



**Collective Bargaining Agreement**

**Between the**

**Interior Business Center Denver, CO**

**U.S. Department of the Interior**

**and**

**American Federation of Government Employees (AFGE) Local 1114**

**March 7, 2016**

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**NOTE: “Days” in this Agreement are calendar days unless otherwise specified in the actual text.**

## PREAMBLE

The American Federation of Government Employees, AFL-CIO (Union) and the United States Department of the Interior, Interior Business Center (Agency), also referred to as the Parties, recognize that the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment; and

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

The Parties will address issues in a cooperative manner to promote partnership and avoid accusatory and inflammatory behavior and apply a balance approach to problem solving. Appropriate behavior includes professional and courteous language, responding within agreed upon timeframes, approaching issues from a productive standpoint, being accountable for their actions, and acting in a consistent manner; and

The Parties recognize that a mutual commitment to cooperation promotes both the efficiency of the Agency's operations which is to provide high-quality, efficient and transparent business management services that enable our customers to focus on their core missions. IBC recognizes employees and their well-being as its most valuable asset; and

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

The Parties entered into and achieved the negotiation of this agreement in good faith, it is agreed that when interpreting the contract one should rely on the language of this Agreement;

The Parties hereby further agree as follows:

## **ARTICLE 1. GOVERNING LAWS AND REGULATIONS**

### **1.1 Relationship to Laws and Regulations**

In the administration of all matters covered by this agreement, the Parties shall be governed by applicable Federal Statutes; and government-wide regulations in existence at the time this agreement was approved. Inclusion of specific citations of governing guidance in the collective bargaining agreement does not mean that such citations have been negotiated between the parties; such citations are included for clarity or to further a better understanding of a given issue.

### **1.2 Agency's Regulations**

Where any agency regulations conflict with this agreement or a supplemental agreement, the agreement shall govern.

### **1.3 Past Practices**

Any prior benefits, practices, and understandings which were in effect on the effective date of this agreement and which are not specifically covered by this agreement shall not be changed without meeting statutory bargaining obligations.

### **1.4 Waiver of Rights**

Any lawful waivers of the rights given to management or the union by the Federal Labor Management Relations Statute, 5 U.S.C. Chapter 71, must be clearly and unmistakably set forth in this Agreement and understood to be waived by both the Union and the Agency.

## **ARTICLE 2. PARTIES TO THE AGREEMENT**

2.1 This contract is between the American Federal of Government Employees (AFGE) and the U.S. Department of the Interior, Interior Business Center (IBC).

2.2 This contract covers the bargaining unit certified by the Federal Labor Relations Authority (FLRA) in Certificate No. DE-RP-12-0016, defined as follows:

Included: All professional and nonprofessional employees of the Interior Business Center (formerly the National Business Center), U.S. Department of the Interior, located in the metropolitan area of Denver, Colorado.

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

## **ARTICLE 3. EFFECTIVE DATE AND DURATION**

### **3.1 Effective Date**

The effective date of this agreement is the date of approval by the head of the Agency or the 31st day after the parties have signed and executed the agreement, provided the head of the Agency did not disapprove the agreement within the previous 30 days, whichever is sooner. The effective date will be stated on the cover of the printed agreement.

### **3.2 Term of Contract**

This agreement shall remain in effect for a period of five (5) years from the effective date.

### **3.3 Roll-Over**

After the five year period, this agreement shall remain in effect from year-to-year unless either party notifies the other in writing not less than 45 days before the annual expiration date of the agreement of its desire to terminate or renegotiate this agreement. If no notification is received, the agreement will continue annually with the 45 day notice being available to either party each year to notify the other party of its desire to terminate or renegotiate the agreement.

### **3.4 Reopener**

Either party may propose negotiations during the term of this Agreement to reopen, amend, or modify this Agreement, but such negotiations may be conducted only by mutual consent of the parties. The intent is to open only specific Articles and/or Sections as mutually agreed. If deemed necessary, ground rules will be established prior to the start of negotiations.

### **3.5 Amendments and Modifications**

This Agreement may only be amended, modified, or renegotiated in accordance with the provisions of this Agreement.

## **ARTICLE 4. RECOGNITION AND COVERAGE**

### **4.1 Exclusive Representation**

AFGE is recognized as the sole and exclusive representative for all employees identified and certified by the FLRA in Certificate No. DE-RP-12-0016 and any subsequent amendments or certifications. The parties agree that should AFGE request the FLRA to include subsequently organized employees in the unit, the parties will collaboratively work to reach mutual agreement to establishment of a proper unit. Upon certification of FLRA, such groupings automatically come under this Agreement.

### **4.2 AFGE Role**

As the sole and exclusive representative, the Union is entitled to act for and to negotiate agreements covering all employees in the bargaining unit. The Union is responsible for representing the interests of all employees in the bargaining unit.

### **4.3 Employee Representation**

a. The Agency recognizes that, as the exclusive representative of employees in the bargaining unit, the Union has the right to speak for and to bargain on behalf of the employees it represents. The Agency acknowledges their obligation to negotiate solely with the exclusive representative on conditions of employment.

b. Pursuant to 5 USC 7114(a)(2)(A), an exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.

### **4.4 Unit Clarification**

When a position change potentially impacts the bargaining unit determination the Union will be afforded pre-decisional involvement and the parties will engage in collaborative discussion to resolve the bargaining unit issue. If the parties do not agree over whether the position(s) is/are inside or outside the unit, the parties are encouraged to utilize the Alternate Dispute Resolution (ADR) process. If still unresolved, either party may file a Clarification of Unit (CU) petition with the FLRA. If the position previously has been in the bargaining unit, the employee and/or position will remain in the bargaining unit until a decision is issued on the petition.

#### 4.5 Elections and Extensions of Represented Facilities

a. If the Agency assigns Union represented employees to a new entity, the parties will meet to discuss the merits of a jointly filed petition to represent employees who are assigned to that entity.

b. If the Agency stands up a new entity and staffs the new entity with new hires, the parties will meet to discuss the merits of a jointly filed election petition to represent employees who are assigned to the entity.

#### 4.6 Bargaining Unit Lists

a. The Agency will provide the Union a listing of bargaining unit and non-bargaining unit employees by name, job title, series, grade, organizational code, and BUS Code once per pay period. Note: The 2015 Dues Reconciliation Report and Bi-Weekly Report are sufficient.

b. If the Agency is temporarily unable to comply with the Union's request made under a , it will immediately notify the Union of when the information will be available.

#### 4.7 Certification

The Agency and the Union will meet annually to discuss and review the accuracy of the AFGE certification and jointly request that the FLRA update the certification as necessary.

## ARTICLE 5. EMPLOYEE RIGHTS AND RESPONSIBILITIES

### 5.1 Purpose

This section sets forth the rights and responsibilities of employees covered by the collective bargaining agreement.

5.2 In an atmosphere of mutual dignity and respect, all employees shall be treated fairly and equitably.

5.3 Under the provisions of 5 USC 7102, each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right:

a. To act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and

b. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

### 5.4 Right to Representation

a. The agency recognizes an employee's right to assistance and representation by the Union, and the right to meet and confer with local union representatives in private during duty time. If the employee wishes to meet with Union on duty time, the employee shall obtain management approval. The employee will be released from duties unless there is a pressing work requirement. If the employee cannot be released at the time requested, an alternate time will be coordinated.

b. When a manager calls a meeting with an employee, the employee has a right to know the general purpose of the meeting.

#### c. Weingarten Rights

i) Employees have a right to Union representation at "any examination of an employee in the unit by a representative of the agency in connection with an investigation if:

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

ii) Employees must request a Union representative and may do so at any time prior to or during the investigation. If the employee requests Union representation, Management will afford the employee and the Union a minimum of one business day to arrange for the Union representative to be present (i.e., if the employee invoked their right on Monday at 9:00 a.m., the meeting cannot be rescheduled before 9:00 a.m. on Tuesday.) The employee is responsible for notifying the Union about such meetings. After notification as stated above, the meeting may proceed.

iii) The parties agree that notification of Weingarten Rights will be posted on bulletin boards where official employee information is normally posted.

## 5.5 Whistle Blower Protection

Employees are protected by the Whistleblower Protection Act, currently codified at 5 USC 1213, against reprisal for the lawful disclosure of information, which the employee reasonably believes evidences a violation of law, rule or regulation, or evidences gross mismanagement, a gross waste of funds, an abuse of authority, or substantial and specific danger to public or employee health or safety.

## 5.6 Personal Rights

a. Employees have the right to manage their private lives, personal welfare and personal beliefs without interference, coercion or discrimination by Management or the Union, except as restricted by laws, regulations, or job responsibilities.

b. All employees shall be treated fairly and equitably in all aspects of personnel management with proper regard and protection of their privacy and constitutional rights within the bounds of law without fear of penalty or reprisal.

c. All employees are expected to comply with reasonable standards of professional conduct.

d. If an employee is to be served with a warrant or subpoena, it will be done in private to the extent it is within Management's control.

e. No employee will be disciplined or retaliated against solely as a result of carrying out the lawful instructions of a management official with real or apparent authority.

f. The employee has a right to refuse to carry out an unlawful instruction without fear of reprisal.

g. The employee has a right to ask for clarification when there is a conflicting instruction from management officials.

h. An employee's decision to resign or retire shall be made freely and in accordance with prevailing government-wide regulations.

i. Timely and Proper Compensation. The employee is entitled to timely receipt of all wages earned by the employee for the applicable pay period. Employees are responsible for properly completing their time and attendance report and reviewing their Leave and Earnings statements prior to notifying their managers of any unexplained changes. Employees are responsible for arranging for the timely repayment of overpayment. Where employees have been overpaid, the Agency will advise employees of the procedures available for filing a request for waiver of all overpayment of pay received.

j. Voluntary Activities: The parties agree that employee participation in the Combined Federal Campaign, Blood Donor Drives, Bond Campaigns or other worthy projects will be on a voluntary basis. This does not preclude giving general publicity and encouragement to employees to contribute. Non-participation will not disadvantage employees.

5.7 The employee has a right to receive appropriate workplace communications from the Union.

5.8 In rare circumstances when concerns arise regarding safety, safeguarding sensitive information, ergonomic considerations, reasonable accommodation considerations and/or to ensure all equipment is adequately installed and performing properly, an Agency representative(s) may inspect an employee's alternative work space in the home with 24 hours advance notice as a condition for use of telework.

5.9 The Employee has the right to have all provisions of the Collective Bargaining agreement adhered to.

## ARTICLE 6. UNION RIGHTS AND RESPONSIBILITIES

### 6.1 Exclusive Representation

As the exclusive representative of employees in the Bargaining and in accordance with 5 U.S.C. Chapter 71, Subchapter II of the Federal Service Labor Management Relations Statute, the Union is entitled to act for and negotiate changes in conditions of employment and collective bargaining agreements covering all employees in the unit. The Union is responsible for representing the interests of all employees in the unit without discrimination and without regard to employee Union membership status.

### 6.2 Union Representatives

Only the Union may designate its own representatives. At a minimum, the Union will notify the Agency annually of the names, titles, and work locations of its representatives. The Union will provide the Agency with timely updates or changes to the list of its representatives.

### 6.3 Representation Requirements

#### 6.3.1 Investigatory Examinations (Weingarten)

a. Weingarten is an individual right to representation that can only be invoked by an employee(s) either before or during an investigatory interview conducted by management or a representative of management.

In accordance with 5 USC 7114 a(2)(B), the Union has the right to be represented at any examination of an employee(s) in the bargaining unit by a representative of the Agency in connection with an investigation if—

- i) The employee(s) reasonably believes that the examination may result in disciplinary action against themselves; and
- ii) The employee(s) requests representation.

b. The Union will determine which representative will be assigned to any particular investigatory examination.

c. The Union representative will be given a reasonable amount of time as defined in Article 5.4.c ii) to arrive at the examination. Once the employee exercises their individual right to representation by making an affirmative request for representation, no further questioning will take place until the representative arrives. If the representative is not available due to work requirements or other representational business, the examination will be postponed until representation is coordinated.

### 6.3.2 Formal Discussions (Collective Right to Representation)

- a. In accordance with 5 USC 7114 a(2)(A), the Union will be given advance notification and the opportunity to be represented at any formal discussion between one or more employees it represents and one or more representatives of the Agency concerning any grievance (to include settlement discussions related to grievances) or any personnel policy or practice or other general condition of employment. Note: This right to be represented does not extend to informal discussions between an employee and a supervisor concerning a personal problem, counseling, or work methods and assignments.
- b. The Union is entitled to attend and be involved in EEO mediation to the extent allowed by 5 USC 71 and FLRA case law.
- c. The Union representative will have full participatory rights during the meeting, to the extent accorded to other bargaining unit employees, and at a minimum has the right to:
  - i) Ask questions
  - ii) Make relevant remarks
  - iii) State the Union's position on the topic(s) being discussed/presented.

### 6.4 Access to Information

Information requests will be requested in accordance with 5 USC 7114(b)(4).

### 6.5 Surveys and Questionnaires

- a. The Agency will not communicate directly with bargaining unit employees through verbal or written surveys and questionnaires regarding conditions of employment (for example, hours of work, working environment, etc.) without prior notification to the Union and without bargaining when requested. Nothing in this section precludes the Union from the right to bargain over conditions of employment in accordance with 5 USC Chapter 71.
- b. Employee participation in such surveys will be voluntary. . The Agency will to greatest extent possible protect the confidentiality and anonymity of employees who participate in surveys. The Agency will not take action against any employee solely for participation or non-participation in voluntary surveys.
- c. Upon request, the results of any such surveys or questionnaires will be shared. If a third party conducts a survey and the results are distributed to the Agency, the results will be shared with the Union upon request.

## 6.6 Access to Bargaining Unit Employees

The Agency acknowledges the Union's right to meet with Bargaining Unit Employees. In accordance with internal security practices, the Agency agrees to facilitate access as necessary.

## 6.7 Office Space, Furnishings and Equipment

a. The Agency will continue to provide the Union with a private office on a full-time basis in Lakewood, CO at the current office location. Furnishings, computers, equipment, and office supplies shall be provided by the Agency. The size (a minimum of 225 square feet), location and furnishings shall allow the Union to effectively perform its representational functions, including maintaining its files; conducting private conversations with employees, while still conducting other business; and conducting meetings with employees.

b. The Union's office space will be conveniently located to allow most employees easy access, and not be near the Human Resources Office or Supervisor/Management to ensure confidentiality.

## 6.8 Office Furnishings

a. The Union office space will be furnished with desks, chairs, lockable file cabinets, bookcases, a small conference table, , and other furnishings commensurate with what is generally used in that work location.

b. The Union office space will be equipped with computers, laser printers, telephones, FAX machines and other equipment commensurate with what is generally used in that work location.

c. Computer equipment will allow access to the Agency's network, email, Intranet and internet systems The Union will be responsible for maintaining its own equipment.

d. Telephones will allow access to long distance network and local calling. The Agency will provide conference calling capability, voice mail, and caller ID commensurate with what is provided in other Agency work space.

e. The Agency will provide the Union President with a mobile phone upon request.

f. The Union is responsible for ensuring accessibility to its space during normal cleaning and maintenance schedules.

g. The Union will be granted access to photocopiers, internal mail (for other than mass mailings), teleconference facilities, video conference facilities, ), and other office services routinely used in that work location. The Union will follow the same reservation and use procedures as all other users.

- h. The Union will be given access to conference rooms for meetings requiring that size space. The Union will follow the same reservation and use procedures as all other users.
- i. Where there are facilities they shall be made available for Union meetings and membership drives, before or after duty hours or during lunch periods if such space is not already committed. The Union will follow the same reservation and use procedures as all other users.
- j. There will be no charge to the Union for this space, furnishings and equipment.

#### 6.9 Bulletin Boards

- a. The Agency will provide the Union with one lockable bulletin board, no smaller than 36 inches by 48 inches in size, exclusively for its use, and dedicated space on the general bulletin boards in the break rooms.
- b. The Union will be granted access to the IBCnet and Lakewood CO campus lobby television monitor to post notices and communicate with bargaining unit employees.

#### 6.10 Communication

##### a. Email

The Union may communicate with Agency officials, bargaining unit employees, neutral third parties, or members of the public via the Agency's email system. The Union will comply with all security measures enforced on other users.

The Union may send messages to more than one recipient at a time under the same restrictions that Agency management applies to itself.

##### b. Distribution of Literature

Official publications of the Union, which may include newsletters, fliers, or other notices may be distributed on Agency property by Union representatives during non-duty time or approved official time. Distribution shall be accomplished so as not to disrupt operations.

##### c. Surface Mail

Consistent with postal regulations, the Union shall have use of Agency metered mail limited to official labor relations representational matters but not including matters relating to internal Union business or for mass mailings. However, this does not permit the Union representative to use other types of mailing such as express, overnight, registered, certified mail, etc., except where required or to meet time frames imposed by a third party (e.g., EEOC, arbitrator, FSIP, FLRA) utilizing the least expensive method available.

## ARTICLE 7. MANAGEMENT RIGHTS

7.1 Any lawful waivers of the rights given to management by the Federal Labor Management Relations Statute, 5 U.S.C. Chapter 71, must be clearly and unmistakably set forth in this Agreement and understood to be waived by the Agency.

7.2 Management Rights (5 U.S.C. 7106). Nothing in this chapter shall affect the authority of any management official of any agency-

- a. To determine the mission, budget, organization, number of employees, and internal security practices of the agency;
- b. To hire, assign, direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or to take other disciplinary action against such employees;
- c. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
- d. With respect to filling positions, to make selections for appointments from:
  - (i) among properly ranked and certified candidates for promotion;
  - (ii) from any other appropriate source; and,
- e. To take whatever actions may be necessary to carry out the agency mission during emergencies.

### 7.3 Permissible Bargaining

Nothing in this section shall preclude any agency and any labor organization from negotiating:

- a. At the election of the agency, on the numbers, types, and grades of employees or positions assigned any organizational subdivision, work project, or tour of duty, or on the technology, methods and means of performing work;
- b. Procedures which management officials of the agency will observe in exercising any authority under this section;
- c. Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

## **ARTICLE 8. LABOR MANAGEMENT FORUM (LFM)**

### **8.1 Purpose**

The purpose of this Article is to establish a Labor-Management Forum as a complement to the collective bargaining process, but not to replace the bargaining process, with its intent as follows:

- a. A cooperative and productive forum of labor-management relations;
- b. To identify problems and propose solutions to better serve the public, improve employee work life and labor-management relations; and
- c. Provide pre-decisional involvement for employees and their union representatives in all workplace matters to the fullest extent practicable, without regard to negotiability under §7106 of the Statute.

### **8.2 Scope**

In accordance with Executive Order (EO) 13522 and its spirit and intent, Federal employees and their union representatives are an essential source of front-line ideas and information about the realities of delivering Government services to the American people. A non-adversarial forum for managers, employees, and employees' union representatives to discuss Government operations will promote satisfactory labor relations and improve the productivity and effectiveness of the Federal Government. Labor-management forums, as complements to the existing collective bargaining process, will allow managers and employees to collaborate in continuing to deliver the highest quality services to the American people. Management should discuss workplace challenges and problems with labor and endeavor to develop solutions jointly, rather than advise union representatives of predetermined solutions to problems and then engage in bargaining over the impact and implementation of the predetermined solutions.

### **8.3 Labor-Management Forum Functions**

Consistent with EO 13522:

- a. Allow employees and unions to have pre-decisional involvement in all workplace matters, without regard to whether subjects are negotiable under the Statute;
- b. Expeditiously provide union with adequate information on such matters where not prohibited by law;
- c. Make good-faith attempt to resolve issues concerning proposed changes to conditions of employment, including 7106(b)(1) subjects, in LM forums;
- d. Evaluate and document in consultation with union changes in employee satisfaction, manager satisfaction, and organizational performance.

#### 8.4 Labor-Management Forum Structure

A Charter that describes the structure of the Labor –Management Forum will be developed by the parties.

#### 8.5 Official Time

All employees attending the Forum meetings will be in a pay status or on Official time, if otherwise in a duty status. None of the time spent in the Forum meetings will come out of any negotiated official time amounts.

#### 8.6 Decision Making

All decisions will be collaborative, and will strive for consensus.

## ARTICLE 9. MID-TERM BARGAINING

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

9.1.1 Either party may demand to bargain without mutual consent during the life of the Agreement over things that are not otherwise covered elsewhere in the contract.

9.1.2 Matters appropriate for mid-term bargaining shall include those issues within the scope of bargaining, as proposed by either Party which are either newly formulated, or changes to established personnel policies and practices during the term of this agreement, which affect the working conditions of unit employees.

9.1.3 The party proposing a change will provide the other party with an initial written notification of the proposed change with reasonable advanced notice. The notice will, at minimum if available, contain the following information:

- a. The nature and scope of the proposed change;
- b. A description of the change;
- c. An Explanation of the initiating Party's plan for implementing this change;
- d. An explanation of why the proposed change is necessary; and
- e. The proposed implementation date.

9.2 The obligation to bargain is triggered when either party submits a "Demand to Bargain" which will serve as the formal request to negotiate. The Demand to Bargain will be submitted to the initiating party within ten (10) workdays of receiving the notice of proposed change. Union representatives and employees assigned to represent the Union shall receive official time for all time spent preparing for and in negotiations. Official time will be in accordance with 5 U.S. Code § 7131(a) and will not count against any official time negotiated in accordance with 5 U.S. Code § 7131(d).

9.3 If either party initiates a demand to bargain, briefings will occur at a mutually agreeable time. Proposals will be submitted at a mutually agreeable time after the briefing. Extensions or reductions of time for proposal submission will be by mutual agreement.

9.4 Negotiations may be via any mutually agreeable method or forum to include telephone and face-to-face at any mutually agreed time, date, and duration. If deemed necessary, ground rules shall be established prior to the start of negotiations.

9.5 Parties agree to utilize the covered by doctrine to determine whether matters are already covered by this agreement. The two prong test is:

- a. A matter is covered by this agreement if it is explicitly contained in the agreement, or,
- b. A matter is covered by an agreement if it is inseparably bound up with a matter contained in the agreement and thus an aspect of the matter contained in the agreement.

9.6 Nothing in this article shall be deemed to waive either party's statutory rights unless such waiver is clear and unmistakable.

## ARTICLE 10. DUES WITHHOLDING

10.1 The Agency will process authorizations to withhold amount for union dues after receiving a SF-1187 from the Union for any employees who submits a properly executed form. The withholding amounts will be implemented no later than two pay periods after the SF 1187 is received. Local union representatives will be on official time while receiving and processing the SF-1187.

### 10.2 Withholding from Back Pay Awards

With written agreement of the employee, the Agency agrees to withhold the union dues from a back pay award granted to an employee who was terminated and was on dues withholding at the time of a termination. The amount withheld from the back pay award will be calculated from the date of termination until the next anniversary date for dues withholding consistent with this article, unless the employee agrees in writing to authorize the dues withholding for the full period of termination. This authorization must be received before payment of the back pay award to the employee.

### 10.3 Revocation of Union Dues

- a. The local union is the authorized party that may provide an SF-1188, and must provide it to a union member upon request. The SF-1188 is also available on the OPM website. An employee may revoke dues withholding only once a year, by submitting a timely SF-1188 to the local union representative designated for such purpose. In order for the SF-1188 to be timely, it must be submitted to the local union during the 14 calendar days ending on the anniversary date of his/her original allotment. The local union representative must certify by date and signature the date the SF-1188 is given to the local union representative or by some other appropriate date stamping device.
- b. The local union official will, by reference to the remittance listing, determine the anniversary date of the allotment. The ending date of the pay period in which the anniversary date occurs will be entered in Item 6 on the SF-1188. The entry will be initiated by the local union official, who will then deliver the form to the Human Resources office prior to the close of business of the Friday following the date entered in Item 6. If, through error of the Union, an SF-1188 is received in the Human Resources office later than the agreed-to date, the Human Resources office will process the form at the earliest possible time, but no later than two pay periods following receipt. Local union representatives will be on official time while receiving and processing the SF-1188.
- c. Additionally, an employee's allotment of Union dues shall be terminated the first pay period following the pay period in which any of the following occur:
  - i) Separation of the employee for any reason including death or retirement.

ii) Receipt by the Agency of notice that the employee has ceased to be a member in good standing of the Union.

10.4 The Agency will provide a report to the Union showing separation actions of dues paying members every pay period.

10.5 Dues withholding shall be withdrawn from the employees' salary each pay period. The Agency will transfer dues withholdings to AFGE National office and coordinate to reconcile payment information. The Union shall be provided a report showing current membership listing, dues withholding, grade, bargaining unit status, and anniversary date each pay period. (i.e. Dues Reconciliation Report and Bi-Weekly Report.)

10.6 In the event a clarification of unit petition is filed, the employee's dues will be withheld pending a decision on the petition.

10.7 The Union will work jointly with the Payroll and Personnel Systems organization to ensure changes to voluntary salary allotment schedules will be systemically processed through the automated payroll and personnel system.

## **ARTICLE 11. UNION REPRESENTATION AND OFFICIAL TIME**

11.1 The Employer shall recognize the officers, stewards, and other Union designated representatives authorized by the Union to represent employees.

11.1.1 The Union President or his or her designee shall be the primary Union point of contact for the Employer.

11.1.2 The Union shall provide the HR Office with a current list of stewards and Union representatives upon change or upon request.

11.1.3 The Union representatives and stewards shall use official time in accordance with the provisions of 5 U.S.C. § 7131.

11.1.4 The parties encourage the efficient use of official time and acknowledge that both management and the Union are to adhere to the principles of good stewardship in the administration and use of official time.

11.1.5 Use of official time for representational purposes requires approval of the Union representative's supervisor. If the Union representative cannot be spared at the time requested, the Union representative will be provided an alternative time and will be provided the opportunity to inform the Union President of that time.

11.1.6 The Employer agrees to grant official time to Union officers and Union employee representatives to attend labor relations training or other training related to employees' conditions of employment, determined to be of mutual benefit to the Employer and the Union. Refer to Article 12, Training for Union Officials/Stewards, for more information.

### 11.2 Requests for Official Time

11.2.1 Requests for official time for matters considered as internal union business will not be approved and must be taken on the representative's own time.

11.2.2 The request for official time should be in writing and provide enough specificity in order that the approving official is able to weigh the needs of the request with the needs of the mission. The written request should include, but is not limited to:

- a. Amount of official time;
- b. Date(s) in which the time is required; and
- c. General reason(s) to determine the appropriate reporting category (e.g., grievance/dispute resolution, term/mid-term negotiations, meetings with management, etc.)

### 11.3 Teleworking

Official time may be performed while teleworking or working remotely.

#### 11.4 Allegations of Abuse

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

## **ARTICLE 12. TRAINING FOR UNION OFFICIALS/STEWARDS**

12.1 Written requests, including an agenda, will be forwarded within a reasonable period of time in advance of the training to the Union representative's immediate supervisor who will respond timely to the request in a manner that will allow sufficient time for the employee to attend the training. Official time may be used for travel to and from the training. Upon prior approval by the Employer, Union representatives will be entitled to travel expenses and per diem.

12.2 Official time for training will be approved except in cases where the absence of the employee or employees will significantly adversely impact the Employer's work requirements. When a request for official time for training is disapproved for any reason, the reasons for such disapproval will be furnished to the Union President at the time of disapproval.

12.3 Union training on non-representational duties must be taken on the employee's own time.

12.4 If either party experiences problems with the application of this article, the parties will meet to attempt to informally resolve the issue. If resolution is not reached, either of the parties may file a grievance under the provisions of this agreement.

## **ARTICLE 13. NEW EMPLOYEE ORIENTATION PROGRAM (NEOP)**

13.1 The Agency will include the entrance on duty date (effective date of the new employee's appointment to the IBC) to the bi-weekly report provided to the Union.

13.2 The Union shall be notified of all new employee orientation sessions and scheduled to address the employees for 10 minutes immediately prior to the lunch period. Management will provide the union with notice of the date, time and place at the time the orientation is scheduled. The union representative making the presentation will be allowed official time, if otherwise in a duty status, to make the presentation.

13.3 NEOPs will include information about the existence of the Union, and provide a packet of information as provided by the Union to include the sign-up form and contact information.

13.4 The Union will be permitted to introduce the new bargaining unit employee to their Union steward.

## **ARTICLE 14. SUPERVISOR'S RECORD FILE FOR EMPLOYEES**

14.1 The parties acknowledge the need for supervisors to initiate and maintain a collection of information concerning work related activities for employees under their immediate supervision. The supervisor's record file is the file a supervisor maintains on each of their employees, which may include, but is not limited to, performance documents, discipline, training, counselings, supervisor notes, informal documents, work notes from team leads, etc.

14.2 No employee record may be collected, maintained, or retained except in accordance with law, government-wide regulation, and this agreement. All personnel records are confidential, shall be known or viewed by officials only with a legitimate administrative need to know, and must be retained in a secure location.

14.3 Upon request, employees will be given an opportunity to review and initial documents within the supervisor's record file. The employee's initials indicate only that the employee is aware of such entries. The employee's initials do not indicate concurrence or non-concurrence with the entry. The supervisor will provide copies of any documents in the supervisor's record file when requested by the employee.

14.4 Employees and/or their authorized representatives have the right to examine the supervisor's record file. The employee has the right to a reasonable amount of duty time to examine their file. If an employee wishes to have any information or documentation added into the supervisor's record file, to include a response to current documentation in the supervisor's record file, the employee will provide this documentation to their supervisor, which should be added to the file, if appropriate. The supervisor will acknowledge receipt of additional documentation provided by the employee to be added to the record file.

14.5 Counseling statements will be entered in the supervisor's record file. Counseling statements for misconduct will only be retained and used to support other personnel actions for up to six months after the effective date, unless additional misconduct occurs within the six month period.

## ARTICLE 15. MERIT PROMOTION AND REASSIGNMENTS

15.1 The purpose and intent of the provisions contained in this article are to ensure that merit system principles are applied in a consistent manner with equity to all employees and without regard to political affiliation religion, or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, non-disqualifying handicap, or age, and shall be based solely on job-related criteria with proper regard to their privacy and constitutional rights.

15.2 It is agreed that the Agency will use the competencies of employees to the maximum extent possible consistent with mission requirements, merit principles and applicable laws and regulations. The Agency will have flexibility based on mission requirements and position qualifications to determine whether to announce the position internally, externally, or both.

15.3 Employees will be provided courtesy notification of IBC vacancy announcements on the opening date of the announcement. However, the recruitment system, currently USAJobs.gov is the official website for employees to keep current on all job opportunities.

15.4 Employees will make all reasonable effort(s) to apply for positions in a timely manner and to utilize available resources and information in job application process. If employees have questions during this process, they should contact the HR point of contact listed in the vacancy announcement. The HR point of contact will make reasonable effort to respond to applicant questions in a timely manner; however each employee is responsible for ensuring their application is filed by the closing date of the announcement.

### 15.5 Career Ladder Promotions

a. A career ladder is a grade range from the entry level through and including the established full performance level of a position (e.g., GS-5/6/7 or GS-5/7/9/11.) Career ladder positions help employees develop to successfully perform higher level duties through training and incremental assignment of more complex work. The Agency will ensure that procedures for administration of career ladders will be consistent with policy, regulations and the Agency's Merit Promotion Plan/Program.

b. The job responsibilities assigned to the entry levels of career ladder positions as captured in the job description and/or a statement of difference will involve more basic skills and knowledge compared to full performance level responsibilities. The responsibilities at each grade level of the career ladder position will be communicated to employees through the position description, performance plan, individual development plan and regular supervisor feedback. At any time the employee is not meeting performance expectations, the employee will be provided information on specific deficiencies.

c. Employees in career ladder positions wanting additional guidance in meeting career ladder promotion requirements should work with their supervisors to develop a plan to assist the employee in understanding expectations to achieve goals. The plan should

include all applicable training, as well as any other appropriate support. Upon request, this plan may be made available in writing.

i) If an employee is meeting the promotion criteria as defined by Title 5 Code of Federal Regulations Section 335, the promotion action will be processed in accordance with procedures in OPM's guide to processing personnel actions.

ii) In the event the employee met all eligibility criteria and the supervisor intended to promote the employee but failed to initiate the promotion action in the personnel/pay roll system timely, the promotion will be retroactive to the beginning of the first pay period after the pay period in which the requirements were met.

#### 15.6 Post Examination and Review of Competitive Actions

a. Upon written request to the Human Resources Office, the designated union representative will be permitted to conduct a methodical examination and review of competitive action files (e.g., Job Vacancy File and selecting official documentation) for all bargaining unit positions, when it has reason to believe a discrepancy exists or when requested to do so by an employee.

b. The designated Union representative will not be an applicant for the competitive action being reviewed.

c. The designated Agency official responsible for the package will make the pertinent records from that package available to the designated union representative within 7 working days of the receipt of the request. The designated union representative shall treat information confidentially and review the contents in the Human Resources office and in the presence of an Agency official.

d. Employees may contact the selecting official for feedback concerning their personal application and interview or Human Resources with any additional questions regarding the application process.

#### 15.7 Development of Career Enhancement Opportunities

The parties will explore various means of enhancing career opportunities for employees through the Labor Management Forum and other avenues.

#### 15.8 Reassignments

a. A reassignment is a change from one position to another for which the employee qualifies for at the same grade level while the employee is serving continuously within the same Agency.

b. All reassignments will be documented in the eOPF.

c. Requests for voluntary reassignments shall be given prompt and fair consideration.

d. If the employee makes management aware that their reassignment will require a change in transportation arrangements, management will provide at least fifteen (15) workdays notice before the reassignment is effective.

e. When an employee is reassigned to a different position, the employee will be given a reasonable period in which to become proficient. If he or she cannot attain satisfactory performance, consideration will be given to returning the employee to the previous position or another position at the same grade level for which the employee is qualified.

f. The Union will be given written advance notice at least fifteen (15) workdays before reassigning a Union Officer, Official or Steward. Upon request, the Agency will bargain over negotiable aspects of the reassignment before implementing in accordance with Article 9, Mid-term Bargaining.

## ARTICLE 16. DETAILS AND TEMPORARY PROMOTIONS

### 16.1 Details

- a. A detail is the temporary assignment of an employee to a different position or to a different set of duties for a specified period of time, with the employee returning to his or her regular duties at the end of the detail. Employees shall be recognized for the work they perform. Details of over thirty (30) calendar days will be documented in the Official Personnel Folder/electronic Official Personnel Folder (OPF/eOPF).
- b. In addition, employees may request details of less than thirty (30) calendar days be documented in the eOPF by submitting their request through their supervisor to the HR Office.
- c. The Agency will provide notification of details of over thirty (30) calendar days to the local union President. Where changes to conditions of employment would result, the Agency will provide reasonable advance notice. When a detail is known far enough in advance and affects conditions of employment, the notification should occur as soon as practicable but no later than ten (10) workdays prior to the employee being detailed.
- d. When offering noncompetitive details of fourteen (14) calendar days or more to both classified and unclassified positions, the Agency will solicit interested volunteers with appropriate skills set. If there are no volunteers, management will determine the employee(s) with the appropriate skill set to be assigned to the detail. If more employees volunteer than vacancies exist, details will be rotated fairly and equitably among qualified individuals.

### 16.2 Details to Lower-Graded Duties

Should the requirements of the Agency necessitate a detail to a lower-level graded position, this will in no way adversely affect the detailed employee's salary, classification, or position of record. Employees who are detailed outside of their official duty station may request an analysis of the commute to the detailed duty station to determine if reimbursement (travel and mileage) is appropriate.

### 16.3 Temporary Promotions

- a. Qualified and eligible employees placed in a higher graded position for a period of more than thirty (30) consecutive calendar days must be temporarily promoted.
- b. Temporary promotions in excess of 120 calendar days shall be filled through competitive procedures.
- c. Temporary promotions of less than 120 calendar days shall be rotated fairly and equitably among those employees who have been determined by management to have

the capacity and requisite skills for assuming the responsibilities of the assignment unless competitive procedures are used.

#### 16.4 Requests for Voluntary Temporary Changes

Employees may request voluntary temporary changes in their job through their supervisor. Such requests will be considered by the Agency and a good faith effort will be made to balance the needs of the employee with the Agency's mission needs.

## **ARTICLE 17. HOURS OF DUTY**

17.1 This Article shall be administered in accordance with Title 5, United States Code (“U.S.C.”), Chapters 61; Title 5, Code of Federal Regulations, Parts 610 and this Agreement. The purpose of this Article is to prescribe the policies covering hours of work for all employees in accordance with applicable law and regulation.

17.1.1 Employees are placed on a fixed schedule (start time, end time and meal period) unless they request and are approved to work an Alternative Work Schedule therefore, this Article does not apply employees who are working an authorized Alternate Work Schedule (AWS) in accordance with Article 18 of this Agreement.

17.1.2 The administrative workweek will be a period of seven (7) consecutive calendar days beginning on Sunday.

17.1.3 The basic workweek shall be Monday through Friday, eight (8) hours each day, 40 hours per week. Exceptions may occur when mission requirements make it necessary to temporarily include Saturdays or Sundays as part of the basic workweek for certain employees. This subsection is not intended to preclude regular Saturday/Sunday scheduling to meet work requirements.

17.1.4 Normally, an employee’s workweek shall not extend over more than five (5) days of the period Sunday through Saturday.

17.1.5 An employee’s set schedule (start time and departure time) is established by the supervisor based on work unit and organizational needs, taking into consideration the employee’s requested start and departure times. The employee’s arrival time and departure times do not vary from day to day.

17.1.6 The set schedule must be established whereby the employee’s eight hour duty day is completed between the hours of 6 a.m. and 6 p.m. Exceptions include work units where there is a requirement for shift work.

### **17.2 Breaks**

a. A break of 15 minute duration will be allowed each employee twice during each eight hour day, normally one break in the first half of the day and one break in the second half of the day.

b. Employee may leave the work area during the break period.

c. Breaks may not be combined or used at the beginning or at the end of the work day or to increase a lunch period.

d. Employees may be required to schedule breaks for adequate office coverage.

### 17.3 Meal Period

Full-time employees shall be granted, on a non-paid basis, a meal period each day. Normally, this will be scheduled at or near the mid-point of the shift or tour of duty. The meal period cannot be less than 30 minutes long and cannot exceed 1 hour without supervisory approval, provided that employees account for the entire work requirement for the day, either by working, or the use of leave, compensatory time earned, or credit hours.

- a. The meal period cannot be combined with breaks.
- b. In occasional situations, the employee may request an exception to deviate from the scheduled meal period as early as practicable during the work day.

17.4 Employees are only eligible to work credit hours if they are authorized for an Alternate Work Schedule in accordance with Article 18.

## **ARTICLE 18. ALTERNATIVE WORK SCHEDULE**

18.1 Procedures for the establishment and administration of Alternative Work Schedules will be in accordance with this Agreement and current policy (dated April 19, 2012) and subsequent updated negotiated changes to the policy. Other alternative work schedules offered under OPM implementing policies and procedures may be considered and negotiated by the Parties on a case by case basis.

### **18.2 Temporary Interruption of Alternative Work Schedules**

18.2.1 Occasions may arise when alternative work schedules must be temporarily interrupted as a result of unusual workload or operational demands. The Agency shall make every reasonable effort to avoid interruption of an employee's participation in these work schedules.

18.2.2 If the circumstances requiring an interruption permit, the Employer will provide the employee with at least one pay period of advance notice and provide the business based reason for the interruption. The Employer will limit the interruption to as short a period as necessary to meet the workload or operational demands.

18.2.3 If an employee's flexible work arrangement is interrupted, it will automatically be restored as soon as possible after the reason for the interruption needs have been met. If the Employer believes that the "temporary interruption" will extend past the identified period, prior to the end of the period, and any subsequent periods, the Employer will notify the Union. Alternative work schedules cannot be interrupted for an indefinite period. Decisions on temporary interruption of AWS for any employee will not be arbitrary or capricious.

### **18.3 Denial and/or Termination of Alternative Work Schedules**

If the Employer denies a request for an established alternative work schedule or proposes to terminate an individual employee's participation in an alternative work schedule, the employee will be notified in writing, provided the basis for the denial or termination and provided an alternate schedule. The Employer may deny an employee's request for or propose to terminate an employee's participation in a particular alternative work schedule if the supervisor determines that the employee's participation could negatively impact the work unit's coverage requirements or the needs of the mission. Denials of requests to work alternative work schedules will not be arbitrary or capricious. An employee may challenge a denial as set forth in Article 26, Grievance Procedure.

## ARTICLE 19. TELEWORK

### 19.1 Policy

19.1.1 For purposes of this Agreement, telework refers to an employee's performing assigned duties at a location other than the official duty station. Such an alternative workplace can include a government or private telework center, or the employee's home to name a few.

19.1.2 Telework for Bargaining Unit employees will be consistent with procedures and requirements established under the Telework Enhancement Act of 2010, the Departmental Telework Handbook and this Agreement.

19.1.3 The IBC Telework Policy is the local established procedure for IBC employees. Any provisions of this Agreement related to telework supersede the IBC Telework Policy dated November 14, 2012. The parties acknowledge that the IBC Policy will be revisited within a year of the date this agreement is approved and agree to full substantive bargaining with the exception of reserved management rights as provided under the Statute.

19.1.4 Employees who are eligible may participate in telework to the maximum extent possible without diminished employee performance. Participation in the Telework Program will be voluntary on the part of the employee. Employees may only be required to telework in emergency situations when the Employer's Continuity of Operations Program (COOP) has been put in effect. Such employees will be informed in advance of their COOP responsibilities in writing.

19.1.5 All positions are considered suitable for telework.

19.1.6 Employees who telework will be treated the same as employees who do not telework.

### 19.2 Eligibility

19.2.1 All employees who meet the following criteria are eligible to participate in Telework:

- a. The employee has a performance rating of Fully Successful or better;
  - i) Employees whose performance is Minimally Successful may/may not participate in telework (see Section 19.5.2, Clarification Points of DI 3457, Element #18.)
  - ii) Employees on a Performance Improvement Plan (PIP), as provided in Article 24, Performance Management, are not eligible for telework
- b. The employee has the work space, utilities, equipment and reference materials suitable for the work to be performed at the designated alternative workplace as specified in the Telework Program Agreement;
- c. The employee signs and abides by the Individual Telework Agreement;

d. The employee has not been officially disciplined for being absent without permission for more than 5 days in any calendar year; and

e. The employee has not been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

f. The employee does not have any conduct issues under 370 DM 752 (5 CFR 752) and which are documented by the Employer;

19.2.2 The period of ineligibility for telework under Section 19.2.1 paragraph f, (for conduct issues under 370 DM 75 and 5 CFR 752) depends on the type of action taken against the employee. If a non-permanent document in the employee's eOPF, the prohibition from teleworking exists until the document is removed. If the permanent document is in the employee's eOPF, the prohibition for telework is two years from the effective date of the document. At the end of that two year period, the supervisor, after consultation with the servicing HR Office, may allow the employee to telework or continue the prohibition until a future date.

### 19.3 Requests

Employees may submit a request to perform telework at an alternative workplace on a routine or situational basis at any time. Employees will submit their telework agreement that defines the days, hours, location, etc. The Supervisor will document approval or denial of the request within 10 days of receipt. If the request is disapproved, the supervisor will include the reasons for the denial.

### 19.4 Training

19.4.1 All employees must have completed the Agency's interactive telework training program before they can telework for the first time. Any employee who has a telework agreement in place as of the effective date of this agreement is exempt from this requirement.

19.4.2 The content of any IBC training will be discussed with and reviewed by the Union prior to implementing to ensure that it addresses the Union's and employees' concerns among which are that the requirements of the Collective Bargaining Agreement are included.

### 19.5 Individual Telework Agreement

19.5.1 All employees who will telework on a situational or routine basis must complete and sign an individual Telework Agreement (DI 3457 dated December 2012.) The Agreement must be in place before telework may begin. This Agreement will outline the specific work arrangement on which the employee and the supervisor agree.

#### 19.5.2 Clarifying Points of DI 3457 (Telework Agreement)

a. Workplace inspections (Element #15)

- i) Normally, employees will be able to bring to the official worksite portable Government Furnished Equipment (GFE) for maintenance.
- ii) Non-portable or fixed equipment may require inspection at the alternative workplace (home.)
- iii) Although rare, it may be necessary to inspect the alternative workplace (home) for conformance to safety standards.

b. Alternative Workplace Costs (Element #16)

The Employer will provide the teleworker with the required equipment and supplies to perform work at the alternative workplace.

c. Safety and Workers' Compensation (Element #17)

- i) It may be necessary for an Agency/Employer representative to access the alternative workplace (home) to investigate the report of injury/illness.
- ii) For situations involving reasonable accommodation, it may be necessary for an Agency/Employer representative to access the alternative workplace (home) to address the reasonable accommodation need/request.

d. Work Assignments/Performance Assignments (Element #18)

- i) Teleworkers will not be required to submit reports that non-teleworkers are not required to submit for evaluating performance.
- ii) An example of when Minimally Successful performance may be the basis for suspending a telework arrangement is when accessibility to official duty station is necessary due to on-the-job training, assistance, support, etc. from the supervisor or other designee. Normally the suspension of telework arrangement will be reflected in the written assistance plan.
- iii) In all cases of cancellation/termination of a telework arrangement, the employee will be notified in writing (DI 3700.)

e. Termination of Telework Agreement (Element #21)

- i) Employees designated as a COOP employee may not voluntarily terminate their telework arrangement; however, all other employees may voluntarily terminate their telework agreement without supervisory approval.
- ii) Decisions to terminate/suspend telework arrangements based on conduct will comply with Section 19.2 of this agreement.
- iii) Termination/suspension of a telework agreement should be based on business-based legitimate reasons.

iv) Cancellation of the Telework Agreement requires the review and approval/disapproval by the second line supervisor consistent with DI 3700.

f. COOP Requirements (Element #22)

Employees designated as COOP employees will be notified in writing of expectations during a COOP exercise or crisis. The notification will normally be done simultaneously when the employee is notified of their COOP designation.

g. Pandemic/Emergency Closure Requirement (Element #23)

In the context of this element, weather-related closures are not to be confused with early departure, delayed arrival or temporary closure due to adverse weather conditions.

h. Personal Equipment and Discovery (Element #24)

Teleworkers are required to use Government Furnished Equipment (GFE) for teleworking, therefore employees should not be using personal equipment for teleworking.

## 19.6 Temporary Changes or Return to Alternative Workplace

19.6.1 Employees may be required to report to their official duty station for previously scheduled or unscheduled training, conferences, other meetings, or to perform work on a short term basis that cannot otherwise be performed at the alternative workplace or accomplished via telephone or other reasonable alternative methods.

19.6.2 Employee may also be required to report to their official duty station for emergency operational exigencies to perform agency work which cannot otherwise be performed on another workday, at the alternative workplace, via telephone or other reasonable alternative methods. In such cases, employees will be provided reasonable advance notice and be provided a reasonable time to report. Employees should make every effort to report as soon as possible. With good and sufficient reasons, the employee will be permitted up to two (2) hours to report.

## 19.7 Cancellation

Normally employees will not be removed from participation for minor infractions of Telework Program requirements. In such cases, managers will make a bona fide effort to counsel employees about specific problems before cancelling an employee's participation in telework. The counseling will be confirmed in writing.

## 19.8 Problems Affecting Work Performance

Employees will promptly inform their supervisor whenever any problems arise at the telework site which adversely affects their ability to perform work at the alternative workplace. Examples could include situations such as equipment failure, power outages, telecommunications difficulties, etc. In such cases, the employee may request annual leave or report to the regular

work place. If an employee is unable to continue to work that day in the alternative work place, and it is impractical for the employees to report to the regular work place before the end of the work day, the employee may be granted short periods of excused absence up to 59 minutes.

#### 19.9 Self Certification Safety Checklist

The employee will complete the Self Certification Check List to the best of their knowledge.

## ARTICLE 20. OVERTIME

20.1 Overtime for non-exempt employees is covered by the Fair Labor Standards Act (FLSA.) Overtime for exempt employees is covered by 5 USC 5542.

20.2 All bargaining unit positions will be determined to be FLSA “exempt” or “non-exempt” at the time the position is classified. When classification actions are performed and results in a change to the FLSA determination, the changed FLSA determination for the affected Bargaining Unit Employees will be made available to the employees and the Union within seven (7) calendar days of the classification decision.

20.3 Overtime pay for FLSA non-exempt employees is equal to one and one-half times the employee’s hourly rate of pay.

20.4 Overtime pay for FLSA exempt employees is equal to one and one half times the employee's hourly rate of pay. However, if the employee's rate of pay exceeds the minimum applicable rate for a GS-10 (i.e., GS-10, step 1), including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers, a locality-based comparability payment, or any applicable special rate of pay, the overtime rate is the greater of:

- a. 1 1/2 times the applicable minimum hourly rate of basic pay for GS – 10, step 1; or,
- b. The employee’s hourly rate of basic pay.

20.5 When the Employer decides to use overtime, qualified volunteers normally shall be assigned overtime before non-volunteers are assigned overtime.

20.6 Overtime shall be assigned fairly and equitably among qualified employees on a rotating basis.

20.7 Overtime shall not be distributed or withheld as a reward or a penalty.

## ARTICLE 21. STAND BY DUTY AND ON-CALL STATUS

### 21.1 Stand By Duty [5 CFR 551.431](#)(a)(1)

An employee is on duty, and time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official order from the Employer to the IBC premises or other designated duty site and is assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes.

### 21.2 Premium Pay for Standby Duty [5 CFR 550.141](#)

21.2.1 The Employer may pay premium pay on an annual basis, instead of the premium pay under 5 CFR 550, for regularly scheduled overtime, night, holiday, and Sunday work, to an employee in a position requiring him or her regularly to remain at, or within the confines of, his or her station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work.

21.2.2 Determinations regarding which positions are authorized for annual premium pay will be accordance with [5 CFR 550.143](#)

### 21.3 On call status [5 CFR 550.112\(l\)](#) and [5 CFR 551.431](#)

An employee will be considered off duty and time spent in an on-call status is not hours of work if:

- a. The employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or
- b. The employee is allowed to make arrangements such that any work which may arise during the on-call period will be performed by another person.

### 21.4 Compensation for call back overtime work [5 CFR 550.112\(h\)](#)

Call-back overtime work is irregular or occasional overtime work performed by an employee on a day when work was not scheduled for that employee, or for which the employee is required to return to his/her place of employment. Such overtime work is deemed at least 2 hours in duration for the purpose of premium pay, either in money or compensatory time off.

#### 21.4.1 Compensatory time off

At the request of an employee who is not exempt under FLSA, the Employer may grant compensatory time off from an employee's tour of duty instead of payment under §551.501 for an equal amount of irregular or occasional overtime work. Such compensatory time off will be administered in accordance with [5 CFR 551.531](#).

## ARTICLE 22. LEAVE

### 22.1 Annual Leave

#### 22.1.1 General

It is agreed that the use of annual leave is an earned benefit of the employee, and as such is available to be used at the discretion of the employee consistent with the needs of the Agency.

#### 22.1.2 Procedures

Employees may request annual leave without interference or coercion for any duration, for any time and in any pattern they desire by putting in their request for annual leave in the automated time keeping system. Generally, employees will request annual leave in advance of their tour of duty. Approval or disapproval will be made as soon as possible but normally within a pay period of the request. Annual leave requests will not be denied or cancelled for arbitrary or capricious reasons but will be based on staffing and/or workload requirements.

22.1.3 In emergency situations requiring the immediate attention of the employee, the employee should make a reasonable effort to notify the supervisor or their designee of the nature of the emergency. If the employee is unable to contact the supervisor or designee, a voice mail or email message is acceptable.

22.1.4 In rare circumstances where leave may need to be denied or cancelled, management will consider other alternatives prior to denying or cancelling the request.

22.1.5 If cancellation appears to be necessary, the Employer agrees to notify the employee as far in advance as possible that his/her approved scheduled annual leave is to be canceled. The employee will be allowed to express any personal concerns. In making the decision, the Employer will consider potential disruption to the employee's family or personal financial loss.

22.1.6 Annual leave will be utilized in increments of 15 minutes.

22.1.7 Employees and supervisors are jointly responsible for scheduling annual leave throughout the year so employees are not forced to lose it because of year-end workload needs.

### 22.2 Sick Leave

22.2.1 This section sets forth comprehensive policies and procedures pertaining to the approval and use of sick leave. Employees shall earn and be granted sick leave in accordance with applicable regulations ([5 CFR 630.401](#)) and the provisions of this article.

22.2.2 The Employer may consider an employee's self-certification (as documented in the electronic request) as to the reason for his or her absence as administratively acceptable evidence, regardless of the duration of the absence. The Employer may also require a medical certificate or other administratively acceptable evidence as to the reason for an absence for sick leave in excess of 3 workdays, or for a lesser period when the agency determines it is necessary to substantiate the request.

22.2.3 If requested, the employee will provide a medical certificate or administratively acceptable evidence within 15 calendar days from request in accordance with [5 CFR 630.405](#).

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

22.2.5 Sick leave will be utilized in increments of 15 minutes.

22.2.6 Except in an emergency situation, any employee utilizing sick leave will notify the supervisor, or designee, prior to the start of the employee's tour of duty or as soon as possible, of the inability to report for duty and the expected length of absence. If the Supervisor is unable to be reached then leaving a voice message or email is sufficient.

22.2.7 Except for employees on leave restriction, employees suffering from a chronic medical condition which requires occasional absence from work, but does not necessarily require medical treatment, and who have previously furnished medical certification of the chronic condition, shall not be required to furnish a medical certificate to substantiate sick leave for subsequent occurrences of the same condition. However, the Agency may periodically require further medical certification to substantiate that the condition still exists.

#### 22.2.8 Advanced Sick Leave

Upon request, an employee may be granted advanced sick leave or annual leave, as appropriate, in accordance with sick leave laws, regulations and consistent with DOI mission needs. Employees may consult [5 USC 63](#) or [5 CFR 630](#).

#### 22.2.9 Sick Leave Restriction Procedures

The procedures below do not preclude management from taking necessary and appropriate disciplinary action.

22.2.9.1 When the supervisor has reason to believe the employee is abusing sick leave usage, the supervisor will advise the employee of the questionable sick leave record and the reasons why the employee is suspected of abusing sick leave. The supervisor and employee will engage in a dialogue providing the employee an opportunity to explain the use of sick leave.

22.2.9.2 Absent a reasonably acceptable explanation, the employee should be counseled that continued and frequent use of sick leave, or use in unusual patterns or circumstances, may result in a written requirement to furnish acceptable documentation for each subsequent absence due to illness or incapacitation for duty, regardless of duration.

22.2.9.3 If there is not a reasonable improvement in the sick leave record, the employee will then be notified in writing that all future requests for sick leave must be supported by a medical certificate provided within 15 calendar days from request. The written notification requiring an employee to provide a medical certificate will be reviewed at least every 4 months from the date of the written notification. If the employee's record demonstrates improvement, the employee will be notified in writing that the leave restriction is no longer in effect.

## 22.3 Other Available Leave Options and Work Schedule Flexibilities

22.3.1 The Federal Government and IBC offers a wide range of leave options and workplace flexibilities to assist an employee who needs to be away from the workplace. These flexibilities include: [Annual leave](#), [Sick leave](#), [advanced annual leave](#) or [advanced sick leave](#), leave under the [Family and Medical Leave Act \(FMLA\)](#), donated leave under the [voluntary leave transfer program](#), [leave without pay](#), [alternative work schedules](#), [credit hours under flexible work schedules](#), [compensatory time off](#) and telework .

22.3.2 A complete list of the various leave and work scheduling programs available to employees for family care purposes is available at: <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/leave-and-families/>

22.3.3 OPM Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care:  
<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/handbook-on-leave-and-workplace-flexibilities-for-childbirth-adoption-and-foster-care.pdf>

22.3.4 Expanded Family and Medical Leave Policies for employees to fulfill certain family obligations (up to 24 hours of LWOP each year), Presidential memorandum:  
<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/memorandum-for-the-head-of-executive-departments-and-agencies/>

22.3.5 Extension of Benefits to Same-Sex Domestic Partners of Federal Employees (Presidential Memorandum): <https://www.whitehouse.gov/the-press-office/presidential-memorandum-extension-benefits-same-sex-domestic-partners-federal-emplo>

## 22.4 LWOP

22.4.1 Leave without Pay (LWOP) is a temporary non-pay status and absence from duty for a specific period of time, which may be granted to an employee to the maximum extent allowable in accordance with applicable laws, rules, and regulations. LWOP may be requested to the leave approving official (supervisor) in the same manner and for the same purposes as annual leave and sick leave. Requests for LWOP will be given serious consideration and will not be denied arbitrarily.

22.4.2 The authority to grant LWOP to an employee is a matter of administrative discretion.

22.4.3 Denials of requests for LWOP will be provided to the employee in writing. Employees taking extended LWOP are encouraged to consult with their Human Resources Office on the impact on entitlements and benefits.

22.4.4 An employee may be granted leave without pay to engage in Union activities on the national, district or local level, to work in programs sponsored by the Union or the AFL-CIO, upon written request by the appropriate Union office. Such requests will be referred to the appropriate management official and will normally be approved. Such employees shall continue to accrue benefits in accordance with applicable OPM regulations. The amount of LWOP is based upon the type and duration of activity in which the employee is engaged.

22.4.5 Approval of LWOP is mandatory for:

- a. Military training or active duty for members of the Reserves or National Guard, who are not entitled to, or have exhausted their military leave (38 USC 4316(d);
- b. Veterans to receive necessary medical treatment associated with the service-connected disability; and,
- c. Employees exercising LWOP rights under the Family and Medical Leave Act.

22.4.6 Upon return to duty after a period of LWOP, the Employer, to the extent it has authority, will restore the employee to the position which the employee held prior to the leave or to a similar position at the same grade and pay within the commuting area.

## 22.5 Excused Absence

Brief Absences or Tardiness. Brief periods of excused absence may only be granted in rare circumstances. The immediate supervisor may excuse nonrecurring brief periods of absence or tardiness, not to exceed 59 minutes, due to circumstances beyond the employee's control.

## 22.6 Blood Donations

An employee may be excused from duty for up to four (4) hours for purposes of travel, testing, and recuperation associated with donating blood. The employee should request administrative leave as early as practicable in advance of the donation time.

## 22.7 Court Leave

22.7.1 Court leave is an approved absence from official duties, without loss or reduction in pay or leave, and is provided to an employee who is summoned in connection with a judicial proceeding to perform jury duty in a federal, state or municipal court or to serve as a witness in a nonofficial capacity for the United States, District of Columbia, or a state or local government. An employee requesting court leave must provide valid support to substantiate the absence from duty (e.g., subpoena notice, payment from court, etc.)

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

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

22.7.4 The employee generally receives pay from the court for each day served. However, the employee must surrender the compensation to the Employer (contact Payroll Office for guidance.) The employee can keep the amount paid for expense money received for mileage, parking, or required overnight stay, to the extent consistent with law

## 22.8 Bone Marrow and Organ Donation

22.8.1 Employees may use up to seven (7) days of excused absence each calendar year, in addition to annual and sick leave, to serve as a bone marrow donor.

22.8.2 Employees may use up to 30 days of excused absence each calendar year, in addition to annual and sick leave, to serve as an organ donor.

## 22.9 Voter and Voter Registration

22.9.1 Employees may be excused for a reasonable amount, when practicable to do so without unduly interfering with operations to vote or register in any elections or in referenda on civic matters within their community.

22.9.2 Where the polls are not open at least three hours before or after an employee's regular hours of work, the employee may be granted excused absence which will permit reporting for work up to three hours after the polls open or leaving work up to three hours before the polls close, whichever requires less excused absence.

22.9.3 In jurisdictions where registration in person is required and registration cannot be accomplished on a non-workday or during non-duty hours, an employee may be granted up to a full day of excused absence in order to register.

22.9.4 If an employee's voting location is beyond normal commuting distance and vote by absentee ballot is not permitted, the employee may be granted sufficient time off up to one day.

22.9.5 Up to a full day of excused absence may be granted as required for an employee to prepare and have certified absentee ballot, if these activities cannot be accomplished during on-working hours.

22.10 Employee Assistance Program (EAP). Excused absence may be used when an employee requests counseling under the EAP. Individuals who are subsequently referred to private counseling will use sick leave, annual leave or leave without pay, whichever is appropriate (see Article 30, EAP.)

22.11 Administrative Leave. Administrative leave is an approved absence from duty without loss of pay and without charge to leave. This is referred to as "administrative" leave for timekeeping purposes. Workload permitting, administrative leave may be granted to an employee in accordance with appropriate laws and regulations.

## 22.12 Voluntary Leave Transfer Program

22.12.1 Employees may apply to be a recipient or donor under the Department's Voluntary Leave Transfer Program. The VLTP provides for transfer of annual leave to employees with medical emergencies or employees with family members with medical emergencies.

#### 22.12.2 Employer's Termination of Applicant's Enrollment in the VLTP Program

Prior to Employer's termination of VLTP usage, the employee and the Union shall be provided written advance notice of at least 14 calendar days, and provided the reason for the program being terminated.

#### 22.13 Absence Without Leave (AWOL)

22.13.1 Employees will be notified by management when any period of absence is considered AWOL.

22.13.2 Employees will be given an opportunity to explain said absence(s).

22.13.3 When the employer determines that it will charge an employee AWOL, it will notify the employee in writing.

22.13.4 Such notice will include the reason for charging AWOL and include the date and time period in question. The notice will be delivered to the employee in person or by email. If the employee is not present and/or is not expected to be present within a reasonable period of time, the notice will be mailed to the employee's last known address.

22.13.5 A charge of AWOL will be changed to appropriate leave if it is later determined that the absence was justifiable.

#### 22.14 Privacy

The Employer will treat as confidential any medical information provided by an employee. The Employer may disclose such information subject to the Privacy Act of 1974 and related laws and regulations and only for purposes of making informed management decisions and only to individuals who have a need to know.

## **ARTICLE 23. NOTIFICATION AND EXCUSED ABSENCE DURING INCLEMENT WEATHER AND EMERGENCY SITUATIONS**

23.1 The Employer will notify employees of inclement weather or short term emergency situations via a multi-modal broadcast messaging system such as IBC Denver Hotline for Weather for Emergency Information (303) 969-6644, local television networks (ABC, CBS, NBC) and/or Send Word Now. Employees will provide the number(s) and/or email address(es) that they would like to receive such notification.

23.2 Employees who are required to report to the primary work station or remain at their worksite regardless of weather conditions should be notified of this requirement at least annually in writing and well in advance so the employee can be prepared to support and sustain Employer operations.

23.3 Employees who remain on site and are directed to perform work beyond their scheduled tour of duty will be compensated in accordance with established overtime policy and regulations.

23.4 Employees performing work during emergency situations will be given fair consideration for duties performed through the Employer's awards and recognition process.

### **23.5 Brief Periods of Excused Absence due to Inclement Weather/Emergency Conditions**

23.5.1 If the emergency conditions described above prevent an employee from timely arrival at work, even though the workplace is not closed, the employee may be granted up to 59 minutes of excused absence at the discretion of the supervisor. Employees are obligated to contact their supervisors as early as practicable.

23.5.2 Determining whether to grant excused absence up to 59 minutes, the Employer may consider the following factors:

- a. the distance the employee travels to arrive at the work site;
- b. the mode of transportation normally used by the employee;
- c. efforts of the employee to come to work;
- d. the success of other employees similarly situated; and/or
- e. any local travel restrictions.

### **23.6 Workplace Closings**

23.6.1 When it becomes necessary to close a workplace because of inclement weather or any other emergency situation, employees may be granted administrative leave except for employees required to report to the primary work station or required to remain at their worksite or employees on approved leave. Such situations may include but are not limited to such events as hazardous weather/road conditions, natural disasters, severe power outages, major fires, or serious interruptions to public transportation system.

23.6.2 When an emergency condition forces the closure of a workplace and employees thereof are granted administrative leave as a result, an employee of that same facility may be provided administrative leave when the employee:

a. is working at the alternative duty station on an approved telework program under Article 19, Telework;

and;

b. is prevented from accomplishing work because of an emergency condition.

The amount of administrative leave granted will be limited to the time which the employee is prevented from performing work due to the emergency.

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

## ARTICLE 24. PERFORMANCE MANAGEMENT

### 24.1 Overview

24.1.1 To improve team cohesiveness and quality of the work environment, the Employer should provide proper and thorough training for all Supervisors. Parties mutually agree that it is in the best interest of the IBC that supervisors possess skills in interpersonal communication, motivation of employees, mentorship and coaching, accountability, and proper and effective performance appraisals.

24.1.2 Supervisors will emphasize and promote open communication with their employees about performance management.

24.1.3 The parties agree that accomplishment of the Employer mission should be achieved in an environment that recognizes the value of its employees and the importance of teamwork. To achieve these goals, supervisors will provide employees with timely feedback to motivate the employee to continually strive for excellence. If the employee has not performed a task or project satisfactorily, the supervisor will provide timely and constructive feedback in a respectful manner.

24.1.4 The performance appraisal system will:

- a. Not be punitive, adversarial or used as a disciplinary tool.
- b. Rate each employee's performance solely against his or her performance standards.

24.1.5 Except where necessary and dictated by the work, performance appraisal elements will not be based solely on numerical goals, performance metrics, and/or numerical performance levels including metrics and factors that are outside of the employee's control.

### 24.2 Definitions (370 D.M. 430)

a. Rating of Record: The performance rating prepared at the end of an appraisal period for overall performance over the entire period and the assignment of a summary rating as specified in section 430.208(d) of Title 5, Code of Federal Regulations. The Rating of Record, also called a summary rating, will be one of the five available ratings (i.e., Exceptional, Superior, Fully Successful, Minimally Successful, or Unsatisfactory).

Ratings of record are the official documentation for personnel actions such as within-grade increases, career ladder promotions, successful completion of probationary period, reductions in force, and adverse performance based actions, absent acceptable substitutes in accordance with Government-wide regulations. These are based upon summary level ratings, i.e., an overall rating of performance.

b. Appraisal: The process of reviewing and evaluating work, and assessing achievement of established objectives.

c. Critical Element: A work assignment or responsibility of such importance that unsatisfactory performance on the element would result in a determination that an

employee's overall performance is unsatisfactory.

d. Performance Rating: The written appraisal of performance compared to the performance standard(s) for each critical element for which there has been an opportunity to perform during the minimum rating period. It includes a rating for each performance element, as well as a summary rating which will be used as a rating of record. Also referred to as a summary rating.

Performance Standards: The expression of the performance threshold(s), requirement(s), or expectation(s) that must be met to be appraised on a critical element at a particular level of performance.

### 24.3 Performance Plan Administration

24.3.1 The application of the performance management system will be fair, equitable, reasonable and related to the employee's position description.

24.3.2 Every employee will receive a briefing regarding his or her job functions and responsibilities. The briefing shall be provided by the employee's rating official, who is usually the employee's supervisor and shall be an oral discussion to explain, clarify, and communicate the employee's job responsibilities so there is a clear and common understanding of the duties and responsibilities contained in the employee's position description and performance plan.

24.3.3 All critical elements to be used for performance appraisal will be directly related to the Employee's position description. These critical elements will be annotated on a written performance plan and presented to and discussed with the employee.

24.3.4 Variations in performance plans for similar positions will be based on real differences in the job.

24.3.5 Employee notification (and discussion as needed) should be made when there is a change in the work situation such as:

- a. Change in the supervisor of record;
- b. Detail;
- c. Change in the work unit's goals or objectives;
- d. Change in assignments;
- e. Change in the work process or product of the work unit;
- f. Change in the composition of the work team; or
- g. When an employee returns from an extended absence.

24.3.6 Informal discussions are a standard part of supervision and should occur throughout an assessment period. Discussions should be a candid, forthright dialogue between the supervisor and employee(s) aimed at improving the work process or product. The discussion will provide the opportunity to assess accomplishments and progress and identify and resolve any problems in the employee's or work team's work product.

24.3.7 Discussions may be initiated by the supervisor or employee. Discussions may be held one-on-one or, where appropriate, between a supervisor and a work group. Every effort should be made to comply with an employee's request for a discussion. If, in rare circumstances, the supervisor fails to meet with the employee as requested, the employee has the option of notifying the second level supervisor, the Union, or the HRO.

24.3.8 Supervisors should provide guidance aimed at developing the employee(s) knowledge, skills, and abilities, removing obstacles, and improving the work product or outcome. Discussions will provide the employee the opportunity to seek further guidance and understanding of his or her work performance and offer suggestions for improving processes.

#### 24.4 New and Revised Elements and Standards

24.4.1 Employees must be involved in the development and revisions of their performance plans. The employee shall be provided copies of critical job elements and standards that are new or revised.

24.4.2 If the employee and the rating official cannot agree on the elements and standards, the Employee may escalate the issue to the rating official's supervisor for discussion and final determination.

#### 24.5 Mechanics

24.5.1 All employees will receive an annual performance rating in accordance with the Departmental Manual 370 D.M. 430.

24.5.2 Employees must be working under a performance plan for a minimum of 90 calendar days before a rating can be given.

24.5.3 At least one formal written progress review will be held in accordance with the Departmental Manual, 370 D.M. 430.

#### 24.6 Uses of the Performance Management System

The Performance Management System is used for determining an employee's performance rating. It is also the basis for making certain personnel-related decisions in accordance with 370 D.M. 430.

## 24.7 Performance Assistance

24.7.1 Any time an employee falls below the fully successful level for any single element, the rating official will document and discuss the performance with the employee in an attempt to raise the performance back to at least the fully successful level in accordance with 370 DM 430.

24.7.2 The supervisor and employee will meet to identify the specific problem, determine the root cause, and develop a written assistance plan to bring the performance to at least the fully successful level. The assistance plan will be tailored to the specific needs of the employee and may include formal training, on-the-job training, counseling, assignment of a lead mentor, or other assistance as appropriate.

24.7.3 At any time during the assistance period, the supervisor may conclude that assistance is no longer necessary because the employee's performance has improved to at least "Fully Successful." The supervisor will so notify the employee of this determination in writing.

## 24.8 Performance Improvement Plan

24.8.1 Any time an employee's performance for any single element is deemed unsatisfactory, a performance improvement plan (PIP) will be developed.

24.8.2 The supervisor shall develop and discuss, in consultation with the employee, a written PIP identifying the employee's performance deficiencies, the successful level of performance, and the action(s) that must be taken by the employee to improve to the successful level of performance, the methods that will be employed to measure the improvement, and any provisions for counseling, training, or other appropriate assistance in accordance with 370 D.M. 430.

24.8.3 A reasonable period of not less than 90 calendar days under a PIP will be given for the employee to achieve at least "Minimally Successful" performance.

## 24.9 Adverse Action

24.9.1 The performance appraisal program will be managed in accordance with the Department of the Interior policy, including the DOI Performance Appraisal Handbook, Chapter 43 of Title 5 U.S.C., 5 C.F.R. 430 and 5 C.F.R. 432, or their successor documents.

24.9.2 The employee will be afforded 14 calendar days to respond to the Agency's notice of proposed action, orally and in writing.

## ARTICLE 25. DISCIPLINARY AND ADVERSE ACTIONS

### 25.1 Purpose

The purpose of this article is to prescribe the criteria and procedures by which the Employer may impose corrective discipline upon employees.

### 25.2 Definitions

a. Corrective Action - Action taken by Management to address minor offenses. Forms of corrective actions are oral counselings and letters of counseling. Corrective action documentation will not be filed in the employee's official personnel file. Generally, any corrective action is considered an isolated incident if there is no recurrence and any documentation will not be used in progressive disciplinary actions after six months.

b. Oral Counseling means direction to an employee from the supervisor that is used as a constructive means to encourage an employee to improve his or her conduct. The supervisor should explicitly state at the start of the meeting that the purpose of the meeting is to provide "oral counseling."

c. Letter of Counseling is the same definition as oral counseling except it is written by the supervisor and signed by the employee and the supervisor. The employee will receive a copy of the signed letter of counseling. The employee's signature indicates a discussion, not necessarily that agreement has occurred.

### 25.3 Categories of Disciplinary and Adverse Actions

25.3.1 Disciplinary action. An action taken by Management, not appealable to the MSPB (i.e., written reprimand, suspension for 14 days or less) to address employee misconduct (reference Departmental Manual 370 D.M. 752).

25.3.2 Adverse action. A personnel action taken by management, appealable to the MSPB, to effect an employee's removal, suspension for more than 14 days, furlough without pay for 30 days or less, or reduction in grade or pay (reference Departmental Manual 370 D.M. 752).

### 25.4 Actions Not Covered by This Article

In accordance with 5 U.S.C. § 7512, the provisions of this article do not apply to:

a. A suspension or removal under 5 U.S.C. § 7532 (suspension and removal for National Security reasons);

b. A reduction-in-force action under 5 U.S.C. § 3502;

c. A reduction in grade or removal under 5 U.S.C. § 4303 (actions based on unacceptable performance); or

d. An action initiated under 5 U.S.C. § 1215 (disciplinary action initiated by the Office of Special Counsel).

## 25.5 General Provisions

25.5.1 Disciplinary and adverse actions will be taken only for such just cause as will promote the efficiency of the service.

25.5.2 Disciplinary and adverse actions will be initiated and handled in an expeditious manner after the Employer has become aware of the conduct.

25.5.3 Disciplinary and adverse actions will be consistently applied given the same set of circumstances. The Employer will administer disciplinary and adverse action procedures and determine appropriate penalties to all employees in a consistent and fair manner. The parties agree to the concept of progressive discipline that is designed primarily to correct and improve employee behavior. Progressive discipline provides that in dealing with an instance of employee misconduct, the responsible management official (often the first-level supervisor) should select the minimum disciplinary/adverse action most likely to correct the specific behavioral problem, with penalties selected at an escalating level for subsequent (but not necessarily identical) offenses, when appropriate. Any of these steps may be bypassed where the Employer determines by the severe nature of the behavior that a lesser form of discipline would not be appropriate.

25.5.4 Discussions involving disciplinary or adverse actions will be conducted privately. The Employer's officials will protect the privacy of the employee against whom a disciplinary or adverse action is taken whenever possible. However, nothing herein will prevent the Union from attending any formal discussion under Employee Rights of this Agreement.

25.5.5 The Table of Offenses and Penalties (reference 370 D.M. 752) will be consulted and applied to ensure consistency and fairness of disciplinary and adverse actions.

25.5.6 Once a written reprimand is issued, the reprimand constitutes a final Employer decision and may be grieved through the Negotiated Grievance Procedure in this Agreement.

## 25.6 Short-Term Suspensions

25.6.1 In accordance with Departmental Manual 370 D.M. 752, an employee against whom a short-term suspension is proposed is entitled to the following:

- a. Advance written notice stating the specific reasons for the proposed action;
- b. A reasonable time, but not less than 7 calendar days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer; and,
- c. A written decision and the specific reasons for the decision at the earliest practicable date.

### 25.6.2 Notice of Proposed Action

- a. The notice of proposed action shall inform the employee of his or her right to review the material that is relied on to support the reasons for action given in the notice. The Employer will provide copies of all the material relied upon to support the proposed action concurrent with the proposal notice being delivered to the employee and/or a designated representative. Any designation of representative must be in writing.

b. The employee is entitled to Union representation as described in Employee Rights and Responsibilities, Article 5.

c. A deciding official will be designated by management to receive the employee's oral and/or written answer. The deciding official will have authority to make a final decision on the proposed action.

d. Under ordinary circumstances, an employee whose suspension has been proposed shall remain in a duty status in his or her regular position during the advance notice period.

### 25.6.3 Employer Decision

a. In arriving at its written decision, the Employer shall consider only the reasons specified in the notice of proposed action and shall consider any answer of the employee and/or his or her representative made to a designated deciding official. The Employer shall deliver the notice of decision to the employee at or before the time the action will be effective and advise the employee of appeal rights.

b. The written decision constitutes the Employer's final decision on the short-term suspension and may be grieved through the Negotiated Grievance Procedure in this Agreement.

### 25.7 Removals, Suspensions for More than 14 Calendar Days, Reduction in Pay or Grade, or Furlough for 30 Calendar Days or Less

25.7.1 All the same procedures will be followed as described in Section 25.5 and related subsections above except:

a. At least 30 calendar days advance written notice, unless there is reasonable cause to believe that the employee has committed a crime to which a sentence of imprisonment may be imposed or in the event of an emergency furlough, stating the specific reasons for the proposed action.

b. A reasonable time, but not less than 14 calendar days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.

25.7.2 After receiving a decision on a removal, suspension for more than 14 calendar days, a reduction in pay or grade, a furlough of 30 calendar days or less, an employee, at his or her option, may appeal to the MSPB or file a grievance under the Negotiated Grievance Procedure in this Agreement, but not both.

25.7.3 An employee alleging unlawful discrimination, at his/her option, may file a complaint under the statutory appeal process to the Equal Employment Opportunity Commission, or file a grievance under the Negotiated Grievance Procedure in this Agreement, but not both.

25.7.4 After receiving a decision on a removal, suspension for more than 14 calendar days, a reduction in pay or grade, a furlough of 30 calendar days or less, an employee alleging that unlawful discrimination was a basis for the action in whole or in part, at his/her option, may appeal to the (a) MSPB and file an EEO complaint or (b) file a grievance under the Negotiated Grievance Procedure in this Agreement, but not both.

25.7.5 If the employee wishes to utilize the appellate procedures under (cite legal reference for MSPB appeals), he or she has 30 calendar days from the effective date of the action being appealed, or no later than 30 calendar days after the date of service of a decision, whichever is later, to appeal to the MSPB.

25.7.6 An employee will be deemed to have exercised his or her option to raise a matter either under the applicable appellate procedures or the Negotiated Grievance Procedure when the employee timely files an appeal under the applicable appellate procedures or a grievance in accordance with the provisions in Article 26, Grievance Procedures, whichever occurs first. Additional information regarding statutory appeals procedures is found in the Negotiated Grievance Procedure.

## 25.8 Medical Condition

An employee who wishes consideration of any medical condition that may be used to mitigate the discipline shall be given a reasonable amount of time to furnish medical documentation (as defined in 5 C.F.R. § 339.104).

## ARTICLE 26. GRIEVANCE PROCEDURE AND ALTERNATIVE DISPUTE RESOLUTION (ADR)

### 26.1 Purpose.

The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable resolution of employment disputes/disagreements and grievances filed by bargaining unit employee(s), the Union or the Agency. Any discussions, information and/or outcomes under the processes covered in this Article are considered confidential. The Union has the right to be present during any proceeding under this Article.

#### Informal Problem Solving/Negotiated Grievance Timelines

Step	Time for Employee to initiate Step	Time to conduct meeting	Written Decision/Response Due
Informal Problem Solving Process	<b>5 workdays</b> from date of incident/event to bring the issue to the attention of the supervisor	<b>Within 5 workdays</b> from date of the moving party raises the issue to the responding party. Note: supervisor must be on clear notice that employee is invoking Informal Problem Solving Process.	<b>5 workdays</b> from date of informal problem solving meeting
Step 1 (Formal)	<b>7 workdays</b> from receipt of decision/response in informal problem solving process	<b>Within 5 workdays</b> from date of filing at 1 <sup>st</sup> Step grievance	<b>5 workdays</b> from date of 1 <sup>st</sup> Step meeting
Step 2 (Formal)	<b>5 workdays</b> from receipt of 1 <sup>st</sup> Step decision	<b>Within 7 workdays</b> from date of filing 2 <sup>nd</sup> Step	<b>10 workdays</b> from date of 2 <sup>nd</sup> Step Meeting

**Notes:** Timelines apply to all parties. When ADR is elected, grievance timelines are suspended until the ADR process is complete

### 26.2 Reasonable Duty Time

The employee is allowed reasonable duty time to prepare for all processes covered under this Article and attend meetings with deciding officials. This includes time to confer with the Union representative. The employee will notify the supervisor in advance. Requests should be in writing and include specific information regarding the date, departure time and approximate duty time that will be used.

### 26.3 Informal Problem Resolution Process

26.3.1 The parties recognize that most grievances arise from misunderstandings or disputes that can be resolved promptly and satisfactorily on an informal basis at the immediate supervisory level. The parties agree that it is important to promote effective communication between employees and their supervisors.

26.3.2 The parties agree that every effort will be made to resolve grievances at the lowest possible level. The parties strongly recommend the use of open communications and, if necessary, the escalation to and inclusion of the second level supervisor. The Union will counsel employees in a fair and objective manner as to the validity of potential grievances, whether the grievance is warranted, and whether the remedy sought is believed by the Union to be legal and feasible.

26.3.3 In as much as dissatisfaction and disagreements arise occasionally among people in any work situation, the filing of a grievance shall not be construed as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the organization. Neither shall it reflect upon the professionalism or performance of the supervisory or Management officials.

26.3.4 The Employee has five (5) workdays from date of incident/event to bring the issue to the attention of the supervisor. An informal problem solving meeting will be conducted within five workdays from the date the employee brings the issue to the supervisor's attention. If the issue is not resolved to the satisfaction of the employee, Union or Agency, the moving party may proceed to the formal grievance procedure or Alternative Dispute Resolution within seven (7) workdays from the date of the informal problem solving meeting.

#### 26.4 Coverage and Scope:

##### 26.4.1 A grievance means any complaint:

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

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

- a. Any claimed violation of Subchapter 3 of Chapter 73 of Title 5 U.S.C. relating to prohibited political activities;
- b. Retirement, life insurance, or health insurance;
- c. A suspension or removal under 5 U.S.C. § 7532 relating to national security;
- d. Any examination, certification, or appointment;
- e. The classification of any position that does not result in the reduction in grade or pay of an employee;
- f. Termination of probationary or temporary employees;

g. Proposals to take disciplinary or adverse actions;

h. Employer determinations concerning the requirement of employees to apply for, obtain and retain security clearances/background investigations.

26.4.3 In accordance with 5 U.S.C. 7121(d), unit employees affected by adverse action based on performance or misconduct may either appeal the action through statutory appeal procedures, or grieve the action under the provisions of this Article, but not both. The employee will be deemed to have exercised his/her option only when the employee timely initiates an action under the applicable statutory procedure or files a timely formal grievance in accordance with this Article.

## 26.5 Representation

26.5.1 Representation of bargaining unit employees shall be the sole and exclusive province of the Union. Except as provided by law, this is the exclusive procedure available to bargaining unit employees, the Union and the Agency for the resolution of grievances within its scope.

26.5.2 Upon filing of a grievance, an employee may elect to be self-represented or represented by a Union representative or designee approved in writing by the Union. The employee, or their representative, will provide the Agency official a written designation of representation form.

26.5.3 The Union has the right to be present during any proceeding under this Negotiated Grievance Procedure. If the Union is not the designated representative, a copy of the grievance will be provided to the Union as soon as possible but normally within two workdays of the filing date. The Agency will provide the Union reasonable advance notice of any grievance meeting or discussion when the Union is not the designated representative. A copy of each grievance decision shall be provided to the Union in a reasonable and timely manner.

26.5.4 In situations where the grievant(s) and representative(s) are on different work schedules and/or locations, the parties agree to make every reasonable effort to schedule all meetings regarding the grievance process to the common work times of the grievant(s) and representative(s) unless the parties mutually agree otherwise.

26.5.5 The Union President or designee must be notified in advance and in agreement with the actions being taken by the Union's representative.

## 26.6 Formal Grievance Procedures

26.6.1 If either party requests information from the other party relative to the grievance and the other party does not respond timely, the party requesting information will not be penalized in the grievance process.

26.6.2 For purposes of this article, the deciding official will typically be the second level supervisor unless that supervisor has been involved in the informal resolution process or other aspect of the grievance. In such case, the third level supervisor or another supervisor similarly situated within the organization. For example, if the second level supervisor is a division chief then the similarly situated supervisor could be a different division chief.

26.6.3 The following procedures are established for the resolution of employee grievances.

The core essence of the grievance should remain unchanged throughout the entire grievance process. If a prior grievance step resolves part of the grievance, the grievance can be narrowed in scope to exclude the resolved issues and proceed to the next step as appropriate. The parties may consult for the purpose of clarification concerning the stated grievance and/or the requested relief/remedy.

26.6.4 All time limits may be extended by mutual agreement of the parties.

#### 26.6.5 Formal Steps

a. FORMAL STEP 1. An employee has seven (7) workdays from receipt of the decision/response from the informal problem solving process to file a formal grievance at Step 1. The Step 1 grievance will be submitted to the next level supervisor in writing, and include a statement of the issues and relief/remedy sought. The Step 1 deciding official shall meet with the grievant within five (5) workdays following the receipt of the written grievance. A written decision/response shall be provided by the deciding official within five (5) workdays following the meeting.

b. FORMAL STEP 2. If the decision rendered at the Formal Step 1 is not acceptable and the grievant desires to further pursue the matter, the grievant or their designated Union representative may submit a Formal Step 2 grievance within five (5) workdays following the receipt of the written Formal Step 1 decision. If the Step 1 deciding official fails to render a timely decision, the grievant may file a Formal Step 2 grievance within five (5) calendar days of the decision due date. The Formal Step 2 grievance is submitted in writing to the Associate Director/Deputy. The Step 2 grievance must explain why the Formal Step 1 decision is not acceptable and include a copy of the Formal Step 1 decision, if rendered. The deciding official shall meet with the grievant within seven (7) workdays following the deciding official's receipt of the written Formal Step 2 grievance. The deciding official shall render a written decision within ten (10) workdays following the discussion with the grievant.

#### 26.7 Alternative Dispute Resolution (ADR)

26.7.1 The parties are encouraged to engage in some type of Alternative Dispute Resolution (ADR) (for example, services of the DOI's Collaborative Alternative Dispute Resolution (CADR) Office or Federal Mediation Conciliation Services (FMCS) as a cost-effective, cooperative alternative to resolve employee issues at the lowest level. ADR specialists are neutral and impartial.

26.7.2 The ADR process:

- a. is voluntary and informal;
- b. addresses all types of employment concerns;
- c. improves communication;
- d. reduces tension;

- e. helps participants focus on their values and interests; and
- f. develops solutions that work for all parties.

26.7.3 Either party may choose to terminate the ADR process at any time.

#### 26.7.4 ADR Procedure

If ADR is chosen, the parties must be present and participate fully. If ADR is utilized, the parties agree to the following provisions:

- a. During ADR, the grievance timelines are suspended until the ADR process is completed.
- b. If ADR services are requested, the bargaining unit employee shall request assistance from their Servicing Human Resources Office (i.e., LRO) or the Local Union Office
- c. The Union has the right to be present during any proceeding under the ADR process. If the Union chooses not to participate, they will notify the appointed or appropriate ADR Coordinator. The Agency will provide the Union reasonable advance notice of any meeting or discussion when the Union is not the designated representative.
- d. If the parties voluntarily reach an agreement/settlement through the ADR process, they will be bound by the terms of the agreement/settlement. A copy of the agreement/settlement shall be provided to the Union in a reasonable and timely manner. If no agreement/settlement is reached, the party may resume the grievance process within five (5) workdays of such determination.
- e. The ADR sessions will be held, if possible, on IBC premises and during the regular administrative work hours. If in a duty status, the grievant, Union Representative, or any employee called to participate in an ADR meeting will be excused from work duties as necessary by his/her supervisor. Designated Union representative and/or witnesses will not suffer loss of pay or charge to leave.
- f. Issues discussed during ADR sessions are considered confidential.

#### 26.8 Contents of Grievance and Decision

26.8.1 Any formal grievance filed under this procedure must contain the following:

- a. Grievant's name and name of Union representative, if any;
- b. Date of alleged incident giving rise to the grievance or the date on which the grievant became aware of its occurrence;
- c. To the extent possible, all relevant information and documents specifically related to and/or in support of the grievance; and
- d. Specific relief/remedy sought by the grieving party which must be specific to the grieving party and within the jurisdiction of the responding party to grant.

26.8.2 All grievance decisions will be in writing and state the issue being grieved, a summary of the findings and the rationale for the decision. Copies of relevant documents cited in the decision will be provided if they are not otherwise readily available to the employee.

26.8.3 The grievant may withdraw a formal grievance by written notification at any time to the appropriate official.

## 26.9 Grievability

In the event the deciding party should declare a grievance non-grievable or non-arbitrable, the original grievance shall be considered amended to include this issue. The deciding party agrees to raise any questions of grievability or arbitrability of a grievance prior to the time limit for the decision of Formal Step 2 of this procedure. Upon mutual agreement by the parties, disputes of grievability/arbitrability shall be presented jointly with the merits issue(s) in the amended grievance.

## 26.10 Options Outside the Grievance Procedure

26.10.1 In accordance with 5 U.S.C. 7121, an employee at his/her option may raise matters covered under Sections 4303 (Unacceptable Performance) and 7512 (Adverse Actions) under the appropriate statutory procedures or the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his/her option at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing, whichever event occurs first.

26.10.2 Similarly, an employee affected by a prohibited personnel practice under 5 U.S.C. 2302(b)( 1) of the Civil Service Reform Act may raise the matter under a statutory procedure or the negotiated procedure but not both. An employee shall be deemed to have exercised his/her option at such time as he/she timely files a formal grievance in writing or files a written complaint under the statutory EEO procedure, whichever event occurs first.

26.10.3 An employee alleging discrimination in violation of any EEO law, regulation or Executive Order is encouraged to seek advice from a DOI EEO Counselor, the DOI Office of Civil Rights and/or the Union. Employees may raise the matter in the EEO process and/or the procedures under this Article. Once an employee has filed formerly under either process, the employee may not seek redress under any other avenue on the same matter (such as EEO, MSPB and Grievance/Arbitration).

26.10.4 An employee shall be deemed to have exercised his/her option at such time as he/she timely files a formal grievance in writing or files a formal EEO complainant with the Office of Civil Rights, whichever event occurs first.

## ARTICLE 27. ARBITRATION

### 27.1 Applicability

Any grievance under the terms of this Agreement which is not resolved may be subject to binding arbitration. Arbitration may be invoked only by the Union or the Agency.

### 27.2 Invoking Arbitration

27.2.1 Before the Union decides to invoke arbitration, at the vote of Union representatives regarding the case in question, Agency will be afforded time to brief Union representatives of the facts surrounding the case so the Union representatives can reach a balanced conclusion. The briefing will involve full discussion of the situation and an opportunity for both Agency and the Union to understand the facts surrounding the case.

27.2.2 Only the union or the agency may refer any grievance that remains unresolved after the final step under the grievance procedures. A notice to invoke arbitration shall be in writing to the opposite party. Such notice shall be made within 30 calendar days after receipt of the written decision rendered in the final step of the grievance procedure.

### 27.3 Arbitration Procedures

#### 27.3.1 Selection of Arbitrator

a. On or after the date of the notice to invoke arbitration, the moving party will request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7), impartial persons to act as an arbitrator.

b. The preference is to inform FMCS to provide arbitrators located in the Denver metro area and which have Federal sector arbitration experience. As appropriate, the parties may jointly request that the FMCS provide arbitrators with certain additional specialized experience.

c. Each party will review the list and identify their Arbitrator of choice within ten (10) calendar days after receipt of such list. The agency and the union will alternately strike one arbitrator's name from the list of seven (7) and will then repeat this procedure. The remaining person shall be the duly selected arbitrator. The procedure to determine who strikes the first name will be determined by a coin toss.

d. Within seven (7) calendar days of selection of the arbitrator, the parties will meet to agree upon the outstanding issues to be arbitrated in order to provide a joint submission of the issues for arbitration. If an agreement is reached, the joint submission will be provided to the arbitrator within 7 calendar days of this meeting.

e. If the parties cannot reach an agreement on a joint submission of the issues, within 7 calendar days of the aforementioned meeting, each party shall submit a separate submission to the arbitrator (and provide a copy to the other party) and the arbitrator shall determine the issue or issues to be heard.

27.3.2 Ex Parte Communication with Arbitrator - Both parties agree that there will be no communication with the arbitrator unless both parties are participating in the communication or one party has agreed to the communication by the other party with the arbitrator.

27.3.3 Arbitrator's Scope of Authority - The arbitrator will not have the authority to change, modify, alter, delete or add to the provisions of this Agreement or any rule, regulation, or policy considered in the arbitration since that is the exclusive right of the contracting parties only. The arbitrator may retain jurisdiction over the case where necessary to clarify the award will retain jurisdiction in all cases when exceptions are taken to an award and the Federal Labor Relations Authority sets aside all or a portion of the award.

27.3.4 Witnesses and Parties - The grievant(s), the grievant's representative, and technical advisor, if any, and all employees identified as witnesses, who are in an active duty status, shall be excused from work duties and granted duty time and travel and per diem expenses to the extent necessary to participate in all phases as a party or to testify as a witness in the arbitration proceeding without loss of pay.

27.3.5 Official Time - A reasonable amount of preparation time for arbitration will be granted in accordance with the provisions of Article on official time.

27.3.6 Fees and expenses

a. The arbitrator's fees and expenses shall be borne equally by the parties to include transcript requests. Both parties will receive a copy of the transcript regardless of which party originally requested it.

b. Reasonable attorney fees will be provided to the Union in cases where it represents employees who suffer unwarranted and unjust personnel actions, and if the Union is the prevailing party and the arbitrator determines that payment of attorney fees is warranted in the interest of justice, or as warranted by statute, including any case in which a prohibited personnel practice was engaged in by the Agency or any case in which the Agency's action was clearly without merit, and as otherwise consistent with applicable law.

27.3.7 The location of the arbitration will normally be at the facility where the grievance exists. At the local union's request, another site may be designated upon mutual agreement.

27.4 Settlement Agreements

All settlement agreements are confidential and results are not to be shared with anyone without an official need to know. Settlement agreements are not precedent-setting; each case is different based on the facts of the situation, the needs of the organization involved, and the parties' actions.

## **ARTICLE 28. UNFAIR LABOR PRACTICE (ULP) CHARGE**

### **28.1 Purpose**

The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable resolution of labor-management disputes/disagreements raised by either the Union or the Agency. The parties agree that productive dialogue in addressing disputes/disagreements is an essential part of the resolution process. Therefore the parties agree to normally follow the procedures below.

### **28.2 Procedures**

- a. If either party believes that a ULP has occurred, that party will serve the potential ULP Charge on the other party before filing a formal Charge with the FLRA.
- b. The parties agree to meet within 15 calendar days of receipt of the potential ULP complaint from the charging party to discuss the issue(s) involved and make a good faith attempt at informal resolution. The attempt at informal resolution will not involve demands and concessions, but rather will be focused on the open exchange of the interests, views, supporting facts and information, and concerns of the parties. The 15 calendar day timeframe may be extended or waived by mutual agreement of the parties.
- c. If resolution is not reached by the end of the 15 calendar day period or any agreed-to extension, the charging party may file a formal ULP complaint with the FLRA.

## **ARTICLE 29. EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

29.1 The legal requirements regarding discrimination and/or harassment issues are based upon (but not limited to) Title VII of the Civil Rights Act as amended, and all applicable laws, Acts and Executive Orders.

29.2 The Employer and the Union are committed to promoting equal opportunity through a positive, continuing effort involving all Management policies, programs, objectives, practices, and personnel with the objective of a workforce free from discrimination because of race, color, religion, sex (including sexual harassment, pregnancy, gender identity, equal compensation), genetic information, status as a parent, national origin, sexual orientation, age, mental or physical disability, and/or retaliation for protected activity (exercising EEO rights, opposing discrimination and/or participating in the EEO process.)

29.3 If an employee chooses to pursue or file an EEO complaint the employee has the right to Union representation at all stages of the complaint process.

### **29.4 Affirmative Employment Program**

The parties acknowledge the value of the Office of the Secretary's affirmative employment plan and will comply with 29 CFR Part 1614 and Management Directive (MD) 715 when executing applicable provisions. Should adverse impact be evidenced pursuant to the affirmative employment plan, specific and measurable objectives shall be set to correct the conditions.

### **29.5 Information and Data**

The Agency will furnish the Union MD 715 data for the Agency on a yearly basis.

29.6 The Agency will post a current list of EEO counselors on official bulletin boards. This list will provide counselor contact information.

### **29.7 Upward Mobility Opportunities**

29.7.1 Agency will promote upward mobility opportunities when it is determined to be appropriate which will:

- a. Provide the means by which the capabilities of participants are increased to their fullest extent possible.
- b. Provide employees with an opportunity to enter positions with greater promotion potential or the competitive service through on-the-job training and development.
- c. Increase employee morale.
- d. Enhance employee growth, career development and opportunities.
- e. Enhance greater workplace inclusion and diversity.

29.7.2 Such upward mobility opportunities are intended to effectively utilize the workforce by increasing opportunities of lower-graded employees to attain their full employment potential.

29.7.3 Consideration will be given to all eligible employees who apply for the various opportunities, including those underrepresented persons such as minorities, women, and individuals with disabilities.

29.7.4 The Agency will use workforce analysis to consider utilizing existing or establishing new bridge positions to afford opportunities for employees to transition to new career fields or from clerical to technical and technical to specialist fields. The Agency will share workforce analysis and data relied upon in making such determinations with the Union.

29.7.5 The Agency will provide training programs in support of employees selected to participate in Upward Mobility opportunities. The training will be progressive and will provide the knowledge and skills required by the targeted positions.

## **ARTICLE 30. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

30.1 The parties recognize the value of employee assistance programs. EAP offers assessment, short-term counseling and referral services for a wide range of personal problems as well as a variety of work/life issues.

30.2 The parties agree to support employees who accept assistance made available under the provisions of the DOI EAP program and to work jointly to promote the program as appropriate.

a. Employees may request approval to use excused absence to receive EAP services.

b. When subsequently referred to private external services, employees will use sick leave, annual leave or leave without pay, whichever is appropriate.

30.3 Agency agrees to consider the recommendations of the EAP advisor or source of treatment to which employee was referred, i.e., leave approval, adjusted work schedule.

30.4 Voluntary Participation

a. Employees' participation in EAP services is purely voluntary.

b. The employee's employment status will not be adversely impacted due to an employee's request for counseling or referral assistance.

c. If an employee declines EAP services, no adverse impact will result from the employee's declination.

## **ARTICLE 31. REALIGNMENT AND REORGANIZATIONS**

31.1 Management and the Union will engage in Pre-Decisional Involvement (PDI) prior to implementing a realignment or reorganization.

31.2 While the goal of pre-decisional involvement is to reach agreement, it will not preclude Management and the Union from following procedures in Article 9, Mid-Term Bargaining.

31.3 Negotiations will not delay the effective date. If the effective date is impending and negotiations have not been completed, Management and the Union will engage in post-implementation negotiations.

31.4 Refer to Article 34, Space Management, regarding impact to work space changes.

## **ARTICLE 32. REDUCTION IN FORCE, CONTRACTING OUT, AND A-76 STUDIES**

The Agency will provide advance notification of anticipated Reduction in Force (RIF), Contracting Out and/or A-76 Studies and engage the Union in pre-decisional involvement. The parties will engage in bargaining over any changes or impacts in accordance with Article 9, Mid-term Bargaining.

## **ARTICLE 33. HEALTH AND SAFETY**

33.1 The Agency is responsible for maintaining a safe working environment that is free of hazards likely to cause accidents, injuries, or illnesses. Applicable regulations in effect during the term of this agreement will be followed; however, when there is a change, the agency will meet any statutory duty to bargain.

33.2 Any safety issues or concerns should be immediately reported to the immediate supervisor and/or facilities by calling 303-969-7225 or report in person.

33.3 The union's representative may participate as appropriate in addressing safety and health issues.

33.4 The Agency agrees to grant the Union access to any Material Safety Data Sheets maintained or prepared by the Agency, manufacturer or distributor on chemicals to which bargaining unit employees may be exposed.

33.5 Indoor air quality evaluations. IBC will follow GSA lease requirements in regards to air quality, radon, carbon monoxide, and any other requirements of GSA. Concerns should be reported to facilities and any specific concerns raised by employees will be evaluated. The union will be provided a copy of any report.

33.6 When there is a scheduled health and safety inspection (to include fire alarm testing) to be conducted on the Agency's premises, the Union will be notified in advance.

33.7 The Agency agrees to provide the Union access to a copy of all reports of Safety and Health inspections, accidents, and occupational illnesses.

33.8 Employees have the right and are encouraged to report all on-the-job injuries, regardless of their severity, as soon as possible after becoming aware of/incurring the injury. Employees should notify their immediate supervisor of the injury and are required to document the incident using the Safety Management Information System (SMIS). The Agency shall notify an employee involved in a reported job-related accident immediately of all the options, responsibilities, and benefits under the Federal Employee's Compensation Act to include information regarding return to work policy for injured employees.

## **ARTICLE 34. SPACE MANAGEMENT**

### **34.1 Office Space**

The Employer agrees that the allocation of space and furnishings for the space, such as file cabinets, desks, bookcases, etc., shall be adequate to maintain an efficient work environment and for performance of assigned duties. The parties agree that in consideration of space limitations, the employer will use and comply with GSA, OMB, and departmental policy and guidance.

34.2 Employees who desire to move or modify their work station will submit a request through their immediate supervisor for approval.

### **34.3 Employee moves and Reconfigurations**

34.3.1 The Union shall be notified and involved in all proposed employee moves prior to implementation.

34.3.2 Work station assignments will be based on fairness and needs of the organization. Employees shall be given a choice of available work space within the work unit based on seniority as defined as service comp date for annual leave.

34.3.3 As space limitations dictate, priority will be based on the number of days regularly present at the on-site duty location, with seniority as the tie-breaker.

34.3.4 Space adjustments shall be implemented in such a way as to minimize disruption to employees to the extent practicable.

## **ARTICLE 35. DATA COLLECTION**

35.1 Data collected from SmartCards, video cameras, customer surveys, call center monitoring technology, and similar systems will be used generally to monitor and measure mission performance and/or ensure facility, system, and data security. It will not be used to measure individual employee performance unless it is identified in the employee's performance plan. It may be used as evidence or in discovery where suspected violations of laws, regulations, or policies have occurred.

### **35.2 SmartCard Uses**

35.2.1 The parties agree that SmartCards are to be used by employees solely as an identification card, as an electronic key for access to buildings and facilities, and as an electronic key for access to computer equipment.

35.2.2 The SmartCards will not be used for any purpose other than listed above.

35.2.3 The Employer will not require an employee's SmartCard to include any information beyond that required by the Government-wide Standard.