entitled to the same compensation they would have otherwise received but for their absence on military or court leave. If such leave is taken at a time at which the employee would otherwise be required to perform regularly scheduled overtime, the employee must be compensated at the overtime rate of pay.



## **ARTICLE 22 PERFORMANCE MANAGEMENT**

### **Section 1.0 Overview**

1.1 The Agency and the Union are committed to providing quality public service. Accomplishment of the Agency mission should be achieved in an environment that recognizes the value of its employees and the importance of teamwork.

1.2 A performance management program that works well helps supervisors to recognize their employees' full performance potential, identify high achievers, identify areas requiring improvements, and differentiates between the two, thereby assisting with meeting the Agency's mission and goals.

Section 2.0 The parties agree to use the DOE O 331.1C and the Desk Reference, dated October 1, 2010, as adjusted or clarified by this Agreement, as the performance management program for bargaining unit employees. (add links)

### **Section 3.0 Performance Plan Initiation Process**

3.1 The Supervisor/Team Lead (Limited Supervisor) will prepare the performance plan in accordance with the Employee Performance Management and Recognition Program. The performance plan focuses on performance expectations within the scope of the employee's job description in achievement of Western's overall mission.

3.2 The Supervisor/Team Lead (Limited Supervisor) will present the plan to the employee. The employee will have three working days to review the plan prior to meeting with the supervisor.

3.3 The Supervisor/Team Lead (Limited Supervisor) will meet with the employee to finalize the plan. If both parties agree with the content of the plan, it is signed and the plan is implemented.

3.4 If the employee disagrees with the content of the plan, the employee may:

3.4.1 Contact their union representative and discuss the issue. If the employee and the union agree with the content of the plan, the employee may sign the plan. If the union and employee don't agree with plan they can request to meet with the Supervisor. The parties may request the Human Resources Advisor (HRA), and either Reviewing Official (RO) or Team Lead (Limited Supervisor), as applicable, participate in the discussion of the issue. If no resolution is reached, the employee may begin the grievance process.

3.4.2 Request to meet with the HRA, Supervisor, and RO or Team Lead (Limited Supervisor), as applicable, if the employee does not want to involve the union. If no solution is reached, the employee may begin the grievance process.

3.4.3 Begin the grievance process, if the employee chooses not to participate in Step 3.4.1 or Step 3.4.2

3.5 The time frame for initiating the process in 3.4.1 or 3.4.2 will be 14 calendar days. Meeting may be held face-to-face or via conference call.

#### Section 4.0 Appraisal Rating Process

4.1 The Supervisor/Team Lead (Limited Supervisor) will prepare the annual appraisal in accordance with the Employee Performance Management Program. When evaluating performance, the employee will not be held accountable for factors which affect performance if the supervisor determines they are beyond the control of the employee. The supervisor should be prepared to defend the rating levels and summary rating.

4.2 The Supervisor/Team Lead (Limited Supervisor) will present the appraisal to the employee. The employee will have three working days to review the rating prior to meeting with the Supervisor/Team Lead (Limited Supervisor).

4.3 The Supervisor/Team Lead (Limited Supervisor) will meet with the employee to discuss the performance appraisal. If both parties agree with the rating, it is signed and the rating is final.

4.4 If the employee disagrees with the rating, the employee may:

4.4.1 Contact their union representative and discuss the issue. If the employee and the union agree with the content of the rating, the employee may sign the rating. If the union and employee don't agree with the rating they can request to meet with the Supervisor. The parties may request the Human Resources Advisor (HRA), and either Reviewing Official (RO) or Team Lead (Limited Supervisor), as applicable, participate in the discussion of the issue. If no resolution is reached, the employee may begin the grievance process.

4.4.2 Request to meet with the HRA, Supervisor, and RO or Team Lead (Limited Supervisor), as applicable, if the employee does not want to involve the union. If no solution is reached, the employee may begin the grievance process.

4.4.3 Begin the grievance process, if the employee chooses not to participate in Step 4.4.1 or Step 4.4.2

4.5 The time frame for initiating the process in 4.4.1 or 4.4.2 will be 14 calendar days. Meeting may be held face-to-face or via conference call.

4.6 It is recommended that supervisors request and employees submit their accomplishments at the mid-year and end of year appraisal prior to developing the mid-year review or performance appraisal.

4.7 Progress review discussions may be initiated by the supervisor or employee. The supervisor will provide additional guidance aimed at developing the employee(s) and improving the work product or outcome when requested by the employee. The supervisor will notify an employee of information that may negatively impact the employee's performance appraisal when they become aware.

## Section 5.0 Development of Performance Elements and Standards

5.1 The final determination of the content of performance elements and standards is management's right. However, to facilitate the appraisal process the parties will consider:

- 5.1.1 Employees who are under the same position descriptions generally should be under similar elements and standards taking into consideration localized needs. The DOE Order provides for joint development of performance plans by the rating official and the employee. Management shall take into consideration comments and input from the union when developing the elements and standards. If Management convenes an employee meeting to discuss the development of performance plans for a similar group of employees, then the union will be provided the opportunity to be present.
- 5.1.2 The performance plan is developed jointly by the Rating Official and the employee and may be initiated by either party. They will develop consistent language with measures at the meets expectations level. In order to provide employees an understanding of what it takes to reach an "exceeds expectations" level, guidance will be provided to employees on how ratings above meets expectations are achieved for each element.
- 5.1.3 Language in the plans should not be written as an absolute but provide clarity to employee of expectations. Use of ranges or other measures should be incorporated in the plans, where appropriate, to avoid a standard being interpreted as an absolute measure. Use of regularly, generally and routinely can be used but should be limited if a measure can otherwise be defined.
- 5.1.4 Multiple standards under a critical element should be directly related to the element. If a sub standard is so important that a failure would be a failure of the entire element, it should be a stand-alone element. Excessive multiple sub-standards should be avoided.
- 5.1.5 Union officials will not have absences due to representational activities considered when rating their performance.

## Section 6.0 Training

- 6.1 Both parties recognize the importance of providing timely and informative training to the managers, supervisors and employees who will be subject to the employee performance management program. Performance training will be included in New Employee Orientation.
- 6.2 The training materials will include at a minimum: The material provided by DOE augmented by material developed Human Resources, the employee performance management program, the DOE form used to prepare and evaluate the employee, Q&A's and examples of a completed performance plan and appraisal.
- 6.3 Training will be comprehensive in describing how to develop the critical elements, assign weights to the critical elements, and define performance standards for the meets expectations level. Training will also include information on how to perform the mid-year and year end appraisals applying the standards set out in the plan as well as the process developed through negotiations for appeals. Training could include topics on how to document performance throughout the year—both employee and supervisor responsibilities.
- 6.4 Human Resources will ensure that plans are in place at least 90 days prior to the end of the rating period, midyears are completed, any required PIP/PAPs are prepared timely and correctly, and the year end appraisals completed, signed and on file.
- 6.5 The performance management for non-supervisors training will be linked to the Human Resources website for refresher and on-the-job training. (add link)

## Section 7.0 Awards

- 7.1 Awards will be administered under the program. It is the understanding of the parties that if monies are limited, reduction in both the supervisory and non-supervisory pay pools will reflect the same percentage.
- 7.2 The program provides for a cash award or a time off award. The program states that management will determine what type of award will be offered each employee based on their eligibility and the employee's preference.
- 7.3 In the event the supervisor is not able to provide the employee's award preference, the employee will be provided with the reason their preference could not be granted. It is important that recognition be given in a fair and consistent manner.

## Section 8.0 e-Performance

The parties agree to implement the Department's e-Performance process to streamline the performance management process and support that initiative.

## **ARTICLE 23 PERIODIC APPEAL DRIVES**

Section 1.0 Combined Federal Campaign. The Union will endorse the annual Combined Federal Campaign. A Union member will be designated to participate with management in this effort.

Section 2.0 Voluntary Donations. Both the Union and Management support the principle of voluntary giving by employees in all campaigns.

## **ARTICLE 24 REDUCTION IN FORCE (RIF)**

Section 1.0 General

A reduction in force (RIF) will comply with all government-wide regulations and the provisions of this Agreement. For the purposes of this Article, a Reduction in Force (RIF) occurs when an employee is released from their competitive level.

Section 2.0 It is agreed the employer will attempt to avoid or minimize the impact of realignments and/or RIFs prior to separating employees. Such actions may include meeting ceiling limitations through attrition, reassigning affected employees to vacant positions, terminating appointments of one year or less, or requesting early retirement and buyout authority.

Section 3.0 The Employer agrees to inform the Union sixty (60) days prior to implementation of the RIF and will provide updates if additional information becomes available. As soon as specific information is known, the employer will notify the Union, in writing, prior to any notification to affected employees and afford the Union opportunity to bargain. Information to be furnished shall include, but not be limited to, the following:

3.1 The specific reasons why the Agency considers a RIF to be necessary;

3.2 The competitive area in which the RIF will be conducted (The competitive areas will normally be within the commuting areas of the Western Area Power Administration.);

3.3 The competitive levels to be initially affected;

3.4 The anticipated numbers, types and grades of positions to be affected.; and

3.5 The proposed effective date;

## Section 4.0 Information Provided to Employees

If early retirement or buy-out opportunities are offered to employees before the issuance of RIF notices, the Agency will provide a briefing(s) for employees. Eligibility requirements, and the application processes will be explained. The effects of a buyout or early retirement on severance pay, reemployment, and continued health insurance coverage will be presented. The Agency will designate someone who will receive and respond to additional employee questions. A representative of the Union will be invited to attend these briefings and given an opportunity to speak.

## Section 5.0 Employee Personnel Records

5.1 Employee Verification. As far in advance as possible of an anticipated RIF, the Agency will notify employees of the need to review their personnel records and ensure these records are complete and accurate. This notice may include the following:

5.1.1 Veterans preference;

5.1.2 Three most recent performance ratings of record received during the previous four-year period;

5.1.3 All periods of federal civilian and military service;

5.1.4 Completed training;

5.1.5 Current licenses and certifications;

5.1.6 Experience gained outside Federal service.

5.2 The Agency will appropriately resolve any discrepancies raised by the employee.

5.3 A single uniform date will be established for issuance of all specific notices in each reduction in force.

5.4 Any employee receiving a specific RIF notice and/or their Union representative may review all relevant retention registers.

Section 6.0 The employer will freeze all performance appraisals thirty (30) days before the date specific notices of reduction in force are issued (Except for those employees who may have received a notice of proposed removal or reduction in grade based on "unacceptable performance"). The appraisals which will determine the employee's retention standing are the last three current official performance appraisals on record as of the cutoff. An appraisal due on or before the cutoff date, but not officially approved and put on record until after the cutoff date, does not affect the employee's retention standing.

Section 7.0 Employees who have a notice of proposed removal or reduction in grade based on "unacceptable" performance will not have their performances appraisal frozen. The retention standing of such an employee will depend on the decision at the end of the proposed period whether to remove or reduce the employee or to grant an acceptable performance appraisal.

Section 8.0 The specific RIF notice to employees will be accompanied by information explaining their offer and all circumstances under which employees could lose severance benefits, and all related rights.

#### Section 9.0 Services to Employees Released in a RIF

9.1 The Agency will be diligent in considering placement opportunities available under law and regulation.

9.2 Employees who receive job offers will have not less than one week to accept or decline the offer.

9.3 Relocation of employees, occurring as a result of a directed reassignment under the RIF, will be in accordance with Article 5, Details and Reassignments.

9.4 The Agency will notify employees of the services available under its Career Transition Assistance Plan (CTAP) and how to obtain them.

9.5 The Agency will notify employees of the services available from other agencies under the Interagency Career Transition Assistance Plan (ICTAP) and how to obtain them.

Section 10.0 Adverse actions resulting from RIFs or transfers of function are not grievable or arbitrable under this agreement.

#### Section 11.0 Additional Negotiations

Nothing in this Article will prevent the Union from initiating additional negotiations when a reduction in force is announced.

### **ARTICLE 25 REPRESENTATION AND OFFICIAL TIME FOR REPRESENTATIONAL ACTIVITIES**

#### Section 1.0 Purpose

1.1 Official time in the Agency will be administered following 5 United States Code ("U.S.C.") Chapter 71, "The Federal Service Labor-Management Relations Statute" (the Statute) as amended and this Agreement.

1.2 The purpose of official time is to give bargaining unit employees time to do union representational activities during normal working hours, without loss of pay or charge to annual leave. This Article gives an equitable process for the allocation and approval of official time and recognizes that the appropriate use of official time benefits both Management and Labor.

#### Section 2.0: Recognized AFGE Representatives

2.1 The employer agrees to recognize Union officers, including, but not limited to the Local President, Vice-President, and Secretary-Treasurer for each Local. The employer also agrees to recognize Stewards as appointed by each Local President.

2.2 Each Local President will provide notice to the Workforce Relations Supervisor of its alternate point of contact when the recognized AFGE representative is not available.

2.3 Not later than January 31 and July 31 of each year, each Local President will provide the Workforce Relations Supervisor, and the Human Resources Staff of each region, with a current listing of union representatives and of changes in union representatives as they occur.

#### Section 3.0: Representational Time

3.1 Elected or appointed Union representatives may use official time for representational purposes provided under the Statute during such time as they are otherwise in a duty status. This time will be without charge to leave.

3.2 If an employee elects to represent themselves or be represented by a non-Union appointed employee in a grievance, EEO complaint, disciplinary action, etc., the time used to prepare any responses will not be charged to the Union's negotiated representational time .

3.3.1 Matters or situations which are appropriate for a recognized representative to use official time for representational purposes include, but are not limited to:

3.3.2 The union shall be given the opportunity to be represented at formal discussions between management and employees concerning grievances, personnel policies, practices, or other matters affecting general working conditions of employees in the unit.

3.3.3 Contacts with bargaining unit members over complaints, personnel actions and grievances, including investigations thereof.

3.3.4 Preparation of informal or formal documents associated with their representational duties.



- 3.3.5 Preparation for and attendance at any grievance meetings, arbitration's, and statutory procedures where the Union is the exclusive representative.
- 3.3.6 Research concerning complaints, grievances and arbitrations.
- 3.3.7 Steward meetings pertaining to representational rights.
- 3.3.8 Represent the Union on wage survey teams or to other approved labor-management fact finding teams.
- 3.3.9 Being present as an observer in any adverse action proceeding or grievance adjustment (pertaining to a bargaining unit employee) where the Union is not the employee's representative.
- 3.3.10 Assisting an employee when designated as their representative in preparing a response to a proposed disciplinary action.
- 3.3.11 Assisting an employee in preparing a response to any personnel action resulting from a directed fitness for duty examination or any other examination so directed by management.
- 3.3.12 Other activities mutually agreed to by Union and Employer, or as guaranteed by law.
- 3.3.13 On alleged debt owed to the Government (i.e., Report of Survey, Waiver of Overpayment, etc.).
- 3.3.14 Surveying and communicating with the bargaining unit to accomplish statutory responsibilities as dictated by 5 U.S.C. § 7114.
- 3.3.15 Travel time to accomplish any of the above, to include travel time to any appropriate source to do research.

#### 3.4 Credit Hours

Union representatives whose work schedules allow employees to earn and use credit hours may earn credit hours for time spent on representational business beyond their normal work day, consistent with the applicable Alternative Work Schedule. All credit hours earned for representational time must be pre-approved by the leave approving official, will count against the available hours in 3.5.1 and be appropriately recorded in the automated payroll system.

#### 3.5 Procedures for Union Representatives to Request Time for Representational Activities (Representational Time):

### 3.5.1 Time for representational activities:

- 780 hours per Fiscal Year for the President of Local 3824
- 520 hours per Fiscal Year for the President of Local 3807
- 416 hours per Fiscal Year for a Vice-President in each Local (these hours are shared if multiple Vice Presidents exist within a Local)
- 208 hours per Fiscal Year for a Secretary-Treasurer in each Local
- 208 hours per Fiscal Year per Chief Steward/Steward

Official time must be reasonable, necessary, and in the public interest.

3.5.2 Management has the right to maintain its operation in a necessary and reasonable manner and will grant representational time consistent with that authority. The employer agrees to recognize up to 30 AFGE representatives (stewards) Western-wide, with no more than five (5) representatives assigned to any one Corporate Services Office, Regional Office, Field Office, and Colorado River Storage Project Center. No more than two union representatives will be absent from the same functional organization workgroup (i.e., fourth tier, e.g., A7900) on representational and/or official time.

3.6 If a union officer or representative requires additional hours for representational duties, and all available hours have been used, either local Union President may make a request to the Western Corporate Service Office's Human Resources Manager to allow additional hours to be granted, or allowed for a transfer of unused hours from another representative.

3.7 Recognized representatives will request permission from their immediate supervisor to be released from their duties to engage in representational activities, whether those duties are performed at their own worksite or elsewhere. The representative will notify the supervisor of the time, place, and the estimated duration of the representational activities. In the case of a recognized representative wishing to visit another unit employee on duty time in connection with the processing of a grievance or appeal he or she shall also request permission of the supervisor of the employee he or she intends to visit.

3.8 In situations where the employee, Union representative and Agency representative are on different work schedules and/or locations, the Parties will make every reasonable effort to schedule representational time during common work times unless the parties mutually agree otherwise. Management may approve a work schedule change if a common work time is otherwise unavailable.

3.9 Time for representational purposes (representational time) must be requested and approved in the same manner as annual leave. The supervisor shall normally grant the representatives release within 24 hours of the initial request. For record purposes, all approved requests for representational time and union training sessions will be entered into the automated payroll system. However, a union

representative is not required to request representational time for a brief period of time if an employee asks a question.

3.10 When a Union Representative desires to leave their assigned work area for representational purposes, that representative will use the procedures outlined in 3.9 above. If release cannot be granted because of a compelling work requirement, the supervisor shall advise the representative in writing stating the reason why release cannot be granted. The supervisor shall normally grant the representatives release within 24 hours of the initial request.

3.11 Union representatives shall request data for representational purposes in accordance with 5 USC § 7114(b) (4), and in accordance with case law.

Section 4.0: Official Time for Union-Management, Partnership, or Other Management-Initiated Activities:

4.1 Matters or situations when union officers or recognized representatives will be allowed official time (not chargeable to representational time referenced in 3.3 above). Consistent with 5 U.S.C. 7131(a) and this Agreement, Union representatives will be granted reasonable and necessary time to carry out the following functions:

4.1.1 General meetings called by management.

4.1.2 Western-wide or Regional partnership council meetings, subcommittees or workgroups.

4.1.3 Participation on Western-wide and local EEO, health, or safety committees.

4.1.4 Meetings, workgroups associated with Western streamlining, strategic planning, or Western-wide or Regional restructuring, reengineering activities.

4.1.5 Preparation for, and actual union-management contract negotiations, including mid-term negotiations and negotiating the impact and implementation of any change in conditions of employment.

4.1.6 An employee's participation as deemed necessary by the Federal Labor Relations Authority.

4.1.7 Preparing responses to management initiated correspondence.

4.2 Official Time for Union Activities are:

4.2.1 Travel time to accomplish any activities described under Section 4.1 above.

4.2.2 Preparation of financial records and appropriate labor-management reports as required by the Department of Labor.

4.2.3 Accompanying management during safety and OSHA inspections in response to a report and/or complaint.

4.2.4 Other activities mutually agreed to by Union and Employer, or as guaranteed by law.

#### Section 5.0: Committee Representation

Whenever an employee is designated as an AFGE representative or alternate representative on Western-wide and local EEO, safety and health committees, that employee will be on official time, travel, and per diem, as appropriate. If the local committee travels, for any reason, the AFGE representative will be given the same considerations as other members of the committee.

#### Section 6.0 Union Travel Budget

Subject to the availability of appropriations, a budget of \$15,000 per Fiscal Year will be provided by the Employer for Union travel expenses to accomplish any activities described under Sections 3.3 and negotiating the impact and implementation of any change in conditions of employment under 4.1.5 above. For Contract and mid-term bargaining under 4.1.5 the Agency agrees to fund Union travel expenses for the negotiations as agreed to in the ground rules. Any additional travel expenses will be paid by the employee/union.

#### Section 7.0 Allegations of Abuse

Alleged abuses of official time will be brought by supervisors and management officials on a timely basis to the attention of an appropriate management official designated by the Agency. The designated management official will then discuss the matter with the President of the Union Local.

#### Section 8.0 Exclusions from Official Time

Official time is prohibited for any activities done by any employee relating to the internal business of the Union including the solicitation of membership, elections of Union officials, and collection of dues.

## **ARTICLE 26 SAFETY AND HEALTH**

#### Section 1.0

Maintaining safe and healthful work environments, as a shared value by the Union and Management, is necessary for the accomplishment of the Agency's mission and

contributes to a high quality of life for employees. The Agency will provide and maintain conditions and places of employment free from recognized hazards and unhealthful working conditions, consistent with the applicable requirements of 29 U.S.C. 668 *et seq.* (the Occupational Safety and Health Act of 1970), Executive Order 12196, 29 Code of Federal Regulations (CFR) Part 1960, and other applicable safety and health codes.

## Section 2.0 Safety Committees

2.1 A Safety Committee will be established at each Regional Office and CSO. Each Committee will have Union representation appointed by the Union. The Western-wide Safety Committee is comprised of representatives from the Regional and CSO safety committees.

2.2 The employer shall provide appropriate safety and health training for employees, safety committee members, and Union representatives on the safety committees. At a minimum, such training will include information about the employer's safety and health program and employee rights and responsibilities.

## Section 3.0 Smoking Policy

3.1 Designation of outdoor smoking areas may be negotiated at the Regional and/or local level.

3.2 All offices and local unions are urged to explore the availability of local resources for smoking cessation classes based on employee interest. If an employee attends a smoking cessation class sponsored by the agency during normal duty hours, attendance will be considered duty time and no leave will be charged.

3.3 Employees and supervisors should exercise good judgment in identifying periods of low activity for any brief absence for personal needs. Every employee is expected to fully perform the duties and responsibilities of their position.

3.4 Smoking in Government vehicles is prohibited.

## Section 4.0 Workplace Violence

4.1 Violence is defined as the deliberate and wrongful violation, damage, or abuse of other persons, self, or property and includes threats of violence. Acts of violence and threats include, but may not be limited to: verbal (such as threats, harassment, abuse, offensive jokes, and intimidation), non-verbal (such as gestures and intimidation), physical (such as hitting, pushing, shoving, kicking, and assault), and other (such as written threats, arson, sabotage, vandalism, and stalking).

4.2 Management will be proactive in response to any report of violence and/or potential violence in the workplace.

4.3 Should any bargaining unit member become aware of a violent situation in the workplace they must notify Western management or other appropriate officials.

4.4 Western will establish response teams in accordance with WAPA O 470.1H (or subsequent revisions).

#### Section 5.0 Surveillance

5.1 The parties recognize surveillance is conducted for safety and internal security reasons.

5.2 Management will be required to notify all employees in writing prior to initiating a program of video surveillance of employees. If the required notice is not given, any evidence obtained may not be used against any employee in a disciplinary action.

5.3 An exception to the required notice in 5.2 above occurs if management determines advanced notification would compromise a legitimate on-going investigation.

5.4 In both 5.2 and 5.3 above, the Union will be allowed to represent affected employees in any subsequent discussions or proceedings and receive information provided for in Article 6, Sections 5.4 and 5.5.

#### Section 6.0 Work-Related Injuries and Illnesses

6.1 Employees must report any and all work-related injuries to a supervisor or manager and are encouraged to report any injuries to their Union representative. The supervisor will take appropriate action to ensure:

6.1.1 The employee has the opportunity to report to the employer health physician or their personal physician for treatment, complete the necessary reports, etc.

6.1.2 Appropriate facility personnel are promptly notified to ensure timely processing of necessary reports and employee claims.

6.2 The Agency agrees assistance will be given to employees in preparing necessary forms and documents for submission to the Office of Worker's Compensation Programs (OWCP) and employees will be informed of their rights under the Federal Employees' Compensation Act, as amended in 1974.

6.3 The employee will submit written notice of an injury on Form CA-1 if they sustained a traumatic injury, or Form CA-2 if the injury was an occupational disease or illness. (Forms CA-1 and CA-2 may be obtained from the Agency or OWCP.) Form CA-1 must be filed within 30 days of the date of injury to receive continuation of pay (COP) for a disabling traumatic injury. Required medical treatment will be paid in accordance with the Federal Employees Compensation Act. Where it is clear an employee has

sustained a traumatic on-the-job injury and requires medical attention, the employee may be provided with a Form CA-16.

6.4 COP may be terminated if medical evidence of the injury-related disability is not submitted to the Agency within 10 workdays. The employee is responsible for ensuring such medical evidence is submitted to the Agency. Form CA-2 should also be filed within 30 days. Any claim which is not submitted within 3 years will be barred by statutory time limitations unless the immediate superior had actual knowledge of the injury or death within 30 days of occurrence.

6.5 OWCP records concerning an individual employees' claim are official records of OWCP. Such records may be requested from OWCP by the employee in accordance with the procedures set forth in 20 CFR parts 10.

6.6 An employee who has sustained a work related injury or illness will be required to perform duties only to the extent and limits as prescribed by the treating physician or the Office of Workers' Compensation, as appropriate. No employee will be assigned duties when, in the physician's opinion, this would aggravate the employee's injury or illness. If duties are not available, the employee will be placed on continuation of pay/compensation, if eligible. The Union may suggest limited duty opportunities at the facility. The Union has the right to represent any unit employee at any stage of the procedure. The designation of a representative must be in writing.

6.7 Any complaint resulting from a claim filed under the Federal Employees Compensation Act must be resolved under the procedures of the Act and is excluded from the negotiated grievance procedure.

## Section 7.0 Nursing Mothers

7.1 Following the Fair Labor Standards Act of 1938 (29 U.S.C. 207) the Agency must:

7.1.1 Provide a reasonable amount of break time to express breast milk as frequently as needed for 1 year after the child's birth; and

7.1.2 Provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

7.2 The Agency is not required to compensate an employee receiving reasonable break time under paragraph 7.1.1 or any work time spent for such purpose outside rest periods that are already compensable for employees.

7.3 The space provided for expressing milk need not be permanent or dedicated only for that purpose, but will be made available when needed.

## Section 8.0 General Provisions

8.1 If a bargaining unit employee is involved, a Union representative shall be appointed as a member when an incident/accident investigation committee is convened and, to the extent possible, shall be of the same position as the employee involved. A copy of the final report of the accident investigation committee will be furnished to the Local Union representative of the Region involved in the accident. The Union will comply with any document handling requirements applicable to accident information received (i.e., OOU, PII, CEII, and CIP). Comments received within 30 calendar days will be given consideration by management in developing plans for implementing investigation committee recommendations.

8.2 Employees doing hazardous work should be properly trained and should be periodically checked on when working alone.

8.3 Employees required to work in confined or enclosed spaces will be trained in and will use the necessary safety equipment. Employees will monitor vapor levels to ensure they remain within acceptable confined space safety standards.

8.4 Only qualified personnel shall perform repair work on or about machines or equipment where there is a substantial risk of injury. When qualified personnel perform maintenance on operating machinery or equipment, all safety requirements will be followed to minimize the hazard.

8.5 During the course of any alterations to the worksite, the employer will ensure all employees are fully protected against safety and health hazards which might result from such alteration/construction. In no event will an employee be required to take any leave while the construction is taking place. If the employer has no choice but to temporarily dismiss employees, due to alterations/construction, for the employees' safety, it will be charged to administrative leave.

8.6 Employees will be offered physical exams in accordance with Western's Occupational Health Program.

8.7 Recognizing the benefits of a physically fit work force, the employer agrees to allow the use of the employer's fitness facilities during breaks and lunch periods.

8.8 The employer agrees to provide at no cost to the employee, administration of common vaccines such as flu shots.

8.9 Employees working continuous or repetitive activities, such as keyboards or video display terminals, should be allowed frequent breaks as prescribed by OSHA.

8.10 Within a reasonable period of time after a Continuity of Operations Procedure (COOP) is implemented and the initial emergency has been dealt with, the Agency and the Union will jointly address any change in working conditions expected to continue for



the long-term. If a COOP is implemented for a short-term emergency, the Agency and Union will meet after completion of the emergency and discuss lessons learned to improve the process.

## **ARTICLE 27 TELECOMMUTING PROGRAM**

### **Section 1.0 Policy**

- 1.1 Telecommuting is a work arrangement that permits an employee to work at home or at another approved worksite away from their traditional worksite. While the parties are committed to use telecommuting to the extent it does not adversely affect the agency's mission, telecommuting is not an employee entitlement.
- 1.2 Telecommuting agreements will be in accordance with the current "Handbook on DOE-FLEX", and the current Western Telecommuting Manual.
- 1.3 Employee participation is voluntary and subject to management approval.
- 1.4 Employer decisions denying or regarding Telecommuting may be grieved as per Article 13 of this contract. All documents associated with telecommuting of bargaining unit employees will be made available to the AFGE upon request. Documents will include, but not be limited to, names of all telecommuters, Telecommuting Applications, Telecommuting Agreements, and Telecommuting Safety Checklists.
- 1.5 Unless specifically changed by the terms of this article, all other terms and conditions of employment outlined elsewhere in this contract will remain the same for employees participating in the telecommuting program.

### **Section 2.0 Process**

- 2.1 Employees may participate in the telecommuting program under regular/recurring agreements, situational agreements, or for medical reasons. To be considered for work under a telecommuting agreement, or to continue to work a previously approved telecommuting, an employee must meet the following criteria:
  - 2.1.1 The employee's performance has not dropped below the meets expectations level.
  - 2.1.2 The employee has not received any disciplinary/adverse actions in the last six months that would impact the integrity of the telecommuting program.

2.1.3 The work is suitable for a telecommuting arrangement. Work suitable for telecommuting depends on job content rather than on job title, type of appointment, or work schedule.

2.2 Participants may be permitted to work at telecommuting worksites full days or a portion of a day. There is no limit to how the work schedule may be configured so long as the scheduling is neither disruptive to the work that remains in the office nor causes an unreasonable burden on those who choose not to telecommute.

2.3 An employee requesting a telecommuting arrangement will develop a plan to submit to their supervisor that includes such information as the type of work to be done at the telecommuting site, the days and schedule to be worked, and proposed methods for evaluating work performed at the telecommuting site. The employee and the supervisor will work together, discuss this plan and make any necessary adjustments to the plan prior to the employee's submission of a formal request for telecommuting. Denial of an employee's formal request to participate in the telecommuting program must be in writing and for just cause.

2.4 If the employee's telecommuting work plan is approved, the employee and the supervisor will enter into a telecommuting agreement that incorporates the employee's work plan. Modifications to the agreement, including the work plan, after entering into the agreement, may be made by mutual consent or upon 5 calendar days notification by the supervisor.

### Section 3.0 Safety

3.1 In accordance with the current Handbook on DOE-FLEX, and the current Western Telecommuting Manual, employees who are granted telecommuting arrangements to work at home are responsible for maintenance of a home worksite which is safe and free of hazardous materials. Telecommuters are required to document the safety of a home worksite by completing the safety checklist found at Appendix E of the Manual. Telecommuters are responsible for complying with safety standards and building codes. At the request of the telecommuter, the Western Safety Office will assist the telecommuter with the inspection.

3.2 Telecommuters are subject to a physical inspection of their workplace, equipment, and records during normal working hours, upon reasonable notice, normally at least 24 hours in advance. A Union representative will be allowed to accompany safety inspections for home offices, upon agreement of the employee.

## **ARTICLE 28 TRAINING AND CAREER DEVELOPMENT**

Section 1.0 The Agency and the Union agree to encourage employee development. The Agency agrees training necessary for employees to perform their jobs at an

acceptable level of competence should be provided consistent with this agreement and the Western Training Order, WAPA O 361.1B (or subsequent revisions)  
[http://int.wapa.gov/Directives/documents/WAPAO361-1A\\_012209\\_1\\_000.pdf](http://int.wapa.gov/Directives/documents/WAPAO361-1A_012209_1_000.pdf) .

Section 2.0 Considerations for job-related training where not all employees will be afforded training will be based on the following:

2.1 enhancement of the agency's mission accomplishment,

2.2 training opportunities that have been previously afforded individual employees,

2.3 the employee's need for training,

2.4 the employee's interest in the training, and

2.5 the demonstrated ability of the employee to assimilate the training and apply it to the job.

Section 3.0 The Agency shall publicize the development opportunities available to employees.

Section 4.0 The Agency will provide the affected employee(s) with written reason, upon request, for any disapproval of training.

#### Section 5.0 Career Development

Each employee is entitled to establish an Individual Development Plan (IDP). An IDP is a flexible document jointly and voluntarily developed between supervisor or other Agency-designated management official and employee to be used as a roadmap for the employee's professional and career development. Employees may seek assistance from employee development specialists and others who may provide advice and assistance in the preparation of the IDP.

#### Section 6.0 Training and Career Development Expenses

6.1 The Agency agrees to reimburse the employee for approved job-related or career displacement training costs within the employing organization in accordance with applicable regulations.

6.2 The Agency will reimburse appropriate costs to obtain and/or maintain mandatory certification and/or licensure related to employees' current positions.

#### Section 7.0 Retirement Training

The supervisor may approve employees to attend Union or Management sponsored retirement seminars.

## **ARTICLE 29 TRANSPORTATION SUBSIDY**

### Section 1.0 Eligibility to Receive Transit Subsidy

All employees are eligible to receive a transit subsidy from the Agency. The Agency will pay such subsidy equal to 100% of the employee's commuting costs for mass transportation or a commuter highway vehicle (as defined by Internal Revenue Service (IRS) regulations) to and from work, up to the maximum amount authorized by IRS provisions at the time the subsidy is paid. This maximum will apply to all employees.

### Section 2.0 Applying for Transit Subsidy

2.1 Employees who wish to apply for the transit subsidy will complete the Claim for Reimbursement, W2200.57, and submit with a receipt or other proof of payment for their monthly costs for commuting via public transportation or vanpool to their supervisor for approval.

2.2 The Agency will process employee requests to receive a transit subsidy reimbursement within two pay periods of its receipt of the completed reimbursement form.

2.3 The Agency will update the Transportation Subsidy information on the HR Web page when IRS changes the amount of reimbursement available.

## **ARTICLE 30 UNFAIR LABOR PRACTICES**

Thirty days before filing any unfair labor practice (ULP) charge with the Federal Labor Relations Authority (FLRA), the Union or the Employer will serve the other party with the charge and supporting evidence and attempt to resolve the matter informally.

This provision shall apply except when its observance would render a ULP filing with FLRA untimely under the Statute.

## **ARTICLE 31 UNION RIGHTS**

### Section 1.0 Exclusive Representation

As the exclusive representative the Union is entitled to act for and negotiate collective bargaining agreements covering all employees in the units. The Union is responsible

for representing the interests of all employees in the units it represents without discrimination and without regard to labor organization membership.

## Section 2.0 Representation Requirements

### 2.1 Formal Discussions

2.1.1 Under 5 U.S.C. 7114(a)(2)(A), the Union must be given the opportunity to be represented at any formal discussion between one or more employees it represents and one or more representatives of the Agency concerning any grievance, any personnel policy or practice or changes in working conditions. This right to be represented does not extend to informal discussions between an employee and a supervisor.

2.1.2 The representative designated by the Union will be given advance notice of any formal discussion to be held. If that representative cannot be contacted, the Agency will contact the Union President to provide an alternative representative. This advance notice will be given unless management has been prevented from doing so due to an emergency.

2.1.3 The Agency representative will permit the Union representative to introduce themselves, ask relevant questions, and to present a brief statement before the end of the meeting outlining the Union's position concerning the issues presented by management.

### 3.2 Examinations

3.2.1 As provided in 5 U.S.C. 7114 (a) (2) (B) and Article 6, Disciplinary and Adverse Actions, the Union has the right to be represented at any examination of an employee in the bargaining unit by a representative of the Agency in connection with an investigation if—

- The employee reasonably believes that the examination may result in disciplinary action against the employee; and
- The employee requests representation.

3.2.2 Once the employee requests representation, no further questioning will take place until the representative is present.

## Section 4.0 Office Space, Furnishings and Equipment

4.1 The Employer will make available to the AFGE at the CSO, and each Regional office, upon request, designated union offices to be used for appropriate representational purposes. The location of union offices is subject to change based on organizational needs after coordination with the local Steward. When necessary, an

alternative handicap accessible space will be made available. Union office doors will have appropriate identifying signage.

4.2 The employer will make available to the Union, after-hours, upon request, a suitable meeting room, for meetings of the various AFGE locals. During official duty hours the Union may reserve a room for meetings or appropriate representational purposes. The Union will follow the same reservation and use procedures as all other users.

4.3 Each AFGE office will be provided appropriate office equipment routinely used in a typical Western office setting. Computers will be provided with standard Western desktop programs and encryption potential. Union requests for other programs will be considered on a case-by-case basis, considering necessity, cost and cyber security requirements. Computer and office upgrades shall be provided to the AFGE on the same time frame as other WAPA employees. Western's electronic mail system will contain a union electronic mail address for each designated representative. There will be no charge to the Union for space, furnishings and equipment.

4.4 Union officials and aggrieved employees will be granted access to Western's office services routinely used in that work location for appropriate representational activities. Use of these services will follow the appropriate reservation and use procedures.

4.5 Solicitation of membership, election of labor organization officials, and collection of dues are recognized as internal Union business and will not be performed during duty hours at duty sites. Communication/computer equipment will not be used for internal union business, however, reasonable use of telephone, e-mail, and computer equipment will be allowed for Union business during off-duty hours as provided in Section 4.2 above.

4.6 The Agency will provide routine cleaning and maintenance service in Union occupied space. The Union is responsible for ensuring accessibility to its space during normal cleaning and maintenance schedules.

## Section 5.0 Communication

5.1 Where there are buildings with bargaining unit employees the employer will provide a 24" by 36" (at a minimum or larger where mutually agreed) bulletin board in the same general area as an Official Bulletin Board, or where infeasible, in a mutually agreed upon location for Union use when requested.

5.2 Union representatives may make reasonable use of internal mail distribution, e-mail and metered mail for labor relations representational matters, but not for internal Union business. The Union will be permitted to develop Regional Web pages to post notices and communicate with bargaining unit employees.

5.3 When new employee orientation is scheduled for bargaining unit employees, the servicing Human Resources office will notify the local Union Representative or

President, as appropriate. The Union Representative will have fifteen (15) minutes of official time to explain the employee's right to representation and other appropriate matters. If the Union Representative is meeting with 3 or more new employees as a group they will be provided thirty (30) minutes of official time.

5.4 The Employer agrees to furnish the Union, once each quarter, a complete listing of bargaining unit employees by location, including name, grade, and organization.

5.5 A list of current Union stewards will be maintained on the Human Resources Web page at <http://www.int.wapa.gov/HR/employee/stewards.htm>.

#### 5.6 Surveys and Questionnaires

5.6.1 When Western requires bargaining unit employees to participate in a survey, either verbally or in writing, regarding conditions of employment, it will do so only after notification and agreement with the Union. This includes surveys from other agencies and/or entities. If a survey is voluntary, the Union will be notified but no agreement is required.

5.6.2 The results of surveys conducted by either party regarding conditions of employment will be shared. If a third party conducts a survey and results are distributed to Western, the results will be shared with the Union. (Sanitized data from dispatcher wage surveys, i.e., data which is not identifiable by utility name, will be released to the union upon request.)

5.6.3 Western retains the right to obtain information from bargaining unit employees regarding their work practices and accomplishments (excluding negotiable working conditions).

### **ARTICLE 32 EFFECTIVE DATE AND DURATION OF AGREEMENT**

Section 1.0 Effective Date - The effective date of this agreement is the date of approval by the Department of Energy, or 30 days after signature hereof by the negotiating team, whichever comes first. If any issues are identified by the Department of Energy, the Union reserves the right to renegotiate the affected articles.

Section 2.0 Termination Date - The termination date of this agreement is five (5) years from the effective date of the contract.

#### Section 3.0 Modification of the Agreement

3.1. No earlier than 30 months, but not later than 31 months from the effective date of this Agreement, either party may give written notice to the other party of its desire to amend or modify up to four (4) articles of this Agreement. Additional articles may be

reopened for negotiation by mutual consent. When such notice is provided, that party will furnish the other party a copy of the proposed changes. No later than 30 days from receipt of these proposals, the other party may submit its proposed changes. Negotiations will start within a reasonable time thereafter. Negotiations will be restricted to only those articles and changes so identified in advance.

3.2. Either party may give written notice to the other party within the 120 day period prior to the expiration date. The present agreement will remain in full force and effect during the renegotiation of said agreement, until such time as a new agreement is approved.

3.3. If neither party serves notice to renegotiate this agreement, the agreement shall be automatically renewed annually.

Section 4.0 Nothing in this agreement shall preclude the Agency or the Union from negotiating any change in conditions of employment during the life of the agreement.

Section 5.0 This Agreement supersedes any and all previous agreements or memoranda of understanding (MOU) between the Employer and the Union which are in conflict with this Agreement or have been incorporated herein as contract articles.



**Appendix 1**  
**Examples of Sick Leave Situations**

<u>Type of Sick Leave Situation</u>	<u>Family and Medical Leave Act</u>	<u>Legal or Regulatory Reference</u>
<b><i>Applies to the employee and to provide care to a family member for:</i></b>		
Physical or mental illness, injury, pregnancy, childbirth, or medical, dental or optical examination or treatment.	Yes (Must be related to a serious medical condition if using for medical, dental, or optical exams/ treatments.)	Subpart D 5 CFR 630.401(a)(1), (a)(2) and (a)(3)(i) and (a)(3)(ii)
Communicable disease that would jeopardize the health of others by the employee's presence on the job.	Yes	Subpart D 5 CFR 630.401(a)(5)
To make arrangements necessitated by the death of a family member or attend the funeral of a family member.	N/A	Subpart D 5 CFR 630.401(a)(4)
Make arrangements or to attend a funeral for a family member.	N/A	Subpart H 5 CFR 630.801
For adoption-related activities.	Yes	5 USC 6307(c) 5 CFR 630.401(a)(6)
For childbirth (Mother), i.e., incapacitation for delivery and recuperation.	Yes	5 USC 6381-6387 Subpart L 5 CFR 630.1203
Bone marrow/organ donation.	N/A	5 USC 6327

Each law and regulation has qualifying requirements which must be reviewed to ascertain whether the employee meets requirements.

**Appendix 2  
COURT LEAVE**

<u>TYPE</u>	<u>COURT LEAVE</u>	<u>FEEs</u>	<u>EXPENSES</u>	<u>LEGAL REFERENCE AND/OR EXCEPTIONS</u>
Jury Duty	Yes	No	Yes	5 USC 6322, 5537 and 5515
Witness Service  Federal, State, Local Government as party	Yes	No	Yes	5 USC 6322, 5537 and 5525
Witness Service  Self or Private Party	No	Yes	Yes	5 USC 6322, 5537 and 5515  Fees may be retained only when the judicial proceeding does not include the Federal, State or local government as a party <u>and</u> the employee is not on court leave.
Official Duty	No	No	Yes	5 USC 6322, 5537 and 5525

**Note: The employee must furnish the supervisor with a copy of the summons/order.**

**If an employee is on annual leave when called for jury service, court leave should be substituted for the annual leave.**

**Memorandum of Agreement**  
**Between**  
**Western Area Power Administration (WAPA)**  
**And the**  
**American Federation of Government Employees (AFGE)**  
**Locals 3824 and 3807**  
**Extension of Collective Bargaining Agreement (CBA)**

By signature, this memorandum extends the current CBA between AFGE and WAPA for four years. Currently the CBA expires September 30, 2017, and will now expire September 30, 2021.

1. All MOUs agreed to by WAPA and AFGE and Local MOUs signed during the current CBA are still in effect during the extension period.
2. All provisions of this agreement are extended with the CBA unless rendered Invalid or illegal due to changes in public law or regulation.
3. No earlier than 24, but not later than 25 months from October 1, 2017, either party may give written notice to the other party of its desire to amend or modify up to three (3) articles of this Agreement. Additional articles may be reopened for negotiation by mutual consent. When such notice is provided, that party will furnish the other party a copy of the proposed changes. No later than 30 days from receipt of these proposals, the other party may submit its proposed changes. Negotiations will start within a reasonable time thereafter. Negotiations will be restricted to only those articles and changes so identified in advance.

Effective Date of this Agreement is March 1, 2017.

\_\_\_\_\_  
*Redacted*, President  
AFGE, Local 3824

Date \_\_\_\_\_

\_\_\_\_\_  
*Redacted*, HR Supervisor Western  
Area Power Administration

Date \_\_\_\_\_

\_\_\_\_\_  
*Redacted*, , President  
AFGE, Local 3807

Date \_\_\_\_\_

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Effective Date of this Agreement is March 1, 2017.

\_\_\_\_\_  
*Redacted*, President  
AFGE, Local 3824

Date \_\_\_\_\_

\_\_\_\_\_  
*Redacted*, HR Supervisor  
Western Area Power Administration

Date \_\_\_\_\_

\_\_\_\_\_  
*Redacted*, President  
AFGE, Local 3807

Date \_\_\_\_\_