

Labor Management Agreement

Between

District of Columbia National

Guard

And

The National Association of

Government Employees

“NAGE”

Local R3-86

Table of Contents

Preamble.....	2
Article 1. Recognition, Unit Designation and Definitions	3
Article 2. Employee Rights	4
Article 3. Union Rights	6
Article 4. Union Representation and Meetings.....	9
Article 5. Hours of Work.....	11
Article 6. Holiday's.....	12
Article 7. Leave Administration	13
Article 8. Equal Opportunity.....	16
Article 9. Employee Assistance Program	17
Article 10. Health and Safety.....	17
Article 11. Use of Facilities	23
Article 12. Adverse Weather	24
Article 13. Environmental Differential and Hazardous Duty Pay	26
Article 14. Discipline	33
Article 15. Grievance and Arbitration Procedures	36
Article 16. Mediation	42
Article 17. Reduction in Force	43
Article 18. Contracting Out	43
Article 19. Personnel Procedures.....	44
Article 20. Training	45
Article 21. Publications	46
Article 22. Payroll Withholding of Dues	47
Article 23. Agreement Administration	47
Article 24. Duration of Agreement	49
Article 25. Impact and Implementation	49
Article 26. Weingarten Rights	50
Article 27. Performance Management	51
Glossary	52

PREAMBLE

Pursuant to the policy set forth in the Public Law 95-454, hereinafter referred to as PL 95-454, issued by the President of the United States, and subject to all applicable statutes and regulations, this Employer-Labor Organization Agreement, hereinafter called the Agreement, is entered into between the DC National Guard, hereinafter referred to as the Employer and the National Association of Government Employees SEIU, Local R3-86, DC Armory, Washington, D.C., hereinafter referred to as the Labor Organization.

In an atmosphere of mutual respect, all employees shall be treated fairly and equitably and without discrimination with regard to their political affiliation, Labor Organization activity, race, color, religion, national origin, gender, sexual orientation, marital status, age, or non-disqualifying handicapping conditions.

Witnesseth:

In consideration of the mutual covenants set forth, the parties agree to as follows:

WHEREAS, it is the intent and purpose of the parties hereto to promote and improve the efficient administration of Federal Service and the well-being of employees within the meaning of the PL 95-454 to establish a basic understanding relative to personnel policy, practices, and procedures affecting conditions of employment within the jurisdiction of the Employer and to provide means for amicable discussion and adjustment of matters of mutual interest, and in fulfilling these responsibilities the parties do affirm that they will cooperate in all efforts to insure good relations among the Employer the employees, and the local community. It is furthermore the intent of the Agreement to promote partnership between labor and management.

The Employer and the Labor Organization mutually agree to inform employees of the rights and that management nor the Labor Organization will interference, restraint, or coercion, discriminate, or encourage or discourage membership of any member in the exercise of their rights.

This Collective Bargaining Agreement (CBA) pertains to Technician/Non-Military Matters.

THEREFORE, the parties agree hereto as follows:

ARTICLE I

RECOGNITION, UNIT DESIGNATION, AND DEFINITIONS

SECTION 1.1. The Employer recognizes the Labor Organization as the exclusive bargaining agent for all non-supervisory/non-management officials who are technicians of the Army National Guard at the DC Armory, Joint Base Anacostia Bolling, and the Regional Training Institute at Fort Belvoir

SECTION 1.2. The Labor Organization recognizes the responsibility of representing the interests of all such employees without regard to membership with respect to grievances, personnel policies, practices, procedures, or other matters affecting their welfare and general working conditions.

SECTION 1.3. The term's "supervisor" and "management official" shall be defined as in the Public Law.

SECTION 1.4. For the purpose of the Agreement, "consultations" is defined as mutual discussion of policies, programs, and procedures related to working conditions of members of the Labor Organization which are within the authority of the Employer for the purpose of obtaining the Labor Organizations views before the Employer takes final action.

SECTION 1.5. For the purpose of the Agreement, "negotiations" is defined as good faith bargaining between the Employer and the Labor Organization with the objective of reaching formal written agreement with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws, regulations, and published policies.

SECTION 1.6. Other Duties as Assigned.

- a. Employees should not be required to perform duties unrelated to their primary employment except as required by special circumstances. The Employer and the Labor Organization agree that the cleanup of employees' immediate work area and general facility cleanup, where janitor service is not available, are appropriate as other duties as assigned. When an employee is assigned to recurring unrelated duties, an HRO Form 904-1 will be initiated to document these assignments.
- b. The term "other duties as assigned" as part of the position description is defined to mean, reasonably related duties to the job/position, and should be of the same level and classification that the individual is currently graded. Work assignments shall not be in violation of prohibited personnel practices, nor any relevant law, rule, regulation or this agreement. Supervisors should avoid assigning additional or incidental duties to employees, which are inappropriate to their positions and qualifications. However, an employee's refusal to carry out legitimate work assignments may be grounds for disciplinary action(s).
- c. Employees assigned to duties requiring specific training or certification will be

provided adequate formal training or will be paired with a trained or certified employee and adequately cross-trained prior to being graded or evaluated on assigned work. Management will implement quality control measures to inspect work performed while cross-training.

- d. The senior technician in an area may be assigned leadership duties necessary to continue operations (i.e.: assigning work, setting priorities, scheduling, etc.) but may not perform supervisory duties (i.e.: approving leave, grading or evaluating employees, counseling or disciplinary action), these responsibilities will fall on the next supervisor in the management chain.
- e. Any detail in excess of thirty (30) days must be maintained as a permanent record in the employees Official Personnel Folder. In emergency cases, where there is insufficient time to furnish an SF-52 for a detail, the detail will be accomplished by verbal authorization and followed by an SF-52. The supervisor will be responsible for forwarding this SF-52 to HRO within five (5) working days.

SECTION 1.7. The Employer will provide written notification to the Labor Organization and adequate opportunity to bargain, as required by law, over any and all new personnel regulations, policies and procedures, and matters affecting working conditions prior to their implementation.

SECTION 1.8. To avoid the potential misuse of the term mission requirements, the parties shall, either in labor management forums (IAW Executive Order 13522) or in a partnership committee, attempt to reach a consensus for clarification of procedures in emergencies.

SECTION 1.9. Language in this Agreement that refers to specific duties or responsibilities of employees or management officials is intended only to provide a guide as to how a situation should be handled. It is agreed that the Employer retains the sole discretion to assign work and to determine who will perform the function discussed.

ARTICLE II EMPLOYEE RIGHTS

SECTION 2.1. The Employer and the Labor Organization agree that each technician has the right, freely and without fear of penalty or reprisal, to form, join, and assist the Labor Organization or to refrain from any such activity and each technician shall be protected in the exercise of this right.

Except as otherwise expressly provided in Public Law 95-454, the right to assist NAGE R3-86 extends to participation in the management of NAGE R3-86 and acting for NAGE R3-86 in the capacity of a NAGE R3-86 representative, including presentation of its views to officials of the Executive Branch, Congress or other appropriate authority.

SECTION 2.2.

- a. The Employer shall take the action required to ensure that technicians within the Agency are apprised of their rights, under PL 95-454, and that no interference, restraint, coercion, or discrimination is practiced within the Agency to encourage or discourage membership in the Labor Organization. This agreement does not preclude any technician in the bargaining unit, regardless of Labor Organization membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable laws, rules, regulations or policies or from having a Labor Organization representative in a grievance or appeal action.
- b. The Employer agrees that, as part of orientation, all new technicians appointed to a position in the bargaining unit shall be informed of NAGE R3-86's exclusive status and will be advised of their right to join or not to join NAGE R3-86. They will be informed that the name, telephone number, and location of their shop steward are posted on a bulletin board in their work area.
- c. The Parties are encouraged to make a joint presentation to new employees to orient them about Management and the Local. If the Local desires to make a presentation on its own, Management shall afford the Local the opportunity to make up to a thirty minute presentation during each orientation session for new employees. Management will provide the Local with notice of the date, time and place of the orientation. The Local official making the presentation will be allowed official time to make the presentation. Stewards or Local officials may introduce themselves to new employees at the work site and inform them of their availability for representational functions so long as there is no undue disruption of work activities. The employee will be informed of the name, telephone number, and location of their Labor Organization officials, including shop stewards.
- d. The Employer agrees to afford newly appointed technicians and the shop stewards time to meet, for the purpose of orientation on the Labor Management Relations Act (LMRA). This time shall be subject to the immediate supervisors' approval.
- e. The Employer recognizes that the participation of technicians in the formulation and implementation of personnel policies and practices affecting the conditions of their employment, achieved through their own freely chosen Labor Organization contributes to the technician's well-being and to the efficient administration of the District of Columbia Army National Guard. A Labor Organization official has the right to be present at mission briefings, excluding those with security requirements, that are held to brief technicians involved in such an assignment in their technician status.
- f. The Employer will make every attempt, in circumstances that are controllable, to refer to Federal Civil Service employees of the District of Columbia Army National Guard as technicians.

SECTION 2.3. The Employee will;

- a. Have the right to inspect and copy their official personnel folder/electronic personnel folder.
- b. Have the right for the Labor Organization to be present at the request of the employee during formal discussions concerning standards and critical elements in his/her appraisal.
- c. Have the right to representation, by the Labor Organization or another individual he/she selects, at any examination by a management official if the employee reasonably believes that the examination will result in any disciplinary action and request such representation. The Employer shall inform the employee of this right prior to the initiation of an examination or interrogation. Non-disciplinary correction or direction, are not considered examinations or interrogations.

SECTION 2.4. Uniforms will be worn as issued by the Employer to the technicians. To the extent allowed by law and regulation, the Employer will allow its resources to be utilized to affix uniform accoutrements to the extent those resources are otherwise available and not being used. In cases where resources are not available and practical, technicians are responsible to affix their own accoutrements.

SECTION 2.5. All Army civilian technicians in the maintenance field and material handlers should receive sufficient sets of Personal Protective Equipment deemed necessary to perform the job.

SECTION 2.6. Employees participating in the activities listed below will wear the appropriate military uniform when:

- a. Representing the National Guard at special functions such as parades, funerals, conferences or other recognized special ceremonies.
- b. Performing duties involving the carrying of firearms.
- c. Attending a military service school which requires the wearing of the military uniform.
- d. Representing the National Guard before civic or governmental organizations.

ARTICLE III LABOR ORGANIZATION RIGHTS

SECTION 3.1. The Labor Organization will:

- a. Accept employees as members without discrimination based on race, color, creed, gender, national origin, sexual orientation, age, political affiliation, marital status, or physical handicap.

- b. Act as a bargaining unit covering all employees and shall be obligated to represent the interest of all such employees without discrimination and without regard to Labor Organization membership.
- c. Ensure that grievances of employees are subject to the negotiated grievance procedure contained herein except where they are grievable under the statutory appeal procedure. An employee may handle his own grievance in such proceedings; however, the Labor Organization shall be given the opportunity to be present at formal discussions between management and employees or employee representatives concerning grievances appropriate to the negotiated grievance procedures. The right of an employee representative to be present during discussion of such grievances shall be subject to necessary requirements as to security and confidentiality of information. If such discussions lead to discussions of a possible modification of personnel policies or other matters, which the Employer is obligated to discuss with the Labor Organization, decisions on such matters will not be implemented by management until this obligation is discharged.
- d. In order not to breach the statutory duty of fair representation to all bargaining unit employees, the parties agree that all officers and stewards may wear civilian attire that would be acceptable in an office environment when practicable, when representing the Labor Organization. Such circumstances as representational proceedings, arbitration, FLRA and other third party proceedings, appeals under TPR 752, collective bargaining, as an observer, on committees or boards established by the agency when Labor Organization representation is authorized including but not limited to appearing as a witness grievant or appellant. Reasonable time will be allowed to officers, stewards and other employees to change in and out of the military uniform under these circumstances.

SECTION 3.2. It is agreed that local meetings will occur when either NAGE R3-86 or management presents an agenda to the other of items for discussion or concern. A meeting will be held within five (5) working days after presentation of such agenda items to allow proper staffing. It is understood that if such meetings cannot be held within five (5) working days because of extenuating circumstances (i.e., TDY, scheduled leave, emergency) management and NAGE R3-86 will meet as soon as practical or upon return. Such meetings are held to handle situations expeditiously and are in the best interests of management and the local and in keeping with our partnership agreement.

SECTION 3.3. The Employer or its representatives and representatives of the Labor Organization shall meet at the request of either party and confer in good faith with respect to personnel policies and practices and matters affecting working conditions so far as may be appropriate under applicable laws and regulations, including policies set forth in the CFR, published Agency policies, regulations and national or other controlling agreements at a higher level. Subject matter will be exchanged in advance of the meeting.

SECTION 3.4. The Labor Organization agrees to furnish the Employer and maintain on a current basis, a complete list of all Labor Organization officers and stewards to include information on the work area that each steward represents and the steward's phone number. Personnel not appointed by Labor Organization as officers or stewards will not be allowed to perform official representational functions on behalf of the Labor Organization, nor will

they be allowed the use of official time. Labor Organization may appoint bargaining unit representatives telephonically with the appointment to be accomplished in writing within ten (10) working days.

SECTION 3.5

- a.** A representative of the Labor Organization shall have the right to be present during any formal discussion of personnel management policy matters between management and any employee in the bargaining unit.
- b.** Two Labor Organization representatives shall be excused from duty without loss of pay or charge to leave to receive information, or orientation relating to matters of mutual concern to the Employer and Labor Organization upon request of the Labor Organization. Additional representatives may be allowed to participate. Such requests may not be unreasonably denied. Areas of mutual concern may include but not limited to matters relating to pay, working conditions, work schedules, technician grievance procedures, performance ratings, adverse action appeals, as well as agency policy and negotiated agreement.
- c.** A technician who is elected or appointed to serve full time as a national representative or officer with NAGE may, at the discretion of the Employer be granted LWOP for one year. The Employer will provide a written response on denied requests. An extension for one (1) additional year may be granted upon request of the technician and with the approval of the Employer. The technician's rights and privileges will be protected under the provisions of the applicable portions of the CFR.
- d.** The Employer agrees that there shall be no restraint, interference, or coercion against any Labor Organization official or steward and that no officer or steward will be transferred from one work assignment to another for the purpose of discrimination or retaliation against the officer or steward because of their proper Labor Organization functions.

SECTION 3.6

- a.** The Employer agrees to provide the Labor Organization with notice of mission requirements or emergency conditions requiring a change in employee working conditions or performance of duties that constitute an exception to the labor agreement. Such notice will be provided as soon as possible prior to implementation.
- b.** Discussions regarding these temporary changes in working conditions will not be limited to those topics exchanged in advance. Furthermore, the contents of these meetings are not subject to grievances and ULP charges, although the underlying issues are still subject to statutory and contractual remedies, if the issues are not resolved at these meetings.
- c.** Labor Organization representatives will be afforded one hour of official time to prepare for and participate in such meetings. The Labor Organization may request additional time if needed. Participants will be limited to the minimum necessary to address/resolve agenda items. Meeting minutes will be maintained by the LRS

from HRO, subject to mutual agreement and approved prior to becoming an official record.

- d. Up to four (4) Labor Organization representatives will be allowed three (3) days of official time to attend the NAGE National Conventions held every four (4) years and all called National Executive Board Meetings. The Labor Organization will have to submit to the LRS, an agenda of training/meetings they plan to attend to make sure that the event is in the best interest of the agency.

ARTICLE IV LABOR ORGANIZATION REPRESENTATION AND MEETINGS

SECTION 4.1. The Employer agrees to recognize officer and stewards appointed by the Labor Organization to represent employees. The Labor Organization reserves the right to select its stewards so that the various organizations will have adequate coverage. The number of stewards will be the number required to provide reasonable access to a steward by any employee. The Labor Organization will provide the Employer with a roster, in writing, of its officers and shop stewards and any changes.

SECTION 4.2. Stewards will be permitted reasonable time to contact employees and supervisors on matters directly related to working conditions or grievances under this Agreement. In all cases when it is necessary for a Labor Organization steward or officer to leave their assigned place of work, permission will be obtained from the immediate supervisor for the use of official time. The Labor Organization steward or officer will contact the employee and determine their time of availability. Upon arrival at the employee's work site, the steward or officer will contact the supervisor of the work area being visited and inform them of his or her presence. Labor Organization stewards or officers will, whenever possible, obtain information; answer questions, etc., by telephone rather than by personal visits. In all cases, representational duties will be conducted promptly. Upon return to normal duties, the stewards will notify their supervisors of their return to duty. The Employer agrees that authorized representatives of the Labor Organization will be allowed to use telephone facilities normally assigned them in their usual work areas for handling complaints and grievances.

SECTION 4.3. As much advance notice as possible should be given to a supervisor once an appointment has been scheduled. Advance notice for official time for representational matters shall not be required for such matters in duration of less than two (2) hours of official time. Advance notice of at least two (2) hours is required in order to receive official time for representation in duration of two (2) to four (4) hours except in cases of emergencies. Advance notice of at least four (4) hours is required in order to receive official time for representation for duration of greater than four (4) hours.

SECTION 4.4. In the interest of efficient conduct of government business, and the economical use of Government time, and in order to draw a reasonable distinction between official and non-official activities, those activities concerned with organizing effort and the internal management of the Labor Organization, including, but not limited to the solicitation of membership, collection of dues or other assessments, circulation of authorization forms

or forms revoking dues withholding authorization, campaigning for Labor Organization office, and distribution of literature, will be conducted only during non-working time of all employees. Similarly, when the Labor Organization schedules membership meetings, internal elections or similar events wholly or partially within the scheduled working hours of employees, an employee attending or participating in such events shall do so in a non-work status, and shall be scheduled and conducted so as not to interfere with the mission of the agency.

SECTION 4.5. No more than fifteen (15) employees including officers and stewards combined of the Labor Organization, may be excused without charge to leave in conjunction with attendance at training sessions sponsored by the Labor Organization, provided the subject matter of such training is of mutual concern to the Employer and the employee in his/her capacity as an organization representative, and the Employer's interest will be served by the employee's attendance, and provided the employee's absence can be permitted. Administrative excusal for this absence can be permitted provided it is not interrupting the agency's mission. Administrative excusal for this purpose will cover only such portions of a training session as meets the foregoing criteria and will not exceed the time prescribed by applicable regulations for an individual within a twelve-month period. Management may agree to allow more employees to attend these events at its sole discretion.

SECTION 4.6. Labor Organization officials and stewards will not be required to wear the military uniform while attending labor relations/management trainings or activities at commercial and government facilities. Such trainings will include but are not limited to U.S Department of Labor, Department of Defense, Wage Fixing Authority, Field Advisory Services trainings (FAS) etc .

SECTION 4.7. With prior approval, compensatory time may be earned by Labor Organization officials when they are required to attend Employer scheduled meetings which exceeded the normal duty hours.

SECTION 4.8. Labor Organization officials and/or stewards will contact the Labor Relations Specialist (LRS) to obtain private office space at the DC Armory to conduct any type of counseling/consulting session with bargaining unit employees. The DCNG is committed to resolving Labor Organization concerns as quickly as possible, and will make a room available for resolving employee concerns within an hour of the request. To that aim Labor Organization officials should contact SMS (JBAB), LRS (Armory), RTI CSM (Fort Belvoir) to obtain a room when meeting with technicians on official time.

SECTION 4.9. Official time includes but is not limited to:

- a. Labor Organization representative(s) conferring with employees and/or Supervisor(s) on grievances.
- b. Reasonable time to prepare for appeal(s), grievances, complaints or scheduled meeting(s), and other requirements by the Employer.
- c. Two Labor Organization officers will be given official time to maintain office hours in the Labor Organization office from 1430-1630 on Tuesdays and Thursdays and will be available in person and via telephone to Bargaining Unit Employees.

ARTICLE V HOURS OF WORK

SECTION 5.1. The basic workweek will consist of workdays, Monday through Friday. While management has the statutory right to change the schedules of employee when necessary or as deemed, recognition of this Management right will not be construed as a waiver of the obligation to bargain, as appropriate, over changes in work times. The basic workdays is exclusive of the lunch break, which normally established as one-half (1/2) hour, typically mid-shift.

SECTION 5.2. The Employer shall have the right to continue all presently established work shifts as required to fulfill the agency mission, consistent with the obligation to bargain in section 6 and 7 of this article. The parties agree that changes in work schedules is negotiable.

SECTION 5.3. The Employer agrees to grant each employee two (2) fifteen minute rest periods during each workday. The immediate supervisor may uniformly approve the rescheduling of one or both of the fifteen-minute breaks, separately or concurrently, on a case-by-case basis (e.g. workload, technician stress, technician emergencies, etc.).

SECTION 5.4. When a lunch break, defined in the GLOSSARY, is not feasible during a shift, an onsite working lunch will be permitted; this working lunch will not be considered a lunch period.

SECTION 5.5. Physical Fitness Training

- a. All bargaining unit members (technicians) will be afforded an opportunity to participate in the physical fitness training program during duty hours.
- b. All Bargaining Unit members (technicians) are authorized up to ninety (90) minutes of duty time on Monday, Wednesday and Friday to perform the PT training. This period includes time for personal hygiene.
- c. On any given day it is the management's right to cancel physical fitness training on that day based on mission requirements.
- d. Physical fitness training may be conducted in APFT uniform or appropriate civilian workout attire.
- e. The program must start and finish at the workplace location.
- f. The location and type of physical fitness must be communicated to the supervisor.

SECTION 5.6. Where necessary and possible, the Employer will establish reasonable time, depending on the nature of the work, prior to the beginning of lunch periods and the end of the shift, for clean-up of work areas, storage of tools, and where required, for

personal hygiene.

SECTION 5.7. The Employer agrees not to permanently change tour-of-duty start and stop times or work shifts without affording the Labor Organization ten (10) working days prior notice and adequate opportunity to bargain over the impact and implementation of the proposed change (unless there is mutual consent to reduce or eliminate the timeframes or unless the Agency would be seriously hampered in carrying out its mission requirements or the cost would be substantially increased). The Labor Organization agrees to respond back to management within five (5) working days after receipt of notification to change tour of duty start and stop times or work shifts.

SECTION 5.8. It is the policy of Management to support the continued civilian education of all employees. Management will consider and allow revisions of employee work schedules to the extent such revisions do not adversely impact mission, work or productivity so the employee can pursue such education.

SECTION 5.9. The standard work shift is eight, nine hour days and one, eight hour day with one weekday off within a pay period. The workweek shall normally be Monday through Friday.

SECTION 5.10 At times it might become necessary to alter the current work shift for an employee. In the case of special shift assignments, the Employer agrees that any employee who requests to work a specific shift because of personal and/or family related matters, (i.e. to attend educational classes, single parents, sickness in the immediate family, transportation, car-pool) will be given special consideration to alter that shift for a "reasonable" period of time until the personal and/or family problem can be rectified. The Employer defines "reasonable" period of time.

SECTION 5.11. Shift differential will be paid to technicians assigned to a scheduled night shift or early morning shift in accordance with applicable directives.

ARTICLE VI HOLIDAYS

SECTION 6.1. Employees shall be entitled to holiday benefits consistent with applicable regulations, in connections with all Federal Holidays now prescribed by law and any that may be added by law. The following are identified as holidays for the purpose of pay and leave of Employees in addition to any other day designated or added as a holiday by Federal Statute or Executive Order:

**NEW YEAR'S DAY
MARTIN LUTHER KING DAY
PRESIDENT'S DAY
MEMORIAL DAY
INDEPENDENCE DAY**

**LABOR DAY
COLUMBUS DAY
VETERAN'S DAY
THANKSGIVING DAY
CHRISTMAS DAY**

SECTION 6.2. The Employer agrees that all days listed above, in addition to any designated by law, regulation or Executive Order, will be non-work days for employees while actively in a technician status. When work is to be performed on a holiday, or a day designated as a holiday in lieu of the actual holiday, the Employee that is normally scheduled to work that day will be called in to work before an employee who is normally off that day, IAW TPR 630.

SECTION 6.3. Pay for holiday work will be computed in accordance with applicable regulations and law.

SECTION 6.4. When the Employer determines that holiday work should be assigned, the Employer will determine which employees are equally qualified to do the work. Work should be assigned in a fair and equitable manner. The employer will first seek volunteers from qualified employees to perform the work. If further assignment is necessary, the Employer should make every effort to assign work based on inverse seniority for qualified (as determined by the Employer) employees.

SECTION 6.5. The Employer may excuse an employee who has been scheduled to work on a holiday, if requested, provided that another qualified employee is available and volunteers to work.

SECTION 6.6. The policy for administering holiday work provisions should be applied uniformly throughout the bargaining unit.

**ARTICLE VII
LEAVE ADMINISTRATION**

SECTION 7.1 It is agreed that attendance and leave policies for bargaining unit members shall be administered in accordance with this agreement, applicable regulations, and the DCNG Emergency Reporting, Dismissal and Closure Procedures.

SECTION 7.2. It is agreed that leave taken by a bargaining unit employee under the Family/Medical Leave Act; Law Enforcement Leave; Military Leave or Court Leave will be granted and charged in accordance with applicable regulations. Advanced annual or sick leave will be requested through the supervisory chain to the HRO for final approval.

SECTION 7.3. Administrative Dismissal by the Commanding General:

- a. The Employer shall make every reasonable effort to ensure the health, safety, and well-being of technicians. Under emergency conditions which result in the loss of

heat, water, power etc., administrative dismissals of technicians will be as directed by the senior supervisors, who will be the authority to request through HRO administrative leave, with pay, when conditions warrant. This policy supersedes any other policy relating to administrative dismissal, regarding loss of heat, water, power etc. published by the Agency. The designated supervisor will keep the NAGE R3-86 representative advised of the action taken or contemplated in response to the emergency.

- b. When administrative excusal is granted because of inclement weather or other emergency or acts of God, technicians who are scheduled for work and whose services are not otherwise required will be given administrative leave by the Employer. Individuals on previously scheduled leave when dismissal is announced will be charged leave.
- c. Employees who are on sick or annual leave when an office is shut down in an emergency may receive administrative leave only when the agency announces administrative leave before the start of the workday.

SECTION 7.4. An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. Examples for which excused absences may be granted by supervisors are:

- a. To attend conferences whenever the Employer determines that such attendance will serve the best interest of the federal service.
- b. To undergo a mental or physical examination as a condition for continued employment or technician promotional opportunity in the National Guard.
- c. To participate as pallbearers or as members of firing squads in funeral ceremonies for members of the armed forces. Honor guard participation in approved ceremonies as authorized by TPR630 and/or law.
- d. To donate blood (no more than four (4) hours).

SECTION 7.5. Request for leave donations will be accomplished in accordance with applicable regulations. All requests will be forwarded to HRO for processing.

SECTION 7.6. All categories of leave will be charged in multiples of one-half (1/2) hour.

ANNUAL LEAVE

SECTION 7.7. Employees shall earn annual leave in accordance with applicable laws and regulations.

SECTION 7.8. The Employer agrees to grant annual leave to employees for the purpose of rest, relaxation, recreation, observance of religious holidays, etc., consistent with workload requirements. Leave must be requested and approved in advance. Vacation leave may be scheduled so that employees may be permitted at least two (2) consecutive weeks annual leave during each calendar year, provided the employee has

accrued sufficient annual leave credit to allow such leave and consistent with workload requirements. Leave approval or disapproval should be within 24 hours of receipt of the request by the supervisor. If leave is disapproved, individuals have the right to appeal to the next higher level of supervision.

SECTION 7.9. It is agreed that no employees shall be called back from annual leave unless an emergency designated by the Employer or his designated representative arises and no other qualified employee in the unit is available to perform the required duties as determined by management.

SECTION 7.10. The Employer agrees to grant leave in a liberal fashion during times of inclement weather.

SECTION 7.11. All approved leave requests submitted three (3) months in advance of start of leave will normally be honored by the Employer. The Employer will make every effort to not withdraw leave once approved. Should it become necessary to cancel previously approved leave because of circumstances beyond the control of the supervisor, the individual(s) concerned will be notified in writing and such leave will be rescheduled as soon as possible. The Employer shall assist the employee in attempting to avoid forfeiture of deposits associated with the leave.

SECTION 7.12. The supervisory chain will render timely decisions on employee's leave requests in accordance with Section 8 of this article. Employees should not depart for leave without an approved/signed leave request.

LEAVE WITHOUT PAY

SECTION 7.13. Consistent with work requirements, the agency will make every effort to authorize LWOP after all other available sources of leave have been exhausted. The Agency will conform to all requirements of the Family and Medical Leave Act.

SECTION 7.14. A technician returning to duty from an approved leave of absence will be returned to the position held at the time his leave commenced, unless prevented by extenuating circumstances. The Employer is required to notify technicians of any changes which occur in their full-time position during a leave of absence.

SECTION 7.15. Employees on approved leave without pay status shall accrue all rights and privileges including retirement benefits and coverage under Group Life Insurance and Federal Employees benefits Program in accordance with applicable regulations.

SECTION 7.16. It is the individual's responsibility to provide the Employer with an address where the EMPLOYEE may be reached during a leave of absence and provide any necessary training.

COMPENSATORY LEAVE

SECTION 7.17. The Employer and the Labor Organization agree that compensatory time is time off from regularly scheduled work equal to the amount of time worked in excess of

eighty hours biweekly.

SECTION 7.18. Consistent with work requirements, compensatory time, whether scheduled in advance or unscheduled, will be fairly and equitably assigned, first to qualified volunteers, if available or time permits, or second, in the event no volunteers are available, fairly and equitably assigned to those available with the requisite skills. Management may consider that compensatory time may not be required of employees when it will cause extreme hardship to them or their family. The Employer consistent with mission requirements, upon request from the employee, may relieve an employee from an overtime assignment where such assignment would result in an unreasonable inconvenience adversely affecting the employee or his/her family. Such requests from the employee shall be responded to immediately by the supervisor. If the request is denied, the supervisor shall give the reasons in writing within three (3) working days of the denial.

SICK LEAVE

SECTION 7.19. The bargaining unit employee will notify the appropriate supervisor when he/she will be unable to report for work because of an incapacitating illness or injury. He/she will request sick leave not later than two (2) hours after the start of employee's regular shift on the first working day of his/her absence, unless the circumstances of the illness or injury render notice impossible. In this circumstance the employee will notify the appropriate supervisor as soon as possible. The employee needs to notify the Employer only that he/she is requesting sick leave and is not required to state the nature of the illness. Such information may be requested by Management only after the employee returns to work. When absence for incapacitating illness or injury will be for a period of more than one day, it is the employee's responsibility to keep the Employer informed of the date on which he/she expects to return to duty.

ARTICLE VIII EQUAL OPPORTUNITY

SECTION 8.1. Employer and the Labor Organization agree to cooperate in prohibiting discrimination because of age, sex, race, religion, color, National origin, political affiliation, marital status or opportunity through a positive and continuing effort.

SECTION 8.2. The EEO policy will be maintained in areas accessible to all employees. These plans will be made available to employees upon request. Supervisors will identify the location when not otherwise known to any requesting employee.

SECTION 8.3. If an Equal Employment Opportunity (EEO) complaint cannot be resolved at the informal stage, an aggrieved technician may only raise EEO complaint under statutory EEO procedures, an individual filing an EEO complaint using these procedures may

- a. Appeal CG's decision to the EEO Commission (EEOC); and

- b. Appeal the EEOC decision to an EEOC administrative judge.

ARTICLE IX EMPLOYEE ASSISTANCE PROGRAM

SECTION 9.1. The Employer and Labor Organization recognize substance abuse as serious health problems. Although particular emphasis will be given to those technicians with health problems related to substance abuse that may affect a technician's work performance, a technician will not be excluded from seeking or receiving assistance for other personal problems such as financial difficulties, legal, family or other problems that may affect performance.

- a. Technicians having illnesses related to substance abuse will receive the same careful consideration and offer of assistance that is presently extended to technicians having any other illness or health related problem.
- b. Technicians who have psychiatric problems or who are suffering from what could be defined as stress related medical conditions may also be afforded assistance in the program.
- c. Sick leave will be authorized for the purpose of treatment of rehabilitation as in any other illness or health problem.
- d. The confidential nature of medical records of technicians with substance abuse related problems will be maintained as provided by law and implementing regulations.

SECTION 9.2. The Employer will establish an Employee Assistance Program (EAP) and will appoint an EAP coordinator, in accordance with applicable technician regulations.

- a. The program will provide for referral of technicians to resources outside the D.C. National Guard for treatment and treatment follow-up. In addition, technicians may avail themselves of the program services on their own initiative.
- b. Rehabilitation expenses are the responsibility of the technician. As with other illnesses certain specified costs may be reimbursable under applicable Federal Employees Health Benefits (FEHB) programs or other individual medical insurance plans in which the technician may be a participant.

ARTICLE X HEALTH AND SAFETY

SECTION 10.1 Employer and Labor Organization Responsibilities. The Employer will make every reasonable effort to provide and maintain safety equipment and safe working conditions. The Organization will co-operate to that end and encourage the employees to work

in a safe manner, Information Assurance Workforce (IAW) government directives and regulations.

SECTION 10.2. Employee Responsibility. Each individual has a primary responsibility for his/her own safety and an obligation to know and observe safety rules. These practices are for the protection of each individual and his/her fellow employees, and for the conservation of valuable (often irreplaceable) resources and equipment. Employees are responsible to appropriately utilize personal protective equipment (PPE) or be subject to disciplinary action consistent with laws and regulations and this agreement.

SECTION 10.3. Standard for Safe Performance of Work. Management agrees to take reasonable precautions to ensure employee safety prior to assigning duties that directly or indirectly impact the health, safety and/or welfare of the employee. Management agrees to provide briefings, instructions, training, or schooling in addition to safety precautions, devices and PPE required by the Technical Manual, SOP, and standard shop practices whenever possible.

SECTION 10.4. Surface Equipment Maintenance Facility & USPFO Safety Committees

- a. Each activity / shop will meet safety committee requirements Information Assurance Workforce IAW appropriate safety rules and regulations.
- b. The Labor Organization will nominate, for appointment by the Employer employees from within the bargaining unit to serve as members of safety committees when established. At least fifty percent (50%) of the activity/shop safety committee will be made up of bargaining unit members.
- c. The names of personnel serving on local safety committees will be published and posted on appropriate safety bulletin boards.
- d. Bargaining unit members on safety committees should be trained for their additional duties. They will be notified as to the availability of safety schools and when such schools become available, will be allotted space for attendance at these schools.
- e. The State Safety Council will have at least one member nominated by the Labor Organization.

SECTION 10.5. Safety Inspections.

- a. The Employer agrees that a bargaining unit member designated by the Labor Organization will be notified and may be provided the opportunity to be present on official time as an observer during:
 1. Any safety inspection or survey conducted by OSHA.
 2. Any safety or building inspection conducted by a state or municipal fire marshal or building inspector.
 3. Any safety inspection conducted by the State Safety Officer.

- b. The supervisor of each activity agrees to notify a Labor Organization representative of the date and time of the above safety inspections as soon as they are known. Copies, if requested, of safety inspections will be provided to the Labor Organization representative.

SECTION 10.6. Personal Protective Equipment (PPE).

- a. The Employer and the Organization agree to promote the use of personal protective equipment (PPE) by employees.
- b. Required PPE needed before a position or task is performed will be provided to the employee before work begins.
- c. The Employer agrees to provide PPE at no cost to the employee. Unserviceable PPE will be replaced on a direct exchange basis or put on order (and annotated that this is a safety item).
- d. Each shop or facility, in accordance with applicable rules and regulations, will maintain adequate supplies of PPE.
- e. Safety goggles, either traditional and for covering prescription eyewear, will be made available by the Employer.
- f. Supervisors will ensure required PPE is in compliance with local SOP, government wide rules and OSHA regulations.
- g. All protective clothing and safety equipment required by applicable regulations will be provided by the Employer. Personal Protective Equipment, (PPE), related issues that may arise will be brought to the attention of the Employer by the Labor Organization.

SECTION 10.7. Hazardous Work Situations. Applicable safety directives will not be violated in the performance of an employee's duties. Assigned duties that violate safety directives will be brought to the attention of the immediate supervisor at once.

- a. **Imminent danger** is defined as any condition where there is reasonable certainty that a danger exists that can be expected to cause death or serious bodily harm immediately or before the danger can be eliminated by redress through normal hazard reporting and abatement procedures.
- b. When it is determined that an imminent danger exists, employees will not be required to subject themselves to such danger. The employee may refuse to work if imminent danger exists and this refusal will not subject the technician to punitive or disciplinary action, unless the refusal can be conclusively proven to have been made under false pretenses.
- c. An employee may refuse to perform a task when both of the following criteria are met:
 - 1. There is reasonable belief that there exists an imminent risk of danger and;
 - 2. There is sufficient time for the individual to have the situation resolved by any

method other than refusing to perform the task.

- d. The Employer recognizes that in some circumstances, the interruption of utility services such as water, electricity, and heating, ventilation, air-conditioning (HVAC), can violate OSHA and other safety regulations and place employees at increased risk of injury. The Employer agrees to abate or correct any safety violation, hazard or increased risk of injury to employees as soon as possible and make every effort to provide advance notice to the Labor Organization and employees, when such interruption is planned and foreseen. When unforeseen utility interruption occurs, the Employer will inform a Labor Organization representative as soon as possible. Examples include but are not limited to:

1. Not performing work on batteries when deluge shower and eye wash stations are inoperative when water service is interrupted.
2. Providing alternative sources of heating, ventilation, and air conditioning (HVAC) when service is down.
3. Providing alternative sources of drinking water when water service is interrupted.
4. Limiting refueling operations when shower and fire suppression is down.

SECTION 10.8. Extreme Temperature / Work Situations. The Employer and the Labor Organization mutually recognize the hazards of working in extreme temperatures, while at the same time, acknowledge the necessity for accomplishing certain tasks to varying extent even in the most extreme temperatures. The Labor Organization acknowledges that it is the responsibility of each employee to insure the adequacy of personal clothing worn to make full and proper use of all such protective equipment prior to working in extreme temperatures. The Employer at no cost to employees whose work assignment requires working outdoors in inclement weather will furnish cold weather gear when funds are available.

- a. The Employer acknowledges that there are certain extremes of temperature and weather beyond which employees cannot perform sustained work. Employees will not be required to work in extreme temperature situations for extended periods of time without reasonable relief away from the extreme temperature situation.
- b. The employee will communicate concerns to the supervisor in order for the supervisor to determine what these periods will be.
- c. The Employer agrees to provide environmental control measures sufficient to mitigate extreme temperatures where central cooling or heating is not installed or insufficient to maintain a safe working environment.

SECTION 10.9. Contaminated Clothing. When an employee's clothing has become saturated with fuels, and/or other contaminants, which may endanger the employee or create a hazard, the employee may be required to change into fresh clothing.

SECTION 10.10. Health Examinations. Upon request, the Employer agrees to provide a copy of all required health examinations to the requesting bargaining unit member.

SECTION 10.11. Injuries to Employees. Employees shall immediately report job connected injuries or illness to their supervisor. It is the responsibility of the supervisor, along with the employee, to ensure that the proper procedures are followed and that all necessary Department of Labor forms and notices are completed. Employees with serious injuries will be treated first, followed by the necessary paperwork. Employees will be fully advised by the Employer as to his/her rights and obligations under the Employee Federal Compensation Act. The employee and Employer will communicate on the status of injury claims.

SECTION 10.12. Light Duty.

- a. Definition: Light duty is defined as medical restrictions as designated by a licensed medical professional due to injury or illness. Assignment to light duty is considered temporary when the employee is in the recovery process from an injury or in the recuperating process from illness.
- b. When an employee is released to return to work in a temporary light duty status by a medical professional, the employee will submit a completed Medical Evaluation / Light Duty request form, CA-17 Rev. May 2011 and CA-19, to the immediate supervisor for consideration of light duty assignment.
- c. The Employer agrees to make every reasonable effort to provide suitable temporary light duty work, which the employee is qualified to perform, under the following circumstances:
 1. Work is available.
 2. The work provided will not present undue risk of liability to the Employer or hazard to other employees.
- d. The employee will provide the supervisor with an updated medical evaluation/ light request form not later than the next scheduled medical evaluation, or within two (2) weeks, whichever comes first.

SECTION 10.13. Smoking in the Workplace.

- a. **Purpose.** The purpose of this article is to provide a smoke-free work environment, which protects all employees from the effect of second-hand smoke without creating an undue burden on those who elect to smoke.
- b. **Administration.** Smoking is prohibited in any building owned, leased, or operated by the District of Columbia National Guard.
 1. Outdoor smoking areas will be designated for all buildings. These outdoor areas will be:
 - i. Reasonably accessible to employees and,

- ii. Information Assurance Workforce IAW applicable laws and regulations.
 - 1. Smoking will not be allowed in federally owned, operated, or leased vehicles.
 - 2. Complaints regarding non-compliance with this article or the ineffectiveness of the measures used to establish a smoking area will be addressed through the appropriate command / supervisory channels. Grievances concerning smoking shall be made using the established procedures in this agreement
 - 3. Smoking cessation assistance information and training will be made available through the Employer to employees via Employee Assistance Program (EAP).

SECTION 10.14. Personal Hygiene. The Employer agrees to provide and maintain adequate facilities and supplies for personnel to perform personal hygiene in accordance with OSHA regulations and accepted industry practice. At a minimum, this will include hot and cold running water, hand soap, and paper towels or other means for employees to dry their hands. Employees who perform maintenance or industrial duties will also have available to them waterless-type hand cleaner and be provided with securable lockers adequate to store PPE and uniforms required in the performance of their assigned duties as well as fifteen (15) minutes of personal hygiene at the end of the day to prevent contamination of family members.

SECTION 10.15. Sanitation and Health Standards of Facilities.

- a. In accordance with applicable health, safety and government regulations, the Employer agrees to maintain its facilities in a hygienic manner. At a minimum this includes:
 - 1. Indoor work place temperatures will be maintained within the range specified by industry standards.
 - 2. Lighting adequate to perform the work required of employees.
 - 3. Adequate supplies of hot and cold running water, toilet paper, soap, and paper towels to perform personal hygiene required during the work day (i.e., hand washing after use of toilets and after exposure to harmful chemicals). Alternative technologies that substitute for paper towels are allowed.
 - 4. Adequate ventilation of work, office, showers and rests rooms.
 - 5. A supply of drinking water at the work facility or site for all personnel, adequate for the days-planned duration and activities.
 - 6. At any building, rest room facilities to accommodate maintained IAW applicable law and regulations.
- b. With the exception of emergencies, the Employer agrees to provide advance notice to

the Labor Organization and affected employees when construction or required repairs affect or impact the minimum hygiene standards agreed to in this agreement, and / or disables required safety devices / measures or otherwise affects conditions of employment. When emergencies occur, the Employer agrees to notify the Labor Organization and affected employees as soon as possible.

SECTION 10.16. Hazardous Material and Emergency Responses.

Incidental Spill: Defined as a chemical or a substance that is either spilled, punctured or released from its source container and the chemical release is not identified as dangerous or toxic. The amount of chemical released is no larger than one (1) gallon and only requires minimal amount of Personal Protective Equipment (PPE) to be cleaned up. Note: Minimal PPE is considered the following: chemical goggles and non-permeable gloves.

SECTION 10.17. WORKERS COMPENSATION:

Employees shall report job connected injuries or illness within 24 hours to a supervisor and HRO. The Employer shall ensure proper procedures are followed and that all necessary documents are completed. When the employee is incapacitated and unable to notify the Employer of injury or illness, it shall be management's responsibility to initiate required procedures as soon as they are aware an incident has occurred. Local processing of workers compensation claims will be coordinated with the HRO. In all situations involving OWCP claims, the HRO is available to assist the employee and if necessary ensure all required procedures are accomplished. In the event of an OWCP claim, HRO will advise the employee as to their entitlements and obligations under the Employee's Federal Compensation Act.

**ARTICLE XI
USE OF FACILITIES**

SECTION 11.1. Upon request of NAGE R3-86, the Employer will provide space, when available, for the conduct of official (official meaning agreed upon training that will benefit management as well as the Labor Organization NAGE R3-86 meeting or NAGE R3-86 sponsored training sessions.

The Labor Organization will normally submit written requests for meeting space at least three (3) working days in advance of the date on which the meeting will be held. The Employer will respond, in writing, indicating concurrence and, in the event of non - concurrence, provide NAGE R3-86 reasons for such actions.

SECTION 11.2.

- a. The Employer will provide the labor organization with at least two (2) bulletin boards in each general work area where bargaining unit employees are assigned. The Employer and the labor organization will mutually agree upon the location in which the bulletin board will be posted. The recommended size of each bulletin board will be, as a minimum, 4 ft. X 6.5 ft.

- b. The labor organization agrees to maintain the bulletin board space in an orderly condition and agrees not to post any defamatory information. The bulletin board will be maintained by the local President or his/her designee and shall be for the sole and exclusive use of the Labor Organization.

SECTION 11.3.

- a. The Employer shall provide the Labor Organization with a permanent office space equipped with the following: one desk, one file cabinet, five chairs, one computer terminal, a working telephone, and one printer at no cost to the Labor Organization. Any long distance phone calls will be charged to the Labor Organization.
- b. The office space will be environmentally supported in the same manner as the rest of the building.
- c. Labor Organization is aware that all desks and filing cabinets in the District of Columbia National Guard facilities may be subject to inspection by the Inspector General, Army Audit Agency, or other headquarters or agencies, as authorized by Law or regulation in the presence of a Labor Organization official.
- d. For the purpose of communication with the Employer and bargaining unit employees, the Employer shall provide the Labor Organization access to the LAN. The Labor Organization is prohibited from utilizing the LAN for non- Labor Organization business.

ARTICLE XII ADVERSE WEATHER

SECTION 12.1. When the Employer (taking OPM guidance into consideration) decides during duty hours to release personnel on administrative leave in relation to adverse weather, employees will be notified as promptly as possible through their respective supervisors at the DC Armory, JBAB, and the RTI.

SECTION 12.2. During non-duty hours when it has been determined that activities must be curtailed due to adverse weather conditions, employees are expected to make every reasonable effort to report for duty. If it is impossible for employees to report for duty they may be excused.

SECTION 12.3. Except for essential personnel administrative dismissal due to inclement weather will be granted to bargaining unit employees at the Armory, JBAB, and the RTI under the following procedures:

When the Commanding General has announced that the installation is closed due to inclement weather, at that time, those personnel designated as necessary to maintain essential operations will be required to report to work. The policies outlined above pertain only to reporting for work during periods of inclement weather. Early dismissal of employees during normal workday and off duty work hours shall be determined by the Employer and disseminated equally to each area of operation that employees covered by this

agreement work in. In such instances, employees will be notified through normal supervisory channels in a timely manner.

SECTION 12.4. The following program will apply under extreme weather conditions:

- a. Employees may not be required to work in the affected work areas while the wind chill is at or below -20 degrees F°, or if the Wet Bulb Globe Test “WBGT” is at or above 95 degrees F., except for time-essential mission requirements (recovery). Employees may not be required to work outside if the WBGT reaches 100 degrees F°. In addition, employees may not be required to work places (office or shop), where the temperature exceeds 95 degrees F° within 55% humidity (or higher), or its equivalent.
- b. The following work/rest cycles will be applied in extremely hot temperatures (although work/rest cycles may be implemented at lower readings):

Reading	Work/Rest Cycle
82 degree F°	50/10
83-87 degree F°	45/15
88-89 degree F°	30/30
90 degree F° and above	20/40

- c. The following procedures will be applied in extremely cold weather although safety procedures may be implemented at less severe readings):
- d. When applying the temperature provisions of this article, the temperature will be obtained from the host base and applied using the table below:

Wind Chill Reading	Procedure
Below 20 F° degree down to 0	Work 50/Warm 10 mins
Below 0 F° degree	Work 40/Warm 20 mins

SECTION 12.5. The Employer will administer a Wet Bulb Globe Test “WBGT” when the temperature approaches or is forecast to exceed 82 degrees F° or wind chill approaches or is forecast to be below + 10 degrees F°. The Labor Organization may request that a WBGT test be conducted when they believe the forecast exceeds 82 degrees F° or the wind chill approaches or is forecast to be below + 10 degrees F°.

- a. Whenever the WBGT test is administered, a UNION representative or a designated bargaining member will be entitled to accompany this activity.
- b. The Employer will ensure that there is a trained and qualified individual present during all work shifts to obtain WBGT and wind chill temperature factors, as appropriate, (when WBGT approaches or is forecast to exceed 82 degrees F°. WBGT, or wind chill approaches or is forecast to exceed + 10 degrees F°).
- c. In addition, the Employer agrees to designate a Management official (identified to the Labor Organization) to be available during adverse weather testing and who will have the authority to implement all adverse weather procedures to all affected work areas.

SECTION 12.6. Any Wage Grade employee assigned to perform duties under hazardous weather conditions (including, but not limited to thunderstorms, hail, etc.) will be compensated on the basis of the exposure to hazardous weather provisions found in the CFR.

ARTICLE XIII HAZARDOUS DUTY AND ENVIRONMENTAL DIFFERENTIAL PAY

SECTION 13.1 PURPOSE:

The purpose of this article is to define the situations under which Hazardous Duty (HDP) and Environmental Differential Pay the (EDP) will be paid to employees as authorized pursuant to TPR

990-2, DCANGR 40-532 and CBA. Procedures and guidelines are referenced in 5 CFR Part 550 and 532, respectively will guide the payment of HDP and EDP. These procedures as amended by this article are the procedures to be followed in establishing and paying of HDP/EDP.

SECTION 13.2 COVERAGE:

This article applies to all District of Columbia Army National Guard civilian employees, bound by this agreement, whether they are employed on a full-time, part-time, indefinite, temporary or intermittent basis.

- a. HDP applies only to General Schedule employees.
- b. EDP applies only to Wage Grade employees.
- c. HDP may not be paid to an employee when the duty has been taken into account in

the classification of the employee's position, unless the circumstances of the specific hazards of physical hardships have changed from those identified in the controlling position description. HDP and EDP will not be paid to Technicians receiving annual premium pay or who are not in a pay status (i.e. overtime which is worked for compensatory time off is not a paid status for this purpose).

SECTION 13.3 POLICY:

HDP and EDP are additional compensation programs available to employees for actual exposure to hazards, physical hardships or working conditions of an unusually severe nature. Authorization for these differentials does not eliminate the continuing responsibility of all concerned to initiate positive actions to eliminate or reduce danger and risk which contribute to or cause the hazard, physical hardship or working condition.

a. The existence of HDP and EDP differentials is not intended to condone work practices, which may circumvent federal safety laws, rules or regulations. However, when the agency is unable to practically eliminate the unusually severe nature of the hazard, physical hardships, or working conditions, an environmental differential may be authorized.

b. When potential hazard or actual discomforts are identified in a work assignment, first consideration must be given to the protection of the employee. Protective measures, which reduce the hazard to the employee and relieve his or her discomfort, will be made available if at all practicable and the application of these measures enforced. The payment of HDP and EDP is a measure, which admits that no available means can reasonably be employed to adequately, or where appropriate, practically eliminate the hazard or discomfort to reasonably tolerable levels.

SECTION 13.4 DISSEMINATION:

Employer and the Labor Organization shall ensure that the provisions of this article are made known to all employees.

SECTION 13.5 RESPONSIBILITIES:

a. **Employees:** Each employee is required to work within the dictates of sound safety and occupational health practices and procedures, which are under his or her control. In those instances where the application of these practices and procedures cannot eliminate a hazardous situation, the employee must take positive steps to report the situation, and if appropriate, initiate a request to establish a HDP/EDP situation. Recommendations will be forwarded through supervisory channels to the HRO and to the Labor Organization. The Employer retains the right to determine which personnel and/or organizational element will perform the work. This does not relieve the Employer from their contractual obligation to contact the Labor Organization president regarding potential or reported HDP/EDP.

b. Management: Management shall insure that safety practices and acceptable work procedures are followed. In those instances where the application of these practices and procedures cannot adequately alleviate a hazardous situation, management shall take positive steps to report the situation, and if appropriate, initiate a request to establish a HDP/EDP situation. Upon receipt of a request to establish a HDP/EDP situation, management should examine the situation, provide recommendations, and forward the request through supervisory channels to the HRO office and notify the Labor Organization. Supervisors and managers do not have the authority to approve or disapprove a request to establish a payable HDP/EDP situation.

c. Human Resources Office: The HRO is responsible for the management of the HDP/EDP programs. The HRO shall review and disseminate all appropriate issuances from the Office of Personnel Management (OPM) and the National Guard Bureau as it may relate to this article. The HRO, EDP committee and the Labor Organization should conduct annual evaluations of the program and the approved situations to insure that they are current and valid. New qualifying situations that arise will be handled on a case-by case basis. The Employer retains the right to determine which personnel and/or organizational element will perform the work. This does not relieve the Employer from their contractual obligation to contact the Labor Organization president.

d. HRO and Labor Organization: Upon receipt of HDP/EDP situation requests, the HRO shall establish a meeting with the EDP committee to include the Labor Organization within fifteen (15) working days for the purpose of evaluating the request. The EDP committee will be made up of equal representatives from management and the labor organization in addition to a Committee chair. Management will chair the meeting and a majority vote will determine the forwarding of any situation that warrants coverage to HRO. Subject matter specialists are not allowed to vote. When a situation is approved, it will be distributed to the work force. The Employer retains the right to determine which personnel and/or organizational element will perform the work. This does not relieve the Employer from their contractual obligation to contact the Labor Organization president.

SECTION 13.6 HAZARDOUS DUTY PAY (HDP):

This section provides details necessary to implement the HDP authorization in the District of Columbia Army National Guard locations bound by this agreement.

a. Coverage: This article establishes a schedule of pay differentials for irregular or intermittent duty involving unusual physical hardship or hazard. The article applies only to GS employees serving in a full-time, part-time or intermittent position. In order for an individual to be eligible for HDP, he/she must be performing hazardous duties or duties involving physical hardship. The situations authorized for HDP are contained in Appendix A of 5 CFR, Part 550.

b. Definitions:

1. Duty involving physical hardship means duty that may not in itself be hazardous, but causes extreme physical discomfort or distress and is not adequately alleviated by protective or mechanical devices, such as:

a. Duty involving exposure to extreme temperatures for a long period of time.

b. Duties involving arduous physical exertion, or exposure to fumes, dust, or noise that causes nausea, skin, and eye, ear or nose irritation.

2. Hazardous duty means duty performed under circumstances in which an accident could result in a serious injury or death, such as duty performed on a high structure where protective facilities are not used or on an open structure where adverse conditions such as darkness, lightning, steady rain, or high wind velocity exist.

3. Hazard pay differential means additional pay for performance of hazardous duty or duty involving physical hardship.

c. Authorization to pay HDP:

1. The Employer shall pay the hazard pay differential to an employee who is assigned to and performs any duty specified in Appendix A of 5 CFR, Part 550. However, hazard pay differential may not be paid to an employee when the hazardous duty or physical hardship has been taken into account in the classification of his or her position, without regard to whether the hazardous duty or physical hardship is grade controlling, unless payment of a differential has been approved under paragraph 2 of this section.

2. The head of an agency may approve payment of a hazard pay differential when:

a. The actual circumstances of the specific hazard or physical hardship have changed from that taken into account and described in the position description; and

b. Using the knowledge, skills, and abilities that are described in the position description, the employee cannot control the hazard or physical hardship; thus, the risk is not reduced to a less than significant level.

i. For the purpose of this section, the phrase “has been taken into account in the classification of his or her position” means that the duty constitutes an element considered in establishing the grade of the position— i.e., the knowledge, skills, and abilities required to perform that duty are considered in the classification of the position.

ii. The head of the agency shall maintain records on the use of the authority described in paragraph (b) of this section, including the specific

hazardous duty or duty involving physical hardship; the authorized position description(s); the number of employees paid the differential; documentation of the conditions described in paragraph (b) of this section; and the annual cost to the agency.

iii. So that OPM can evaluate Agencies' use of this authority and provide the Congress and others with information regarding its use, each agency shall maintain such other records and submit to OPM such other reports and data as OPM shall require.

d. Payment of HDP:

1. Hazardous pay differentials may not exceed an amount equal to 25 percent of the rate of base pay applicable to the employee. Hazard pay is in addition to any additional pay or allowances to which the employee is entitled. It shall not, however, be used when the technician is not in a paid status or for technicians paid annual premium pay or to compute any additional pay or allowances payable under another statute or law. If an employee is being paid at a retained rate, that rate is his rate of base pay for the purposes of computing HDP.

2. When an employee performs duty for which hazard pay is authorized, they will be entitled to hazard differential pay for the hours in a pay status on the day in which the duty was performed.

3. Payment of hazardous pay is authorized for employees only while they are in a pay status.

4. Payment of the HDP shall be made to the employee not later than the second pay period after the actual exposure takes place.

e. Termination of HDP: Management shall discontinue payment of HDP to an employee when:

1. One or more of the conditions requisite for such payment ceases to exist;
2. Safety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable, such as those published by the Occupational Safety and Health Administration (OSHA), Department of Labor (DOL); or
3. Protective or mechanical devices have adequately alleviated physical discomfort or distress.
4. The employer agrees to notify the Labor Organization no less than thirty (30) days prior to the termination of HDP.

SECTION 13.7 ENVIRONMENTAL DIFFERENTIAL PAY (EDP):

This section provides the details necessary to implement an Environmental Differential Pay program for Wage Grade employees as authorized IAW TPR 990-2 and by 5 CFR, Chapter 1, §532-511.

a. Basis for EDP: Environmental Differentials are paid for those work situations in which the employee is exposed to a potentially severe hazard which has a real probability of occurrence and for which no adequate precautions or protective facilities are possible to minimize or practically eliminate physical injury, illness or death to the employee should the potential of the situation actualize. The hazard must involve a real threat with no effective measures available to adequately alleviate the employee from attendant discomforts or threat of injury. If no effective measures are available to protect the employee from the effects of the work environment, appropriate compensation through EDP must be provided.

b. Payment for EDP situations:

1. In accordance with Section 5343(c)(4) of Title 5, United States Code, and 5 CFR Part 532.511, an employee shall be paid an environmental differential when exposed to a working condition or hazard that falls within one of the categories approved by the DCNG EDP Committee.
2. An employee who is subjected at the same time to more than one hazard, shall be paid for that exposure which results in the highest differential, and shall not be paid for more than one differential for the same hours worked.
3. Environmental differential pay is authorized only when employees are in a pay status. Overtime, which is worked for compensatory time off, is not considered as a pay status for the purpose of receiving EDP.

c. Establishment of EDP:

1. Changes to categories indicated in the approved situations will be effected as changes occur in the CFR. Recommendations for changes to the approved situations will be processed IAW Article 14-5. Any submission under this section must include:
 - a. The nature of the exposure so as to clearly show the hazard, physical hardship or working condition for which compensation is being requested.
 - b. The degree to which the employee is exposed to the hazard and the

period of time during which the exposure is expected to exist.

- c. The degree to which control may be exercised over the physical hardship, hazard, or working condition of an unusually severe nature. The request shall also include the rate of environmental differential recommended to be established.
2. Recommendations to establish new situations or to change existing situations must address the conditions indicated above and must be submitted in Air Force memorandum format.

d. When EDP is paid:

1. An employee entitled to environmental differential pay shall be paid an amount equal to the percentage rate authorized by OPM for the category in which the hazard or working condition falls.
2. When an employee is entitled to EDP, which is paid on an actual exposure basis, the employee shall be paid a minimum of 1 hour and in increments of one-quarter (1/4) hour for each fifteen (15) minutes or portion thereof in excess of 1 hour; e.g., if an employee is exposed for one (1) hour and six (6) minutes, they will receive EDP for one (1) hour and fifteen (15) minutes.
3. An employee entitled to an EDP on the basis of hours in a pay status shall be paid for all hours in a pay status on the day on which they were exposed to the situation or as determined by the EDP committee.
4. An employee may not be paid more than one environmental differential for a particular period of work.
5. The payment of EDP is computed on the basis of the highest environmental differential rate authorized during the period of entitlement.
6. The number of hours an employee is paid EDP shall not exceed the number of hours of duty performed by the employee on the day of exposure except as required by paragraph (b) (3) of this section.

SECTION 13.8 DOCUMENTATION OF HDP / EDP:

- a. The payroll office receives the documentation of HDP/EDP by using an NGB Form 104, which is attached to the T&A card as required by DCPS pay center. This is required to provide the necessary information for calculating EDP entitlements. The form will be completed as follows:
 1. Enter name, SSN, unit, and location of the employee concerned.

2. List the category number of exposure. Show all exposures as they occur each workday. When exposure occurs under more than one category, intermittently for the same category, or concurrently with more than one category on the same workday, list each individual exposure separately to include actual clock times.

b. Duration of exposure: List the date, inclusive clock time in the "from" and "to" columns, and actual elapsed time in hours and minutes of each category of exposure shown in the preceding column: (e.g., 1 January 2013; 1pm-3:25pm, hours; 2 hours and 25 minutes).

c. The appropriate supervisor authorized to certify the time and attendance card will certify the exposure for pay purposed in approved situations.

d. A summary of EDP hours will be completed by the supporting payroll office.

SECTION 13.9 HDP/EDP REQUESTS:

All requests will be handled in an expedient manner.

SECTION 13.10 HDP/EDP IN EFFECT:

All differentials presently paid will remain in effect for the duration of this agreement, or until it is agreed by the parties that the hazard has been eliminated. All changes to HDP/EDP program will be negotiated with the Labor Organization.

ARTICLE XIV CONDUCT, DISCIPLINE AND ADVERSE ACTIONS

SECTION 14.1.

- a. This article applies to matters of CONDUCT only. Actions that relate to job performance are accomplished in accordance with the agency performance appraisal system, as modified by the Performance Appraisal Article of this contract. When disciplinary action is necessary it should strive to achieve a constructive end result, and will not be used as a means to harass technicians. Discipline will be applied in a fair and equitable manner.
- b. The parties agree that conduct may be improved through counseling or disciplinary action. Counseling a technician can normally resolve a problem without the need for disciplinary or adverse action. Disciplinary action should be undertaken for the sole purpose of correcting misconduct with goals of preventing problem situations and maintaining discipline and morale among other technicians.
- c. In order to be effective, constructive discipline must be initiated within a timely manner after the offense becomes known to the technician's supervisor.

SECTION 14.2.

- a. Counseling is an exchange of information guided by the supervisor and has the specific purpose of improving the technician's conduct or knowledge of a particular subject. It is not disciplinary action.
- b. Warnings may be used to resolve conduct problems. Like counseling, warnings are a private matter between the technician and their supervisor. Warnings are not disciplinary actions. Unlike the counseling, a warning has a more serious intent because it may serve notice that further action may be imminent should conduct not improve.

SECTION 14.3.

- a. Disciplinary actions consist of written reprimands and adverse actions. Oral and written admonishments are non-disciplinary actions.
- b. Before disciplining a technician, the supervisor should gather all available facts and discuss them with the technician, informing the technician of the reason for the investigation. A Labor Official shall have the right to attend any investigative meeting with a bargaining unit employee. After considering the technician's response, the supervisor then advises the technician if the discussion resolved the matter. If an oral admonishment or letter of reprimand is decided upon the following procedures will apply:
 - 1. An Oral admonishment notifies a technician to desist from a certain course of action. The supervisor describes the offense in sufficient detail to enable the technician to understand why the admonishment is necessary. The technician may have a Labor Organization representative, if so desired.
- c. The supervisor may document the oral admonishment in a memorandum for record.
- d. Formal disciplinary action consists of letters of reprimand, suspensions, and reductions in grade, and up to removals. Even though these actions constitute formal discipline, only suspension, reduction in grade and removal actions are considered adverse actions (since they affect the pay of the technician).
- e. Before disciplining an employee, the supervisor will gather all available facts and discuss them with the employee, informing the employee of the reason for the discussion. After considering the employee's response, the supervisor will then advise the employee if the discussion resolved the matter. If a letter of reprimand is decided upon, the following procedure will apply (see Section on Weingarten Rights).
 - 1. Letters of Reprimand will:
 - i. Be signed by the appropriate supervisor and coordinated with the Human Resource Office for contract and regulatory compliance.
 - ii. Describe the offense in sufficient detail to enable the employee to understand why the reprimand is necessary.
 - iii. Inform the employee that the letter will be filed as a temporary document in the Official Personnel Folder (OPF) for one year.

- iv. Once the reference to a letter of reprimand is removed from the OPF it is to be regarded as never having occurred. Reference may not be made to the withdrawn record, but reference may be made to the underlying behavior that caused such action for a period NTE the length of time the letter of reprimand was in place in the OPF.
- v. The employee may request to have the written reprimand removed after nine (9) months. The request must be in writing and a response will be provided in writing by management.
- vi. The technician may have a Labor Organization Representative, if so desired, during questioning.
- vii. Inform the technician that the letter will be filed as a temporary document in the Official Personnel Folder (OPF), until a specific date, not to exceed twelve (12) months, unless reoccurrence of the infraction continues. An appeal of a letter of reprimand may be made through the negotiated grievance procedure. A successful appeal will cause the action to be withdrawn and any record of the action to be deleted.

SECTION 14.4.

- a. Adverse Actions are administrative actions that results in removal, suspension, or reduction in grade of any technician.
- b. Adverse Action shall not be initiated by any supervisor without prior consultation with the HRO/LRS and TPR 752 (except as modified below) will govern adverse actions.
- c. An employee against whom Adverse Action, is proposed is entitled to 30 calendar days advance written notice, except when the crime provision has been invoked. The notice will state specific reasons for the proposed action. The employee shall be given the opportunity to use up to four (4) hours of duty time to review the evidence on which the notice is based and that is being relied on to support the proposed action. Additional time may be granted on a case-by-case basis. Upon request, one copy of any document(s) in the evidence file will be provided to the employee.
- d. The employee and/or representative may respond orally and/or in writing as soon as practical but no later than five (5) working days from receipt of the proposed action notice. The response may include written statements of the persons having relevant information and/or other appropriate evidence. Management has the right to restrict the response time to five (5) working days when invoking the crime provision. Extensions for replying to proposed adverse actions and suspensions may be granted when good cause is shown.
- e. The management official will issue a written decision on the adverse action at the earliest practicable date. The written decision shall include the reason for the disciplinary action and a statement of findings and conclusions for each charge.
- f. Adverse Action notices must be in writing and be consistent with applicable law, regulation and policy.

- g. Notice of a final decision to take an Adverse Action shall be in writing and shall inform the employee of appeal and grievance rights and their right to representation.
- h. The Employer "may" grant a stay of an Adverse Action charge until all appeal rights have been exhausted.
- i. Technicians may appeal any Adverse Action through the negotiated grievance procedure or through any venue available through law, but not both. Employees will be provided notice of their appeal rights on any adverse action that is issued to them.

SECTION 14.5.

- a. In any disciplinary action, a technician will, upon written request, be furnished a copy of all written documents in the Employers file(s) which contain evidence used by the Employer to support the disciplinary action. Informal notes made by supervisors that allege infraction, lateness, and the like, may not be used as evidence in proceedings against technicians unless disclosed beforehand. Any Privacy Act information will be redacted.
- b. No written entry will be made in a technician's file concerning disciplinary matters without the knowledge of the technician. The technician will initial the entry. The technician's initials acknowledge that the technician KNOWS that the entry was made, but in no circumstances may initialing the entry be considered as an agreement with the entry or an admission of guilt.

**ARTICLE XV
GRIEVANCE AND ARBITRATION PROCEDURES**

SECTION 15.1. Grievance Procedures. The Employer and the Labor Organization agree that the negotiated procedure is the exclusive procedure available to the Labor Organization and the employee(s) in the bargaining unit for processing of any grievance.

A grievance may be processed by any recognized officer or steward appointed by the Labor Organization. The labor organization shall provide the Employer with a written list of duly designated authorized representatives of the bargaining unit employees and any changes to such individuals as they occur.

SECTION 15.2. Grievance Definition:

- a. A complaint by a bargaining unit member concerning any matter relating to the employment of the employee.
- b. A complaint by the Labor Organization concerning any matter relating to the employment of a bargaining unit member.
- c. A complaint by any bargaining unit member, the Labor Organization, or Employer

concerning,

1. The effect of interpretation or a claim of breach of collective bargaining agreement or;
2. Any claimed violation, misinterpretation or misapplication of any law, rule or regulation affecting conditions of employment.

d. Technician grievance coverage, as outlined herein, does NOT apply to:

1. Any claimed violation to subchapter III of Chapter 73 of Title 5, United States Code (relating to prohibited political activities);
2. Retirement, life insurance or health insurance;
3. A suspension or removal under Title 5 U.S.C. section 7532 of this title (in the interest of National Security)
4. Any examination, certification or appointment;
5. Action based on classification or job degrading determination that does not result in reduction in grade or pay of any employee. Statutory classification appeals' procedures will be the resolution method used for the classification action. For GS employees, TPR 500(511.6) for WG employees TPR 532-1 is the applicable references;
6. Individual performance appraisal appeal;
7. An EEO complaint;
8. Actions taken pursuant to the provisions of 32 USC 709(f).
9. Appeals of a reduction-in-force;
10. Non-selection for a position or promotion from a group of properly ranked and certified candidates;
11. Termination of a probationary employee during the probationary period;
12. Performance appraisal elements or standards;
13. A proposed disciplinary or adverse action under TPR 752;
14. Matters solely arising from acts occurring before the effective date of this Agreement (they will be handled according to the previous Agreement);

15. Grievances relating to military matters; not related to technician employment;

SECTION 15.3 It is agreed that settling of problems should be accomplished verbally at the lowest level before becoming formal. Both the Employer and the Labor Organization encourage this. The Labor Organization representative may be present during such verbal meetings.

SECTION 15.4 Grievance Representation. The Labor Organization, as the exclusive representative, is ensured the right to represent itself and each and any bargaining unit member it represents, in the presentation and processing of any grievance. Representation should be in accordance with this CBA and Labor Organization by-laws.

SECTION 15.5. Informal Step-

- a. The aggrieved employee, with or without his Union representative, shall request to meet with the lowest level management official who is capable of resolving the grievance within five (5) business days from the date of the occurrence giving rise to the grievance or within five (5) business days of the employee's knowledge of its occurrence.
- b. The management official shall make a decision and verbally communicate this decision to the employee of his/her representative within five (5) business days from the initial presentation of the grievance.

SECTION 15.6. Procedure – If the grievance is not resolved informally, the employee or his/her representative shall submit a written grievance in accordance with the following procedures:

Step 1. The grievance will be prepared in writing or electronic format, using the agreed form, not later than thirty (30) working days after the grievance took place or twenty (20) working days after oral discussion over the grievance with the supervisor is concluded, whichever is later. The grievance will be presented to the next senior management official. The grievance and the supporting information should be discussed with the next senior management official. The next senior management official will provide a determination of settlement to the individual and the Labor Organization, in writing, within ten (10) working days from the date the grievance is received by HRO.

Step 2. If the grieved individual is still dissatisfied, the individual may appeal to the section Director within ten (10) working days. The Director will provide their decision, in writing, to the grieved individual and the Labor Organization, within ten (10) working days from the date the grievance is received by HRO.

Step 3. If the aggrieved individual is still dissatisfied, the individual may appeal to the Director, Joint Staff (DJS), within ten (10) working days. The DJS will provide their decision in writing to the grieved individual and the Labor Organization, within ten (10) working days from the date the grievance is received by HRO.

Step 4. If the aggrieved individual is still dissatisfied, the individual may appeal to the Commanding General, within ten (10) working days. The Commanding General will provide their decision in writing to the grieved individual and the Labor Organization, within ten (10) working days from the date the grievance is received by HRO.

SECTION 15.7. Official Time. A reasonable amount of official time, without charge to leave, will be afforded in accordance with the following:

- a. To the employee to discuss, informally, with his/her first line supervisor and/or Labor Organization representative, any dissatisfaction the employee might have.
- b. To a Labor Organization representative to discuss formally with the appropriate Employer official any complaint the Labor Organization may have concerning matters under this agreement.
- c. To the employee and the designated Labor Organization representative for preparing and presenting the grievance.

SECTION 15.8. Right to Information. Upon written request and subject to law, rule or regulation, Employer will supply the Labor Organization with all investigation reports, and/or documents used in the original action. This is to ensure the Labor Organization has all the necessary information for a determination to invoke or not invoke the provisions of the arbitration article.

SECTION 15.9. Procedures for Labor Organization Grievance or Class Action/Group Grievance or Employee related grievance

- a. Labor Organization initiated grievances will name the HRO as the respondent. The Labor Organization agrees to consider an attempt to informally resolve the grievance at an appropriate level prior to formal presentation. Grievance will normally be filed within thirty (30) working days after the facts leading up to the grievance become known to the Labor Organization.

- b. The following procedures will be used for all Labor Organization grievances:

Step 1: The grievance will be prepared in writing and submitted to the HRO. The event(s) leading to the grievance will be discussed with the HRO at a mutually acceptable time before the HRO provides a decision. The HRO will provide a decision, in writing, within ten (10) working days, to the Labor Organization President or his designated representative.

Step 2: If the Labor Organization is dissatisfied with the decision of the HRO, an appeal will be forwarded to the DJS within ten (10) working days. The Labor Organization will be provided a decision within ten (10) working days. If the DJS does not sustain the grievance, a reason, in writing, will be forwarded to the Labor Organization.

Step 3: If the Labor Organization is dissatisfied with the decision of the DJS, an appeal will be forwarded to the Commanding General within ten (10) working days.

The Labor Organization will be provided a decision within ten (10) working days.

SECTION 15.10. If no resolution is reached, the Labor Organization or the Employer may invoke arbitration with the FMCS within twenty (20) working days of the Commanding General's decision.

SECTION 15.11. Extension of Time Limits. The above mentioned time limits can be extended by mutual agreement, in writing.

SECTION 15.12. Alternative Dispute Resolution (ADR) Process. It is understood that the Employer and the Labor Organization may use the ADR process to resolve issues and/or disputes where a negotiated solution is potentially an acceptable outcome. An ADR may be appropriate under the following circumstances:

- a. The dispute involves factual or other non-precedent issues.
- b. Traditional processes appear unlikely to successfully resolve the issue.
- c. The parties want to maintain, establish or restore a good working relationship.
- d. The importance of the issue is minor compared to the potential cost and disruption that would occur if traditional dispute resolution methods were employed.
- e. A neutral ADR mediator(s) are more likely to understand the complexities of the case than would a judge or hearing officer.
 1. ADR emphasizes cooperation and identifying underlying interests as a means of dealing with conflict. ADR processes include, but are not limited to mediation, facilitation, conciliation, fact-finding, early neutral evaluation, ombudsman, non-binding arbitration, and binding arbitration.
 2. The following procedures will be used for ADR:
 - i. The process will be voluntary. No person shall be coerced into using the process, nor retaliated against for refusing to use ADR.
 - ii. All requests to use ADR will be initiated by the Labor Relations Specialist, the designated representative.
 - iii. An agreement to pursue ADR, and the choice of ADR process and neutral third party, if applicable, will be agreed to before the process begins. In addition, the names of the parties who will participate or attend the process will also be agreed. This agreement will be signed by the parties to the dispute, the Labor Organization and the HRO representative (see "iv" below) before the process begins.
 - iv. All ADR meetings will have a representative from both the Labor

Organization and the HRO in attendance. This representative will normally be the labor organization president and the Labor Relations Specialist respectively. For any agreement reached in the process to be binding, all parties to the dispute, including the respective representatives for the Labor Organization and the Employer must concur with it in writing.

- v. Any agreement reached will be considered a negotiated agreement reached in good faith by the parties in lieu of traditional methods, such as grievances.
- vi. Should an agreement not be reached, traditional methods, as agreed to in the current Labor/Management agreement, will be used to resolve the dispute.

SECTION 15.13. Invoking Arbitration. Arbitration will only be used to settle unresolved grievances arising under the grievance procedure in Article 15. Only the Employer or the Labor Organization may invoke arbitration. The decision to refer the grievance to arbitration must be submitted to the other party within fifteen (15) working days of the date of the final decision on the grievance. The Labor Organization has the option to invoke arbitration on behalf of an employee, but will honor a written request for termination of the proceedings by the employee(s) concerned.

SECTION 15.14. Requesting Arbitration. The party requesting the services of an arbitrator will submit a request to the Federal Mediation and Conciliation Service (FMCS) for a listing of seven available arbitrators, preferably from within the Metropolitan area, and concurrently serve the other party with a copy of the request and all enclosures.

SECTION 15.15. Selection of an Arbitrator. The parties shall meet within seven (7) working days after receipt of the arbitrator list. If the parties cannot mutually agree upon one of the listed arbitrators, a toss of a coin will determine which party will be selected to strike a name from the list first, with each party alternately striking a name, until only one name remains. The remaining arbitrator will be contacted to hear the grievance.

SECTION 15.16. Non-Participation by Either Party. If for any reason either party refuses to participate in the selection of an arbitrator, the Federal Mediation and Conciliation Service shall be empowered to make a directed designation of an arbitrator to hear the case.

SECTION 15.17. Cost of Arbitration. The total cost of arbitration, to include arbitration's fee, travel, per diem, to include recording and transcript services, and any cost's incidental thereto, shall be shared fifty-fifty (50-50) by both parties. Any expenses incurred in providing necessary or desired witnesses shall be borne solely by the requesting party. Attorney fees may only be granted under the provisions of Title VII of the Civil Service Reform Act.

SECTION 15.18. Filing of Briefs. Either party may file pre-brief and post-hearing briefs under the time requirements set by the arbitrator. The arbitrator's decision is binding and will be implemented as soon as practicable, but not later than thirty (30) working days after receipt,

unless exceptions to the arbitrator's decision are filed with the FLRA (and/or the decision is contrary to law, regulation or appropriate authority of Public Law 95-454). Either party may request clarification of the award. A copy of such request will be served to the other party.

SECTION 15.19. Arbitrator's Rendering of Decision. The arbitrator will be asked to render his/her decision as soon as possible.

SECTION 15.20. Exceptions to Arbitrator's Decision. Either party may file exceptions to an arbitrator's award with the Federal Labor Relations Authority (FLRS), under regulations prescribed by the Authority.

SECTION 15.21. Matter Appropriate for Arbitration. Only those matters, which are grievable under the grievance procedure Article 16, of this agreement, will be subject to arbitration.

SECTION 15.22. Stipulation of Issue. Upon selection of an arbitrator, the Employer and the Labor Organization will meet and attempt to stipulate as to the issue to be submitted to the arbitrator. The question may be no broader in scope than the issue presented at the grievance state. If the parties cannot agree, they will each submit to the arbitrator the issue they feel should be decided by the arbitrator at least seven (7) working days in advance of the hearing, furnishing a copy of the submission to the other party.

SECTION 15.23. Scope of Arbitration. The scope of arbitration will be limited to the interpretation and application of the terms and provisions of the written Agreement (and application of agency or activity regulations). The jurisdiction and authority of the arbitrator is limited and confined exclusively to the interpretation and application of the expressed provision or provision of this Agreement; and the application of agency or activity regulations at issue between the parties. The arbitrator will have no authority to add to, subtract from, alter, amend or modify any provisions of this Agreement, or publish agency or activity policies and regulations.

SECTION 15.24. Arbitration without a Hearing. Where the parties mutually agree to arbitration without a hearing, a written stipulation of facts to the arbitrator will be used. In this case, all facts, data, documentation, positions, etc., will be jointly submitted to the arbitrator with a request for a decision, based on the facts presented along with any argument within twenty (20) working days after selection of the arbitrator. Costs of expedited arbitration will be shared equally by the parties. The arbitrator will render his/her award within thirty (30) calendar days following receipt of the written stipulations.

ARTICLE XVI MEDIATION

SECTION 16.1. The Employer and Labor Organization agree to the following provision of the law when agreement cannot be reached over issues that are deemed appropriate for collective bargaining in accordance with PL 95-454.

SECTION 16.2. The parties agree that when an impasse is reached during negotiations, prior to

going to the Federal Services Impasses Panel (FSIP); mediation will be considered and Federal Mediation Conciliation Service (FMCS) will be contacted for assistance. The requesting party will assume responsibility to contact the FMCS and coordinate the participation of the mediator in negotiations should mediation be determined by both parties to be appropriate. Neither party will attempt to unilaterally frame the issue for the mediator. If agreement cannot be reached after invoking mediation, either party may proceed in accordance with PL 95-454.

ARTICLE XVII REDUCTION IN FORCE

SECTION 17.1. Employer agrees to inform Labor Organization of pending Reduction in Force (RIF) actions in writing within thirty (30) calendar days when possible. Employees will not receive their sixty (60) calendar day notice prior to the Labor Organization being notified.

SECTION 17.2. In the event of a reduction in force, existing vacancies will be utilized to the maximum extent possible to retrain and place qualified technicians in continuing positions who otherwise would be separated. All reductions in force will be carried out in accordance with the procedures outlined in TPR 300 (351) and specific terms of this article.

ARTICLE XVIII CONTRACTING OUT

SECTION 18.1. Office of Management and Budget (OMB), OMB Circular No. A-76, requires that agencies periodically compare the overall cost of continuing to perform certain what could be termed "commercial activities" using civil service personnel. The Agency will notify the Labor Organization of its intent to contract out work which is traditionally performed by technicians and could result in a reduction of force, transfer, or loss of function affecting employees in the bargaining unit. The Agency will take all possible action to minimize the impact on affected technicians.

SECTION 18.2. When the Agency determines that certain services/activities are to be accomplished by contracting out to agencies, the Labor Organization will be provided the opportunity to participate in I&I bargaining.

SECTION 18.3. The Labor Organization will be provided the opportunity to conduct I&I bargaining in accordance with PL 95-454. If the Labor Organization wishes to file a grievance, the grievance will be filed in accordance with Section 15 process for appeal. The Agency will forestall awarding the contract pending the outcome of the grievance, unless the delay would seriously interfere with management's right to contract out.

ARTICLE XIX PERSONNEL PROCEDURES

SECTION 19.1. Hiring for new or vacant positions will be effected in accordance with regulation applicable to the position. To insure that all technicians in the unit have equal opportunity to compete. The Employer agrees that:

- a. HRO will post vacancy announcements, including those eligible through the Merit Promotion Program, on USA Jobs. Announcements will be posted on-line. When the Employer intends to distribute any job announcement a link to the job, or the job announcement itself, will be provided to the Labor Organization at the same time or prior to the distribution.
- b. Closing date for acceptance of applications for a vacant position will normally be fourteen calendar days or greater but not be less than seven (7) calendar days following posting of the notice.
- c. The Employer will notify the Labor Organization and afford them an opportunity to brief new bargaining unit technician during in-processing of their rights to Labor Organization representation.

SECTION 19.2. The Employer agrees to formally notify an individual selected for a full-time position within forty-five (45) working days of the closing date of the vacancy announcement when qualified applicants are available. This section is fulfilled when direct contact is attempted by HRO to establish a starting date. In addition, the Employer agrees to notify all applicants and the Labor Organization of cancellation of the pertinent vacancy announcement, unless the position is to be re-announced and reapplication is automatic, within ten (10) working days of the action.

SECTION 19.3. The Employer agrees to document any instance the employee is detailed away from the work center for a duration of less than thirty (30) days. Any detail thirty (30) calendar days or more will be documented in the Official Personnel Folder, IAW applicable law.

SECTION 19.4. The Employer shall carry out its Merit Placement and Promotion Program without regard to race, color, religion, national origin, gender, age, and handicap, sexual orientation, and Labor Organization affiliation.

SECTION 19.5. Before any written notification of reassignment is given to any employee(s) within the bargaining unit, Labor Organization will be given reasonable advance notification and an opportunity to discuss the matter in good faith. Before the employee(s) is reassigned, a SF52 shall be generated. The SF50 will be accessible electronically within a reasonable timeframe.

SECTION 19.6. Details shall be distributed fairly and equitably to all bargaining unit technicians.

ARTICLE XX TRAINING

SECTION 20.1. The Employer agrees to provide training for existing employees or a newly hired technician. Employees should be given the opportunity to train in aspects of their job they are not currently performing, which could lead to career advancement. The Employer is responsible for maintaining a training program, including orientation of new technicians, specific training in the application of skills and techniques, and the development of technicians for maximum utilization.

Although it is expected that personnel meet basic qualifications to perform their duties as a prerequisite to employment, the Employer recognizes the possible need for additional training or retraining.

SECTION 20.2. The Employer and the Labor Organization agree that the training and development of employees with the unit is a matter of primary importance to the Parties. Through the procedures established for EMPLOYER–Labor Organization cooperation, the parties shall seek the maximum training and development of all employees. Consistent with its training and development needs, the Employer agrees to develop and maintain progressive and effective policies and programs designed to achieve this purpose.

SECTION 20.3. The Employer shall afford opportunities to employees to train to fill open positions of higher pay and responsibility to the maximum extent possible. Selections will be made in accordance with applicable regulations.

SECTION 20.4. When advance knowledge of the impact of pending changes in function, organization and mission is available, it shall be the responsibility of the Employer to plan for the maximum retraining of employees involved. Management will consider National Guard Bureau's authority to waive qualification requirements in order to place employees in lines of work.

SECTION 20.5. In the event of a reduction-in-force, the Employer will determine from Human Resource Office (HRO), whether any of the affected employees may be eligible for training at government expense, and if so, will inform employees how to apply for training.

SECTION 20.6. Supervisors will identify those situations in the specific work environment that training can aid in achieving defined objectives and goals of the Employer. Available training programs will be discussed with the employees who would be eligible for such training.

SECTION 20.7. Technicians, who are enrolled in a civilian educational program pertaining to a technician's official duties on an upward mobility program, may be permitted to revise their daily/weekly work schedule in order to attend a course of instruction not normally conducted during non-duty hours. Every effort will be made to accommodate the technician consistent with the mission of the organization.

SECTION 20.8. The Employer agrees to give at least fifteen calendar days advance notice,

when possible, to the Labor Organization in regard to the installation of any new equipment, machinery or process which would result in changes or work assignment, or require additional training.

SECTION 20.9. Training shall be a matter of concern and interest to both the Labor Organization and the Employer. Seminars, conferences, and meetings are normally scheduled during working hours to allow technicians the opportunity to gain information, education, and training in their respective positions. When schools are outside the regular scheduled work week, the technician will be compensated in accordance with CFR 551.423. Training requests will be submitted and endorsed through the technician's supervisory chain for consideration of approval and funding.

SECTION 20.10. The Employer agrees that upon proper presentation, records of satisfactory completion of job-related formal training will be entered in the official record of the employee concerned if otherwise appropriate.

SECTION 20.11. If the Employer assigns an employee a primary duty of another job title or description, the Employer shall ensure that such employee has had all necessary current certification and training for such assignment and is fully qualified to perform the duty.

ARTICLE XXI PUBLICATIONS

SECTION 21.1. The Employer agrees to place the Labor Organization on distribution for all pertinent Technician Personnel Regulations and assure that additional policies and directives of the agencies (NGB and OPM) are made available during normal duty hours.

SECTION 21.2. When published, management will provide the Labor Organization a copy of the current technician manning document showing the positions authorized at JBAB, RTI and the DC Armory.

SECTION 21.3. The Employer agrees to provide Labor Organization with an electronic copy of the HRO newsletter for its internal use.

SECTION 21.4. Management will provide the Labor Organization with regulations and policies as it pertains to the DCARNG full time technician program.

SECTION 21.5. The Labor Organization agrees to provide an electronic copy of any Labor Organization Newsletter to HRO/LRS as well as providing them to bargaining unit Technicians.

ARTICLE XXII
PAYROLL WITHHOLDING OF LABOR ORGANIZATION DUES

SECTION 22.1. The Employer agrees that authorization for voluntary allotments of pay for employees for the payment of Labor Organization dues will be accepted and processed in accordance with applicable laws and regulations and this agreement.

SECTION 22.2. The Labor Organization agrees to produce the prescribed allotment form (Standard Form 1187) for the Employer to distribute the form to its members on the program for allotments for payments of dues and the uses and availability of the required form.

SECTION 22.3. The Employer agrees that an allotment authorization may be submitted to the Finance and Accounting Officer at any time. Allotments will become effective at the beginning of the first pay period after receipt of the form in the USPFO (Civilian Pay Section).

SECTION 22.4. An employee may between the time periods of February 1-15 of each year after the first anniversary of their dues allotment, voluntarily submits a Standard Form 1188 to terminate an existing dues allotment, which shall become effective at the beginning of the first pay period after 1 March. In such cases, the Employer shall furnish a copy of Standard Form 1188 to Labor Organization.

SECTION 22.5. The Labor Organization members shall secure their Standard Form 1188s online. It is the employee's responsibility to see that the form for revocation is received in the USPFO (Army) (Civilian Pay Section) on a timely basis.

SECTION 22.6. The remittance of dues withheld, will be made by check payable to the comptroller and mailed to the Comptroller Division, National Office, Labor Organization, 159 Burgin Parkway, Quincy, MA 02169, along with a listing of employee's names and amount of dues withheld.

SECTION 22.7. Nothing in the agreement shall require 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 deduction.

ARTICLE XXIII
AGREEMENT ADMINISTRATION

SECTION 23.1. The effective date of this agreement shall be after execution by the parties and approval by the Agency (Defense Civilian Personnel Agency Services DCPAS). Both dates will be made part of the agreement prior to its distribution.

DCPAS shall approve the agreement within thirty (30) days from the date the agreement is

executed by both parties if the agreement is in accordance with the provisions of applicable law, rule, or regulation.

SECTION 23.2

- a. DCPAS shall approve the agreement within thirty (30) days from the date the agreement is executed by both parties if the agreement is in accordance with the provisions of applicable law, rule, or regulation.
- b. If the head of the DCPAS does not approve the agreement within the 30-day period, the agreement shall take effect and be binding on the Employer and Labor Organization subject to the provisions of applicable law, rule, or regulation.
- c. In the event that a particular article or section of the agreement is not approved by the DCPAS, the remainder of the agreement shall take effect on the date specified, and the items not approved by the DCPAS shall later be incorporated as negotiations are warranted by third party decision. These articles shall expire on the same date as the basic agreement, unless otherwise provided for.

SECTION 23.3. – Agreement Amendments/Supplements:

- a. This agreement may be subject to amendments or supplements during the agreement lifetime under one of the following procedures:
 1. Either party, during the life of this agreement, may submit proposals for negotiations for the purpose of supplementing this agreement with provisions not covered by or contained within this agreement.
 2. Either party may initiate negotiations at the mid-point of this agreement, after service of notice no later than sixty (60) calendar days prior to the midpoint of this agreement. Either party may introduce articles.
 3. At any time, by mutual consent, for the purpose of amending or providing supplements to this agreement.
- b. A request for an amendment or supplement to this agreement by either party shall be in writing setting forth the need or reason for the proposed change and a summary of the change.
- c. Representatives of the Employer and the Labor Organization will meet within fourteen (14) calendar days to commence negotiations of the proposed amendment or supplement, unless a later date is mutually agreed upon. No changes other than those specified in the summary will be considered.
- d. Approval of an amendment or supplement to the agreement will be accomplished in the same manner as provided for approval of the basic agreement as specified in this article.

SECTION 23.4. The agency will provide an electronic copy of the CBA to the Labor Organization President for distribution to all Bargaining Unit Members and post the final contract on the DCNG web site. Training will be provided to all supervisors and Labor Organization officials and stewards within ninety (90) days after the contract has been approved and signed.

ARTICLE XXIV DURATION OF AGREEMENT

SECTION 24.1. This agreement shall be in full force and effect for a three (3) year period, under the provisions of PL 95-454, section 7114 (c) (3).

SECTION 24.2. The term of this agreement may be extended beyond the expiration date for one year increments based on mutual agreement of the parties.

SECTION 24.3. The provisions of this agreement will remain in effect until a new agreement is approved by the agency.

SECTION 24.4. Either party may reopen the agreement once during the agreement period by mutual consent.

ARTICLE XXV IMPACT AND IMPLEMENTATION BARGAINING

SECTION 25.1. Definition. The performance of the mutual obligation of the representative of the Employer and the exclusive representative of employees to meet at reasonable times to consult and bargain in a good faith effort to reach agreement with respect to the conditions of employment affecting such employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached. However, the obligation to meet and bargain does not compel either party to agree to a proposal or to make a concession.

SECTION 25.2. Scope. Matters appropriate for negotiations (Impact and Implementation) between the Employer and the Labor Organization shall include, but are not limited to personnel policy practices as they apply to working conditions. This includes matters concerning policy practices as they apply to working conditions, e.g. matters concerning safety, employee services, methods of grievances adjustment, appeals, leave policy, merit promotion and placement, reduction in force, hours of work, and TDY policies.

SECTION 25.3. Procedures.

- a. Upon notification by the Employer the Labor Organization agrees to meet and confer as soon as practical. The date and time will be by mutual consent and all meetings will take place during normal business hours.

- b. The parties may agree to an alternative form of I & I Bargaining, i.e. Labor Management Partnership Council; Process Action Team, TQM team, or any other mutually agreeable process. However, the designated representative must agree with the final product from both the Employer and the organization.
- c. The Employer and the Labor Organization agree to render decisions on issues not resolved at the meetings within ten (10) working days after exchange of appropriate information, unless it is mutually agreed otherwise.
- d. The Employer agrees not to announce or make changes in personnel policies, practices and working conditions without prior negotiations / consultations with the Labor Organization. Management Rights will not be negotiated.
- e. The supervisor of the section concerned will consult with the shop steward designated for an area on any matter, which will affect the conditions of employment of the employees within the section prior to any notification of the employees concerned. It is understood that the steward may speak for the employees of the section, but will not make decisions on contractual intent or employees of the section, or conduct I & I bargaining without approval from the Labor Organization president or the president's designated representative in writing.

ARTICLE XXVI WEINGARTEN RIGHTS

SECTION 26.1. In accordance with Title 5, USC 7114, any examination of an employee in the unit by a representative of the agency in connection with an investigation if;

- a. The employee reasonably believes that the examination may result in disciplinary action against him or her; and
- b. The employee requests representation.

SECTION 26.2. Employees have the right to Labor Organization representation during investigatory interviews by management. These fall within their "Weingarten Rights."

SECTION 26.3. By asking to invoke Weingarten rights, the employee will have access to representation by an exclusive representative of the Labor Organization if the employee believes that the examination may result in disciplinary action against the employee.

SECTION 26.4. The Employer shall annually inform all employees of their Weingarten rights under paragraph (2), Chapter 72, Section 7114, Title 5 USC. This notification shall be distributed to all supervisors, state chairman and Labor Organization chapter presidents. The Labor Organization will post these notices on their bulletin boards.

ARTICLE XXVII PERFORMANCE MANAGEMENT

SECTION 27.1. Responsibilities. The Employer and the Labor Organization recognize the importance of the Performance Management system. It is the EMPLOYER's responsibility to insure that all bargaining unit members have current and applicable performance plan so that performance appraisals can be accomplished. The current NGB TPR 430, dated 5 November 2009 will be used as the regulation in the development of the performance plan and identification of critical elements.

SECTION 27.2. Establishment of Standards. Supervisor and employee participation is essential in the establishment of performance plans and critical elements. They will be an accurate reflection of the duties performed. All approved performance plans will be in place within thirty (30) days from the start of the rating cycle, entrance on duty of a new employee or employee job change. The 30-day requirement may be extended up to an additional sixty (60) days. Such extension shall not impact or delay the issuance of a yearly appraisal. The employee and the supervisor will jointly review the performance plan annually. After review, the supervisor and employee will use My Biz and My Workplace to establish the Performance Plan. Exceptions to use paper forms must be authorized through the HRO on an individual basis.

SECTION 27.3. Appraisal Period. The appraisal period will be on an annual basis with the appraisal year 01 October through 30 September. Employees will be given at a minimum one interim assessment and a performance appraisal once a year. Change in supervisors during the appraisal period will result in the outgoing supervisor completing a closeout assessment for the new supervisor to take into consideration at the end of the appraisal period.

SECTION 27.4. Overdue Standards. It is understood that if an employee does not have a performance standard or has not been rated, the employee may grieve this lack of action using the grievance procedure as negotiated. This grievance cannot be initiated until the performance rating or standard is considered delinquent. A performance standard is considered delinquent if it is not input within thirty (30) days of initial employment or position fill. A performance rating is considered delinquent thirty (30) calendar days after the month the rating is due. Exceptions to the above requirement must be submitted to the HRO in writing for approval.

SECTION 27.5. Appraisal Counseling. Employees will be given at least one interim review. Any decrease in performance will be promptly discussed between the supervisor and employee to allow a reasonable period of time for improvement. The employee will be provided with copies of any documentation the supervisor generates concerning the decrease in performance in their OPF in the HRO office. The timeframe is typically 1-3 year.

GLOSSARY

ACCOUTREMENTS. Accessory items on uniforms, i.e., patches, name tapes/tags, grade/rank insignia, etc.

ADMONITION. Is written communication from a supervisor requiring an employee to stop or to not repeat conduct that is an offense.

ADVERSE ACTION. An official personnel action, that results in a suspension without pay, a reduction to a lower grade, or removal from technician employment. (TPR 752) (See ARTICLE 24)

AGENCY HEAD REVIEW. A statutory requirement that negotiated agreements be reviewed for legal sufficiency by the head of the agency (or his/her designee).

ANNUAL APPRAISAL PERIOD. The established period of time during which performance will be monitored and assessed. Normally, the standard appraisal period will be October 1 through September 30 each year. Organizations may be subject to an appraisal period other than the standard cycle. Additionally, the Chief, National Guard Bureau (or designee) may designate other periods as dictated by situation or circumstance. (TPR 430)

APPROVING OFFICIAL. The management official, in the supervisory chain of command, designated to make the final decision in connection with a proposed action.

APPLICABLE LAWS. Laws that affect dual status technicians including statutes, the Constitution, judicial decisions, certain Presidential executive orders, and regulations "having the force and effect of law"--i.e., regulations that (1) affect individual rights and obligations, (2) are promulgated pursuant to an explicit or implicit delegation of legislative authority by Congress, and (3) satisfy certain procedural requirements.

ASSIGN EMPLOYEES. A management right relating to the assignment of employees to positions, shifts, and locations. This right includes discretion to determine "the personnel requirements of the work of the position, i.e., the qualifications and skills needed to do the work, as well as such job-related individual characteristics as judgment and reliability." It also includes discretion to determine the duration of the assignment.

ASSIGN WORK. A management right relating to the assignment of work to employees or positions. The right to assign work includes discretion to determine who is to perform the work; the kind; the amount of work to be performed; the manner in which it is to be performed, as well as when it is to be performed. It also includes "the right to determine the particular qualifications and skills needed to perform the work and to make judgments as to whether a particular employee meets those qualifications."

BARGAINING (NEGOTIATING). The performance of the mutual obligation of the representatives of the Employer and Labor Organization to meet at reasonable times, consult and discuss in a good faith effort to reach agreement with respect to the conditions of employment affecting bargaining unit employees and, upon request, to execute a written document. (Does not

compel either party to agree to a proposal or make a concession).

BARGAINING IMPASSE (IMPASSE). When the parties have reached a deadlock in negotiations and either party declaratively states such.

CONDITIONS OF EMPLOYMENT (COE). Personnel policies, practices, and matters, whether established by rule, regulation, or otherwise [e.g., by custom or practice], affecting working conditions, except that such term does not include policies, practices, and matters.

DISCIPLINE. Measures intended to correct employee conduct that negatively affect the efficiency of the service and to encourage employee conduct (See Article 14).

BARGAINING UNIT EMPLOYEE (BUEs). An individual who has rights under this CBA (see Article 1).

FEDERAL LABOR RELATIONS AUTHORITY (FLRA), also referred to as, the AUTHORITY). The independent agency responsible for administering the **Federal Service Labor-Management Relations Statute (FSLMRS).**

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS). An independent agency that provides training and mediators, among other things, to assist the parties in negotiations. FMCS also maintains a roster of qualified impartial arbitrators, panels of which are referred to the parties upon joint request. See **MEDIATION).**

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE (FSLMRS). United States Code that describes labor-management relations and the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them.

FORMAL DISCUSSION. A discussion between an agency representative(s) and a bargaining unit employee(s) concerning any grievance, any personnel policy or practice or other condition of employment which affects bargaining unit employees. The exclusive representative may be given the opportunity to be represented at these meetings at the employee's discretion.

GOOD FAITH BARGAINING. A statutory duty to approach negotiations with a sincere resolve to reach an agreement, to be represented by properly authorized representatives who are prepared to discuss and negotiate on any condition of employment.

GRIEVANCE. Any complaint – (A) by an employee concerning any matter relating to the employment of the employee; (B) by any Labor Organization concerning any matter relating to the employment of any employee; or (C) by an employee, Labor Organization, or agency concerning – (i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or (ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

LABOR MANAGEMENT AGREEMENT (also referred to as Collective bargaining agreement, Contract, Agreement). A written agreement between the Employer and the organization, usually for a definite term, defining conditions of employment, rights of Employees and labor organizations, procedures to be followed in settling disputes or handling issues that arise

during the life of the agreement.

Labor Organization. A Labor Organization--i.e., an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose for dealing with an agency concerning grievances and conditions of employment.

LUNCH PERIOD. A midpoint in the duty day where employees are given a break. Management will attempt to not assign work during this period.

MANAGEMENT OFFICIAL. An individual who formulates, determines, or influences the policies of the Employer. Such individuals are excluded from the Labor Organization.

MANAGEMENT RIGHTS. Refers to types of discretion reserved to management officials by statute.

MEDIATION. A voluntary process that occurs when a neutral third-party mediator assists the two sides in coming to an agreement.

OFFICE OF PERSONNEL MANAGEMENT (OPM). Issues Government-wide regulations on personnel matters that may have a substantial impact on the scope of bargaining; consults with labor organizations on those regulations; provides technical advice and assistance on labor-management relations matters to Federal agencies; also provides information on personnel matters to Federal agencies and the general public (e.g., this annotated glossary); exercises oversight with regard to statutory and regulatory requirements relating to personnel matters; and provides support services for the National Partnership Council.

OFFICIAL TIME. Paid time for employees serving as Labor Organization officials does not preclude parties to a collective bargaining agreement from agreeing to provide official time for other matters; that is, matters other than those relating to labor-management relations activities. Labor Organization negotiators (no more than the number of management negotiators) who also are unit employees are statutorily entitled to official time to negotiate agreements. Official time may not, however, be used to perform internal Labor Organization business.

PAST PRACTICE (ESTABLISHED PRACTICE). Existing practices sanctioned by use and acceptance that are not specifically included in the collective bargaining agreement. In addition, past practices can be enforced under the negotiated grievance procedure because they are considered part of the agreement. To qualify as an enforceable established practice, the practice has to be legal, in effect for a certain period, and known and sanctioned by management. Existing practices sanctioned by use and acceptance, which amount to terms and conditions of employment even though not specifically included in the collective bargaining agreement. In order to constitute a binding past practice, it must be established that (1) the practice must involve a *condition of employment*; and (2) the practice must be consistently exercised for an extended period of time and followed by both parties, or followed by one party and not challenged by the other over a substantially long duration. It should be noted that if a matter is not a condition of employment, it does not become a condition of employment either through practice or agreement.

APPLICANT. An internal or external applicant for a vacant/advertised position who, using established staffing procedures, is able to meet minimum qualification of the position.

REVIEWER (Performance Appraisals). Normally the technician's second level supervisor in the (supervisory) chain of command. The appraiser will consult with the reviewer prior to discussing the rating with the technician. They are approved by the agency to evaluate and assess employee performance.

STEWARD. Labor Organization representative in an organization to whom the Labor Organization assigns various representational functions, such as investigating and processing grievances, representing employees, collecting dues, soliciting new members, etc. Stewards are usually fellow employees who are trained by the Labor Organization to carry out these duties.

SUPERVISOR. An individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

UNFAIR LABOR PRACTICE (ULP). A violation of any of the provisions of the Federal Service Labor-Management Relations Statute.

WAIVER. An agreement reached between the Labor Organization and the Employer whereby one party voluntarily gives up rights afforded to it. For waivers to be enforceable, they must be "clear and unmistakable." It is noted that management cannot waive rights afforded to them within the statute.

