

# **Collective Bargaining Agreement**

**between**

**the American Federation  
of Government Employees, AFGE Local 622  
and**

**USDA, Rural Development – Indiana**



**American Federation  
of Government Employees,  
AFGE Local 622**



**USDA Rural Development  
Indianapolis, Indiana**

**Effective June 14, 2017 to June 13, 2020.**

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## Preamble

This Collective Bargaining Agreement (hereinafter referred to as the “Agreement”) is entered into by and between the American Federation of Government Employees, AFL-CIO, and its agent, American Federation of Government Employees, Local 622, Indiana, (hereinafter referred to as the “Union”) and the USDA, Rural Development - Indiana, (hereinafter referred to as the “Employer”, or “Agency”, or “Management”).

The parties completely adopt the Labor-Management Relations Statute, 5 USC Chapter 71, which states in its section 7101 the purpose and findings of Congress regarding labor and management relations and concludes that labor organizations and collective bargaining in the civil service are in the public interest.

It is the intent and purpose of both parties to the Agreement to:

1. Promote and improve the efficient and effective administration of USDA, Rural Development - Indiana and the well-being of employees within the meaning of the Federal Service Labor-Management Relations Statute (“the Statute”);
2. Establish and foster a basic understanding of personnel policies, procedures and practices, and matters affecting the conditions of employment;
3. Provide a means for amicable discussion and adjustment of matters of mutual interest at USDA, Rural Development - Indiana; and
4. Promote and develop, as partners, new ways to better serve our customers in the rural communities in Indiana, who are our reason to be as civil service employees.

The parties to this Agreement recognize that they have a mutual and cooperative interest in accomplishing the mission of USDA Rural Development - Indiana. They agree accomplishments will be greater by creating an atmosphere of cooperation and trust between labor and management.

By entering into this Agreement, both parties agree to work towards the creation of a work environment in which each individual treats all others with respect, consideration and dignity. In an atmosphere of mutual respect and trust, all parties shall be treated fairly and equitably in the administration of personnel policies, practices, procedures and matters affecting conditions of employment with proper regard for their privacy and their legal and constitutional rights.

## DEFINITIONS:

As used in this Agreement, the following terms (**in bold and underlined**) are intended to have the definitions that follow them.

1. **Agency (or “Management” or “Employer”)**: USDA, Rural Development - Indiana.
2. **Amendments**: modifications to the basic Agreement to delete, change portions, sections, or articles of the Agreement.
3. **Authority**: “Authority” means the Federal Labor Relations Authority described in section 7104(a) of the Federal Service Labor-Management Relations Act (Chapter 71 of the Civil Service Reform Act of 1978).
4. **Arbitration**: a method for settling a dispute by having an impartial third party decide the issue. The decision of the third party (arbitrator) is usually binding.
5. **AWKS**: acronym for “Alternate Work Site”, that is, the work site an employee uses while in tele-work status.
6. **Bargaining Unit**: generally, a group of workers who have chosen a labor organization to be their exclusive representative for bargaining with their employer about their working conditions. Here, the group of employees of the Agency who voted to be represented by the “Union” as defined below (see Article 1, “Parties to the Agreement, Recognition, Definition of Bargaining Unit, and Coverage of the Agreement”).
7. **Collective Bargaining**: the performance of the mutual obligation of the representative of an Agency and the exclusive representative of employees in an appropriate unit to meet at reasonable times and consult and bargain in good-faith effort to reach agreement with respect to the conditions of employment affecting such employees. The representatives are obligated to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.
8. **Conditions of Employment**: personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices and matters: (a) relating to political activities prohibited under subchapter III of Chapter 73 of Title VII; (b) relating to the classification of any position; or (c) to the extent such matters are specifically provided for by federal statute.
9. **Days**: calendar days unless otherwise noted.
10. **Disciplinary Action**: suspension of fourteen (14) days or less or letters of caution, warning, or reprimand.
11. **Emergency Overtime**: overtime ordered during the same workday.

12. **Emergency Situation:** an emergency situation is one which poses sudden immediate and unforeseen work requirements for the Employer or Agency as a result of natural phenomena or other circumstances beyond the Employer's or Agency's control or ability to anticipate.
13. **Employees:** individuals who are both (a) Employees" within the meaning of the Federal Service Labor-Management Relations Statute and (b) members of the bargaining unit covered by this Agreement.
14. **Employer:** see "Agency" above.
15. **Grievance:** see Article 26, "Negotiated Grievance Procedure", section 2.
16. **Grievance Arbitration Hearing:** an arbitration hearing where an individual employee, group of employees, the Union, or the Employer seeks to obtain resolution through the arbitration process under Article 27, "Arbitration", of a dispute arising from differing claims about rights created by contract, regulation or statute.
17. **Impasse:** the condition when the representatives of the Employer and Union have, after a thorough exchange of views in bargaining about negotiable matters, been unable to arrive at a mutually agreeable resolution of their differences.
18. **Mid Term Bargaining:** negotiations between the Agency and the Union, dealing with conditions of employment of the bargaining unit employees covered by this agreement which are not currently contained in the Agreement. See Article 5, "Negotiations During the Term of the Agreement".
19. **Management:** see "Agency" above.
20. **Official Time:** duty time granted to Union representatives, without charge to leave or loss of pay when the employee would otherwise be in a duty status, to perform representational functions. Official Time is compensable as hours of work.
21. **Seniority:** the length of an employee's continuous creditable service within the Department of Agriculture. Seniority date is determined by the time from the latest entry on duty date with the Department of Agriculture to the current date.
22. **Shall:** used herein to express what is mandatory.
23. **Union:** American Federation of Government Employees, AFL-CIO, and its agent, American Federation of Government Employees, Local 622.
24. **Union Representative:** elected or appointed officials of AFGE Local 622, including stewards and other designated representatives. Also including, but not limited to staff members of AFGE District 6 and National Headquarters of AFGE.
25. **"Unofficial File":** any collection of information on a bargaining unit employee not identified either by regulation or statute.

# **Article 1**

## **Parties to the Agreement, Recognition, Definition of Bargaining Unit, and Coverage of the Agreement**

### **Section 1 - Parties to the Agreement**

The parties to this Agreement are the Union and the Agency as defined above.

### **Section 2 - Recognition**

The Employer recognizes American Federation of Government Employees, AFL-CIO, and its agent, American Federation of Government Employees, Local 622, as the exclusive representative of all employees [hereinafter sometimes referred to as “employees” or “bargaining unit employee(s)”] in the bargaining unit as defined below.

### **Section 3 - Bargaining Unit**

A. This Agreement applies to all members of that unit named in the “Certification of Representative” issued by the Chicago Regional Director of the FLRA on May 31, 2013 in Cases No. CH-RP-13-0014 and No. CH-RP-13-0015, and described therein as follows:

INCLUDED: All professional and non-professional employees of USDA, Rural Development assigned to State and Area Offices in Indiana.

EXCLUDED: All USDA, Rural Development supervisors, management officials, and employees described in Title 5, United States Code, Section 7112 (b) (2) (3) (4) (6) and (7) assigned to State and Area offices in Indiana.

B. In addition, the following groups of employees are excluded: stay in schools, summer hires, intermittent employees, and cooperative education program students. If temporary employees go beyond 90 days of consecutive service in their current appointment, they will be covered by the terms of this Agreement thereafter.

### **Section 4 - Coverage of the Agreement**

This Agreement covers only those positions described in the bargaining unit.

## **Article 2**

### **Governing Laws and Regulations**

#### **Section 1 - Relationship to Laws, Government-wide Rules and Regulations**

- A. In the administration of all matters covered by this Agreement, the parties shall be governed by Federal laws and Government-wide rules and regulations.
- B. In the event any present or future Departmental Regulation or Rural Development Instruction conflicts with any portion of this Agreement, this Agreement shall prevail except as may be provided by 5 USC 71 and shall not be changed except pursuant to Article 5, "Negotiations During the Term of the Agreement".

#### **Section 2 - Past Practices**

Any prior benefits, practices, and understandings that were in effect on the effective date of this Agreement and that are not specifically covered by this Agreement and do not detract from it shall not be changed except in accordance with 5 USC 71, as long as they are not inconsistent with law or Government-wide rule or regulation.

## **Article 3**

### **Union and Management Rights**

#### **Section 1 - General**

In matters relating to personnel policies, practices and other conditions of employment, the parties shall have due regard for the responsibilities and obligations imposed by 5 USC Chapter 71, this Agreement, and supplements thereto.

#### **Section 2 - Restraint**

The Agency shall not restrain, interfere with or coerce any Union official or representative in the exercise of their rights under 5 USC Chapter 71 because of the performance of duties within the scope of this Agreement, or against any bargaining unit member for filing a grievance/complaint, or acting as a witness under this Agreement, the Law, or applicable regulations.

#### **Section 3 - Representation**

- A. The Union is the exclusive representative of the bargaining unit and is entitled to act on behalf of bargaining unit employees. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to Union membership.
- B. Designated officers or representatives of the Union have the right to represent the employees within the entire bargaining unit in accordance with the provisions of Article 31 of this Agreement on Official Time. Management shall recognize representatives designated by the Union.
- C. The Union shall provide management current listings of officers and stewards, identifying the Union office each holds, and the steward contact for each facility. To the extent reasonably possible, the Union shall assign stewards to the Agency's facility in which or nearest to the facility in which the individual works.
- D. The Agency shall permit officials or other representatives designated by the Union, including persons not employed by the Agency, to enter and visit the Agency's premises at any time during normal working hours following adequate advance notice in order to represent employees, inspect physical structures, evaluate programs and perform other similar representational tasks. To the extent reasonably possible, the Union shall coordinate these visits with Management at the premises where the visit is to occur. Once the Union provides management a current listing that shows an individual as an officer and/or steward, that individual shall not be required to provide advanced notice of a visit in order to attend a meeting called by the Agency or required

by this agreement or the law.

#### **Section 4 - Union Rights and Responsibilities**

- A. The Union has the right to represent an employee or group of employees in presenting a grievance or when raising matters of concern or dissatisfaction with Management.
- B. The Union has the exclusive right to represent employees under the Negotiated Grievance Procedure in this Agreement and any other appeals process established as a result of bargaining.
- C. An employee or group of employees may present a grievance or complaint without representation by the Union, by notifying the Agency and Union in writing that they have chosen to represent themselves in the proceeding.
- D. The Union shall be a party to all formal discussions and grievance/complaint proceedings involving conditions of employment in the bargaining unit.

#### **Section 5 - Formal Discussions**

- A. Consistent with 5 USC 7114(a)(2)(A), the Agency shall give the Union, as the exclusive representative of bargaining unit employees, an opportunity to be represented at any formal discussion between one or more representatives of the Agency and one or more employees in the bargaining unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment.
- B. The Agency shall give the Union such opportunity to be present by delivering to its President or designee written reasonable advance notice of the formal discussion. At a minimum, the notice shall identify the expected: (a) date and time of the meeting; (b) facility and room in which the meeting shall be held; (c) employee(s) with whom the meeting is to be held; (d) agency representative(s) who will attend; and (e) general subject of the meeting. In each case, whether written advance notice of a formal discussion was reasonable depends on the specific circumstances of that case.
- C. The Agency shall also approve, on request, reasonable official time for the Union's President or designee to attend the formal discussion.

#### **Section 6 - Working Relations**

The parties, especially Union representatives and first-line supervisors, are encouraged to meet informally as necessary to discuss and attempt to resolve matters of concern.

## **Section 7 - Notification of Changes in Working Conditions**

The parties recognize that changes may occur in the workplace on a regular basis. Whenever either party decides to change a matter affecting conditions of employment subject to bargaining under 5 USC Chapter 71, it shall give the other party notice as required by Article 5, "Negotiations During the Term of the Agreement".

## **Section 8 - Notification to Employees of Exclusive Representation**

The Union shall provide a general notice to employees of the exclusive recognition granted to the Union, together with a list of Union-designated representatives and their work locations and telephone numbers to be posted on Union bulletin boards.

## **Section 9 - Communications with Bargaining Unit Employees**

Consistent with 5 USC 71, the Agency shall not communicate directly with employees regarding conditions of employment in a manner that improperly bypasses the Union.

## **Section 10 - Management Rights - General**

Subject to the obligation to bargain established by 5 USC Chapter 71, nothing in this Agreement shall affect the authority of the Agency:

- A. To determine the mission, budget, organization, number of employees, and internal security practices.
- B. In accordance with applicable laws:
  - 1. To hire, assign, direct, layoff, and retain employees, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
  - 2. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Agency's operations shall be conducted;
  - 3. With respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion or from any other appropriate source, and
  - 4. To take whatever actions may be necessary to carry out the Agency mission

during emergencies.

### **Section 11 - Other Agreements**

The provisions of this article shall apply to all supplemental, implementing, or subsidiary agreements between the Agency and the Union.

### **Section 12 - Management Rights With Respect to Non-Bargaining Unit Employees**

The Agency reserves its statutory rights with regard to all matters affecting employees and positions outside the bargaining unit.

## **Article 4**

### **Employee Rights**

#### **Section 1 - Organizational Rights**

- A. Each employee in the bargaining unit shall have the right to form, join, or assist any labor organization, or to refrain from such activity, freely and without fear of penalty or reprisal; and each employee shall be protected in the exercise of such right.
- B. Except as otherwise provided under 5 USC Chapter 71, bargaining unit employees have the right:
  - 1. 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
  - 2. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under 5 USC 71.

#### **Section 2 - Personal Rights**

- A. There shall be no restraint, interference with or coercion against any bargaining unit member in the exercise of their rights under 5 USC Chapter 71.
- B. The Employer and the Union shall annually inform bargaining unit employees of their rights under 5 USC 7114(a)(2)(B), including but not limited to posting a notice on the official bulletin boards.
- C. Pursuant to 5 USC 71, employees have the right to participate in picketing against the Employer or any other organization, when such picketing does not interfere with agency operations.
- D. This agreement shall not prevent any employee, regardless of Union membership, from bringing any matter of personal concern to the attention of appropriate officials in accordance with applicable laws, regulations, or Agency policies, or from choosing his or her own representative in a statutory appeal action.
- E. Nothing in this agreement shall cancel or annul any employee right or require an employee to become or to remain a member of a labor organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.
- F. An employee shall not be disciplined or otherwise discriminated against because he or she has filed a complaint or given testimony under the Civil Service Reform Act, the

Negotiated Grievance Procedure, or any other procedure available to redress complaints.

- G. The parties agree that, to the extent possible, instructions, directives and orders communicated to employees by Management officials should be reasonably consistent. An Employee who does not understand an instruction, directive or order has the right to request clarification of that communication. To the extent possible, a supervisor's instruction, directive or order must be complied with once given, whether or not the employee believes those instructions to be consistent, fair or reasonable. An employee who concludes that a supervisor's instruction, directive or order is not consistent, fair or reasonable has the right to pursue his or her dissatisfaction through the Negotiated Grievance Procedure.

### **Section 3 - Whistle-Blower Protection**

The Employer shall not take any action against an employee in reprisal for the employee's lawful disclosure of information that the employee reasonably believes evidences a violation of law, rule, or regulation, or evidences mismanagement, a waste of funds, an abuse of authority, or a danger to health or safety.

### **Section 4 - Right to Union Representation**

- A. If an employee wishes to discuss a problem or potential grievance with a Union representative, the employee shall have the right to contact the Union representative on duty time, and may do so by means of telephone, e-mail, fax, or in person, so long as the employee's exercise of this right does not interfere with the normal operations of the office. If the employee needs to use the telephone, e-mail, fax, etc., for more than fifteen (15) minutes, the employee must first consult with his/her immediate supervisor. If the employee begins to use the telephone, e-mail, fax, etc., believing such use will require less than fifteen (15) minutes but finds the use took more than that amount of time, the employee must immediately report the fact to his/her immediate supervisor and request approval for his/her use of duty time.
- B. If the Union representative is located outside the employee's duty station and a personal contact is needed, the employee and supervisor will agree on the appropriate time and date to meet with the Union Representative. The appropriate procedure to be used in such instances is covered in Article 31, Official Time.
- C. The exclusive representative shall be given the opportunity to be represented at any examination of an employee in the bargaining unit by a representative of the agency in connection with an investigation if:
  - 1. The employee reasonably believes that the examination may result in disciplinary action against the employee; and

2. The employee requests representation.
- D. The right to Union representation is not intended to interfere with the routine interaction between supervisors and employees in the normal course of a workday.
  - E. The Employer will not designate an employee who has not been properly trained as in- house investigator to conduct a formal investigation.

### **Section 5 - Timely and Proper Compensation**

- A. The Employer will make reasonable efforts to ensure that employees receive their salaries, normally by direct deposit, in accordance with applicable RD Instructions and U.S. Treasury Department rules and regulations.
- B. Employees are responsible to review their Leave and Earnings Statements and to notify the Administrative Programs Director or Human Resources Manager or designee of any unexplained changes.
- C. Employees are responsible for arranging for the timely repayment of overpayments.

### **Section 6 - Voluntary Activities**

The parties agree that employee participation in the Combined Federal Campaign, blood donor drives, Feds Feed Families and other worthy projects will be voluntary. This does not preclude the Employer giving general publicity and encouragement to employees to contribute. The Employer will not require or coerce employees to invest their money, donate to charity or participate in these activities. The Employer will not treat employees more or less favorably because the employee chooses or does not choose to participate in such campaigns or projects.

## **Article 5**

### **Negotiations During the Term of the Agreement**

#### **Section 1 - Purpose**

The purpose of this Article is to establish a process to govern mid-term negotiations.

#### **Section 2 - Matters Covered by This Agreement**

The Parties may enter into memoranda of agreement or of understanding about matters covered by this Agreement at any time during the life of this Agreement.

#### **Section 3 - Matters Not Covered by This Agreement**

Recognizing that the Agreement cannot cover all aspects or provide definitive language on each subject addressed, it is understood that the obligation to engage in mid-term bargaining is limited to subjects not covered by this Agreement.

#### **Section 4 - Mid-Term Bargaining**

- A. Whenever the Agency decides to make a change which affects a condition of employment and is more than *de minimis*, it shall provide the Union President or designee reasonable written notice of the change at least fifteen (15) working days in advance of the anticipated date of implementation unless: (a) the change is already covered by this Agreement; and/or (b) the Union has already waived its right to bargain about the change.
1. The notice shall include a statement of: (a) the specific changes; (b) the general identity of the employees who will be impacted; and (c) the Agency's designated representative for the issue.
  2. If the Union wishes to negotiate on the proposed change, it shall notify management in writing within ten (10) workdays of receiving management's notice.
  3. The Union is not required to submit written proposals in advance of the start of bargaining, but shall make a good faith effort to do so.
  4. Bargaining shall begin as soon as reasonably possible and as agreed by the parties but not later than fifteen (15) workdays after the Union's receipt of management's notice. Negotiations during which the parties make a good faith effort to reach agreement shall last no more than five (5) workdays or as agreed by the parties.

5. If no agreement is reached, each party shall have the full right of exercising its statutory and/or contractual rights, including moving the matter to mediation and to impasse.
- B. The parties recognize that the timeframes set in this Agreement to initiate bargaining are based upon normal circumstances and may occasionally need to be shortened to meet compelling operational needs. Management agrees not to set artificial deadlines for implementing changes in order to circumvent the normal timeframes.

## **Article 6**

### **Dues Withholding / Revocation**

- A. **Dues Withholding.** In order to initiate union dues withholding by payroll deduction, a bargaining unit employee must complete a Standard Form (“SF”) 1187, “Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues”. The SF-1187 can be obtained from either the Union or the Human Resources Contact or OPM website. The employee must complete the appropriate spaces, sign it, and submit it to the union. The union will complete its portion of the form and submit it to the Human Resources Contact. A receipt will be provided to the employee, indicating the pay period in which the deduction is to be effective, i.e., the anniversary date of the pay period in which the employee’s allotment began.
- B. **Dues Revocation.** A bargaining unit employee can terminate union dues withholding on:
1. the initial one-year anniversary date of the pay period in which the allotment began;
  2. thereafter at any time to become effective during the first week of October.
- C. To cancel the dues allotment, the employee must submit a completed SF 1188, “Cancellation of Payroll Deductions for Labor Organization Dues”. The SF 1188 can be obtained from either the Union or the Human Resources Contact. The employee must complete the form, sign it, and submit it to the Union. The Union will complete its portion and submit it to the OPM website not later than the first day of the pay period in which the employee’s anniversary date falls. The Human Resources Contact will provide a receipt copy of the form to the employee, indicating the pay period in which the dues allotment will cease. Employees who are uncertain of their anniversary date can contact either the Union or the Human Resources Manager.

## **Article 7**

### **Effective Date, Duration and Distribution of Agreement, and Training**

Each Party shall have its own original of this Agreement.

#### **Section 1 - Effective Date**

This Agreement shall become effective on the earlier of the following two dates: (1) the 31<sup>st</sup> day from the date it was executed by the Parties unless it has been disapproved by the Agency head pursuant to 5 U.S.C. 7114(c)(2); or (2) the day it is approved after review by the Agency head.

#### **Section 2 - Duration of Agreement**

- A. This Agreement shall renew itself automatically on the 3<sup>rd</sup> anniversary of its effective date, and annually thereafter, unless either party gives written notice of its desire to reopen the Agreement to be renegotiated not more than 105 days and not less than 60 days before the expiration date. Following receipt of such written notice, the Parties shall meet within thirty (30) calendar days to begin negotiations on ground rules.
- B. Any supplements or amendments to this Agreement concluded by the Parties shall become part of this Agreement and shall terminate at the same time as this Agreement unless the Parties expressly provide otherwise in writing.

#### **Section 3 - Printing and Distribution**

Within 30 days of the signing of this Agreement, the Employer shall: (a) distribute electronic copies of this Agreement to all current bargaining unit members; and (b) provide one (1) hard copy to each office.

#### **Section 4 - Training**

- A. The Agency shall approve up to a maximum of eight (8) hours of Official Time for each bargaining unit employee to attend Union-provided training on this Agreement within 180 calendar days of its effective date.
- B. The Union shall draft a plan of training scheduled in such a manner as to avoid disrupting mission delivery, and normally with a minimum of two training sessions per location.

After the Union sends its proposed training plan to the Agency, the Agency shall, within two weeks of receiving the schedule, identify any conflicts that would interfere with the availability for training of the employees or facilities (e.g., office closed or under renovation, agency meeting, anticipated work load, etc.) and notify the Union.

- C. The Agency may request one additional training session be scheduled at a location if the Agency makes this request during its two-week review period. The additional session may be outside the 180 calendar day time frame.
- D. When a new employee comes on board USDA RD IN, the new-employee orientation shall include: (a) providing the employee an electronic copy of this Agreement; and (b) information about how to contact the Union. The Agency shall notify the Union of any new employee within five (5) business days after the new employee comes on board.
- E. The Agency shall permit the Union to schedule, through the new employee's supervisor, a meeting so the Union can provide the new employee with information on the contract, employee rights, and the Union. The meeting shall normally last no more than one (1) hour.

## **Article 8 Official Travel**

### **Section 1 - Compensation and Travel**

Whenever practicable, time spent in travel status away from the employee's official duty station will be scheduled by the Agency within the employee's normal working hours. When travel is performed during non-duty hours, the determination of whether such travel constitutes hours of "work" will be made under 5 USC or the Fair Labor Standards Act, whichever is applicable.

The employee will be compensated accordingly.

### **Section 2 - Actual Subsistence**

Requests for actual subsistence expenses will normally be approved when the supporting justification showing the unusual and exceptional circumstances complies with the government-wide Federal Travel Regulations.

### **Section 3 - Continuation of Approved Travel Expenses**

Employees who are unable to arrive at or return from their destination during regular duty hours will be reimbursed for authorized travel expenses provided said inability to arrive or return is due to arduous travel conditions beyond the employee's control resulting from natural calamity, unavailability of transportation, or severe weather.

### **Section 4 - Advancement of Expenses**

Normally, the Agency does not pay advances for travel, and employees are expected to use government-issued credit cards to pay such expenses. However, employees may request travel advances in accordance with the Federal Travel Regulations, then-current USDA Departmental Regulation 2300-001, and then-current Rural Development Instruction 2036-A.

### **Section 5 - Use of Vehicles**

- A. Reasonable periods of time spent by a traveling employee during regular duty hours to make emergency repairs to, or refueling of, vehicles used to conduct government business will be considered duty time.
- B. In situations where a traveling employee is required to pick up or return a government owned vehicle without first checking in or out of the permanent duty

station, the Agency will schedule the travel assignments so, whenever practicable and previously authorized by the supervisor, that the traveler may leave home at the same hour he/she would normally leave to report to the office, and so, upon return, wherever practicable and previously authorized by the supervisor, that he/she may arrive home at the same time he/she would ordinarily arrive had he/she worked at the office.

- C. When an employee is authorized to use a privately owned vehicle (“POV”) instead of an available government owned vehicle (“GOV”) the Agency shall reimburse the employee for mileage using:
  - 1. the maximum rate consistent with regulations of the General Services Administration (“GSA”) when the employee’s use of the POV has been authorized because doing so is advantageous to the government; or
  - 2. the maximum reduced rate permitted by GSA when the employee’s use of the POV has been authorized for some reason other than the government’s advantage.
- D. The Agency will not require employees to drive or ride in unsafe vehicles. When an employee is assigned a GOV that is not functioning or equipped properly, the employee shall report the situation to the Administrative Programs Director or designee.
- E. If any employee is assigned to use a particular GOV which that employee, because of physical trait, health condition or handicap, cannot operate safely or without suffering injury (e.g., an employee who is seven feet tall assigned to use a sub-compact vehicle), the Agency shall permit that employee, on request, to use their POV and be reimbursed under section 5 C 1 above. The Agency may require the employee to provide appropriate documentation supporting their request when the trait, condition or handicap is not visibly obvious.

## **Section 6 - Protective Assistance**

The Agency and the Union recognize that some travel job assignments could present a threat of danger to the personal safety of employees. Appropriate measures will be taken on a case-by-case basis to assure the safety of employees.

## **Section 7 - Return to Duty Station**

An employee on a long-term assignment outside the commuting area may be authorized occasional return trips to his or her permanent duty station at government expense on non-workdays. Approval for such trips is at the administrative discretion of the authorizing official and may be granted in accordance with published USDA and Rural Development travel policy.

## **Section 8 - Resolution of Disputes**

Disputes over matters under the jurisdiction of the Civilian Board of Contract Appeals may be resolved using the Negotiated Grievance Procedure in Article 26 of this Agreement or using procedures provided by the Civilian Board of Contract Appeals.

## **Article 9**

### **Health and Safety**

#### **Section 1 - Policy Statement**

The Agency and the Union have a common interest in promoting safe working habits and safe working conditions. The Agency has an obligation to provide safe working conditions. All employees are responsible to report unsafe conditions promptly. The Agency and the Union recognize that observing safe work practices is primarily the responsibility of each employee. The Agency shall ensure that the poster titled “Occupational Safety and Health Protection for USDA Employees” identifying the appropriate office Point of Contact (“POC”) is displayed in each office. The Agency and the Union shall cooperate in encouraging employees to work in a safe manner and to report promptly any unsafe or unhealthy conditions to their appropriate POCs.

- A. The Agency shall, in the event an employee sustains a job related injury, disease, or illness, provide advice and assistance from the State Office Administrative Division to the employee in completing and submitting a claim (for details, see Article 34, “Workers’ Compensation Program”).
- B. The Agency shall, to the extent of its authority and consistent with the applicable requirements of Title 29 Part 1960 of the Code of Federal Regulations, as well as other applicable health and safety codes, provide and maintain safe and healthful working conditions for all employees and shall provide places of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm. The Union shall cooperate to that end and encourage all employees to work in a safe manner.
- C. The Union has the responsibility to advise the Agency concerning safety and health problems.

#### **Section 2 - Agency Responsibilities**

- A. Assisted by the Union, the Agency shall work with all persons, entities or organizations which own and/or control work space to which bargaining unit employees are assigned to ensure that healthy and safe working conditions are maintained and to ensure compliance with applicable laws, rules, and regulations. The Agency and the Union shall also take appropriate action to ensure that any reported hazardous or unsafe working conditions are examined and, if necessary, corrected in a timely manner.
- B. The Agency shall:
  - 1. Provide information concerning Federal Employee Health Benefits and Life Insurance Programs, and occupational health services;

2. Make reasonable efforts to provide clean restrooms in which normal supplies shall be available at all times and in which all equipment is in working order;
3. Provide and maintain in each office adequate fire and disaster plans and equipment, including smoke detection devices and exit signs that are visible during power failure;
4. Work with the building manager, the Department, GSA, and private lessors, to have safe electrical equipment and adequate ventilation in all work areas;
5. Provide an environment free of roaches and rodents through a regular extermination program and by other measures as may be necessary for purposes of pest control. Spraying for extermination of pests shall be accomplished during non-duty hours or employees shall be given the opportunity to work an appropriate distance from his/her work site. All employees shall be given the opportunity to work away from the site of spraying intended to exterminate pests and/or painting or other activity adversely affecting air quality for a period of 12 hours after such spraying; and
6. Follow GSA regulations in providing facilities appropriate and adequate to accommodate the needs of qualified disabled employees.

### **Section 3 - Union Responsibilities**

- A. The Union shall take appropriate action to encourage all bargaining unit employees to work safely with due consideration for the safety, health and comfort of all fellow employees. To avoid preventable unhealthy or unsafe working conditions, the Union shall encourage respect and care by bargaining unit employees for the Agency's facilities and equipment and their own work environment.
- B. Bargaining unit employees have a duty and are encouraged to report unsafe or unhealthy working condition(s) to the office POC as soon as any such conditions come to their attention.
- C. In the event the office POC is a bargaining unit employee, the POC shall notify the appropriate supervisor of the safety concern.

### **Section 4 - Employee Reports of Unsafe or Unhealthy Working Conditions**

- A. Employees who believe that an unsafe or unhealthy working condition exists have the right and are encouraged to report the condition to their office POC. The Agency shall not require any employee to work in a situation posing the threat of imminent danger.

- B. If any employee reports the existence of an unsafe or unhealthy working condition, the Agency shall make reasonable efforts to investigate the condition as soon as reasonably possible, and to report the condition for further investigation to: (a) the appropriate RD or USDA office; (b) GSA; (c) the Occupational Safety and Health Administration (“OSHA”) of the Department of Labor; (d) the Public Health Service (“PHS”) Health Unit; or (e) other appropriate official. When an inspector responds to such a complaint and conducts a physical inspection of the work place, the Union shall be given an opportunity to accompany the inspector during the inspection on official time.
1. Safety and Health inspections for all work areas shall be conducted by the Indiana Rural Development Safety and Occupational Health Manager as needed.
  2. When a work-place inspection is conducted by the Agency’s safety representative or by an outside agency, the Union shall be invited to accompany the inspectors. During the course of any such inspection, any employee may call the attention of the inspector to any unsafe or unhealthful working conditions.
- C. Employees shall perform properly assigned duties unless they reasonably believe that compliance or performance poses an imminent risk of death or serious bodily harm.
- D. If a hazardous condition is discovered in any work place, the Agency shall post and maintain notices of the condition to employees at or near the location of the hazard until the condition has been corrected. Such notices shall: (a) contain a warning; (b) describe the unsafe or unhealthful working condition; and (c) describe any precautions that applicable regulations require employees to take.
- E. The Agency shall assure prompt abatement of unsafe or unhealthy working conditions found to exist. When prompt abatement cannot be accomplished, the Agency shall develop, following consultation with the Union, a plan setting forth a timetable for abatement and a summary of interim steps to protect employees. Employees exposed to such conditions shall be informed of the abatement plan and the Union shall be consulted during the implementation of the plan. When the hazard cannot be abated without the assistance of GSA or other Federal lessor agency, the Agency shall work with the lessor agency to seek abatement.
- F. Whenever reasonably possible, the Agency shall inform the Union no later than one (1) full workday in advance when paints or pesticides are to be used in the presence of, or in close proximity to, employees. This notice shall also include any warning statements given to the Agency by the organization using the paints or pesticides or that the Agency otherwise possesses.
- G. The Agency shall not subject any employee to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working

condition, or for other proper participation in an agency occupational safety and health program activity.

1. The Agency shall assure the right of anonymity for those employees or Stewards who report an unsafe or unhealthful working condition.
2. The Agency shall promptly investigate employee complaints that they have been subjected to forbidden restraint, interference, coercion, discrimination or reprisal.

### **Section 5 - Occupational Injury or Illness**

- A. When an employee sustains a job-related injury or occupational illness, the employee shall report the injury or illness to his/her supervisor or other management official as soon as practicable (for additional information, see Article 34, “Workers’ Compensation Program”).
- B. The supervisor or other management official shall refer the employee to the Human Resources Staff (“HRS”) as appropriate and as permitted by applicable law, rule, or regulation. The supervisor shall also advise the employee to contact the HRS to obtain information on benefits under the Federal Employees’ Compensation Act.
- C. The Agency shall invite and permit the Union to participate in any investigation of an occupational accident involving a bargaining unit employee.

### **Section 6 - Employee Assistance Program**

- A. The Agency presently maintains an Employee Assistance Program (“EAP”) which provides referral services for counseling, information and other sources of assistance for employees troubled by alcoholism, substance abuse, emotional illness, marital/family problems or financial problems. The EAP Office offers referral services to outside, local alcohol treatment programs, family counseling and substance abuse treatment programs, many of which are available free or at nominal cost.
- B. When an Employee must be absent from work in order to participate in a prescribed program of treatment for a problem recognized under this Article, the Employee may be granted appropriate leave to the extent necessary on the same basis as for any other illness.
- C. The Agency shall continue participating in the EAP as mandated by federal laws and regulations. Employees’ participation in the EAP shall be treated with the utmost confidentiality.

## **Section 7 - Emergency Response Plan**

- A. The Agency shall maintain an Emergency Response Plan (ERP) for all buildings in which bargaining unit employees work. The ERP shall designate monitors and describe the duties and responsibilities of these persons during an emergency. On request, the Agency shall give a copy of the ERP to the Union.
- B. If ERPs are not already in existence for all buildings in which bargaining unit employees work, the Agency shall establish such ERPs within 90 days of the effective date of this agreement. On request, the Agency shall give copies of such ERPs to the Union.

## **Section 8 - Training**

The Agency shall provide training to employees who perform duties that involve safety hazards. Such training may include instruction, proper work methods to be used and proper use of protective equipment, and any applicable regulations or standards.

## **Section 9 - Protective Clothing, Personal Protective Equipment, and Tools**

The Agency shall, as needed, provide approved safety equipment, approved personal protective equipment and clothing, and other devices necessary to protect employees from hazardous conditions they encounter while, or as a result of, performing their official duties.

## **Section 10 - Miscellaneous**

If an employee finds it necessary to leave work in order to return home or go to a medical facility because of illness or incapacitation and the Agency asks a co-worker to provide transportation and/or to accompany that employee, the transporting/accompanying employee shall be on duty time.

## **Section 11 - Office Hazards**

- A. Temperature in the work area of bargaining unit employees. If the temperature exceeds 80 degrees Fahrenheit and ventilation is absent or inadequate, the Agency shall, on request, permit employees to telework and/or perform field/home work. If the temperature exceeds 85 degrees or if it falls below 65 degrees Fahrenheit, employees shall be removed from the affected area until a normal temperature is restored. During this time, any absence shall not result in loss of pay or charge to leave.

- B. Ventilation. Adequate ventilation shall be provided so as to reduce harmful concentrations of chemicals, chemical irritants, or any type of odor making the workplace uncomfortable.
- C. Machines that emit fumes shall be removed from employees' workstations or properly exhausted by means of a ventilation system. If a machine cannot be adapted to/with a proper ventilation system, the Agency shall replace the equipment with a model that does not emit fumes.
- D. In order to minimize the Agency's operational costs and maintain continuous public service during any of the events described above in this section, the Agency may assign employees to telework and/or to perform field work/home work.

### **Section 12 - Ergonomic Hazards**

The Agency shall, to the maximum extent reasonably possible: (1) provide equipment (chairs, tables, workstations, etc.) that meet ergonomic design criteria; and (2) see that employees are properly trained to operate the equipment safely and properly.

### **Section 13 - Lunchrooms, Breakrooms, and Restrooms**

- A. At each Rural Development office or Service Center the Agency shall furnish a clean and adequate designated space where employees may eat their meals or take breaks. Whenever reasonably possible, employees shall have access to a refrigerator with freezer, microwave, and sink.
- B. The Agency shall provide adequate sanitary washroom facilities.

### **Section 14 - Repairs and Adjustments to Operating Equipment**

Employees may be requested to perform some equipment repair work with written and/or telephone support from the Agency and/or manufacturer.

### **Section 15 - Public Contact**

Employees shall not be required to divulge personally identifiable information to the public under circumstances in which there is reason to believe harassment or physical abuse are likely to result. For example, if the need arose, employees might remove their name plates/tags.

## **Section 16 - Vehicle Safety**

- A. If a government-owned motor vehicle is observed to be defective, needs repair, or is unsafe, the Agency shall take the vehicle out of service until it has been restored to a safe operating condition.
- B. Employees operating or riding in government-owned, leased, or privately owned vehicles on official business shall use safety belts (both seat and shoulder).
- C. All employees shall observe the GSA no-smoking rule in all government-owned vehicles.

## **Section 17 - Cleaning of Office Facilities**

### **A. Air Conditioning Ducts**

In buildings occupied by bargaining unit members, the Agency shall require that the respective landlords, in accordance with applicable OSHA and ASHARE standards: (i) clean the air conditioning ("A/C") ducts (supply and return), supply diffusers and return registers; and (ii) replace the filters of A/C systems.

### **B. Office facilities**

The Agency shall insure that each area used for work by bargaining unit employees is cleaned and maintained in compliance with the standards established by the lease then in effect at that location. If the cleaning work performed pursuant to a lease is insufficient to eliminate a potentially hazardous condition, the Agency shall take such additional steps as are necessary to avoid the hazard in a timely manner.

## **Section 18 - Smoking Policy**

No smoking is allowed inside any USDA Rural Development facility in Indiana, and is also prohibited within eight (8) feet of building entrances.

## **Section 19 - Water Fountains**

The Agency shall install water fountains supplied with potable water in each office.

## **Article 10**

### **Hours of Work**

#### **Section 1 - Preamble**

- A. Employees' hours of work shall be administered in accordance with 5 United States Code Chapter 61, 5 Code of Federal Regulations Part 610, and this Agreement. This Article prescribes the policies covering hours of work for employees in accordance with applicable law and regulation. The implementation of any Alternative Work Schedule ("AWS") requires good judgment to guarantee that the arrangement does not make it necessary for a staff member within an office to carry an unreasonable burden, while also enabling the Agency to meet its mission needs and provide customer service during the hours of 8:00 a.m. to 4:30 p.m.
- B. AWSs available to Indiana employees increase the number of possible work-life arrangements Indiana employees may make. No office or employee is automatically excluded from participating in any AWS available to Indiana employees, so supervisors are responsible for reviewing each work schedule request to determine that mission and office operations shall not be affected adversely.

#### **Section 2 - General Provisions**

- A. The administrative pay period shall be a period of fourteen (14) consecutive calendar days beginning on a Sunday and ending on a Saturday.
- B. The basic workweek shall be Monday through Friday. Exceptions may occur when mission requirements make it necessary temporarily to include Saturdays or Sundays as part of the basic workweek for certain employees.
- C. The core hours shall be 9:00 a.m. to 2:30 p.m.
- D. All full-time employees are required to take an unpaid lunch break of between 30 and 60 minutes daily between 11:00 a.m. and 2:00 p.m. The supervisor and employee shall determine the approximate time at which the employee takes his/her meal period. In those rare instances when an employee is prevented from taking a lunch break between 11:00 a.m. and 2:00 p.m., the Agency shall permit the employee to take his/her meal period outside those times. The lunch break may not be scheduled at the end of the work day.
- E. All full-time employees shall request supervisory approval for times for their tour of duty: (1) arrival (or "in") and departure (or "out") times; and (2) lunch break starting and ending times.

- F. In the case of any part-time employees, the Agency shall apply governing law, government-wide regulations, USDA Departmental Regulations, and Rural Development Instruction 2051-F, “Hours of Duty”.

### **Section 3 - Notice of Schedule Changes**

Except when it determines that waiting the full length of time is not feasible because doing so would seriously impede achieving its mission, the Agency shall notify employees of changes in their work schedules at least fourteen (14) calendar days in advance of the pay period in which the change is to be effective.

### **Section 4 - Voluntary Schedule Adjustments**

An employee seeking to adjust or change temporarily their tour of duty within a pay period because of extenuating circumstances shall (a) draft a request that specifies the desired adjustment/change as well as the major foreseeable likely impact, if any, on the agency’s mission, and (b) present the request to the supervisor for the supervisor’s approval/disapproval.

### **Section 5 - Adjusting Work Schedules For Religious Observances**

- A. On request, the Agency shall permit an employee whose personal religious beliefs require that he/she abstain from work at certain times of the workday or workweek to work alternative hours so the employee can meet the religious obligation. The employee shall submit his/her request in writing and at least one pay period in advance. If the alternate work hours would cause an undue hardship on the Agency’s mission, the Agency may refuse to permit the change.
- B. When deciding whether an employee’s request for an adjusted work schedule should be approved to accommodate a religious observance, a supervisor should not make any judgment about the employee’s religious beliefs or his or her affiliation with a religious organization. A supervisor may disapprove an employee’s request if modification of the employee’s work schedule would interfere with the efficient accomplishment of the Agency’s mission. Disapprovals shall be given to the employee in writing.

## **Section 6 - Traditional Fixed Work Schedule (non-AWS) available to Indiana employees**

- A. All full-time employees may work a “traditional” or non-AWS fixed work schedule, i.e., 8 hours per day/40 hours per week with fixed “in”/“out” and lunch break starting/stopping times, to fulfill their basic work requirement.
- B. The “out” time of the employee’s work day is determined by adding the scheduled work time to the scheduled length of the lunch break. For example, the ending or “out” time for a non-AWS employee who begins work at 8:00 a.m. and elects a 40 minute lunch break, is 4:40 p.m.

## **Section 7 - Alternative Work Schedules (AWSs) available to Indiana employees**

- A. General
  - 1. The use of AWSs can improve productivity and morale while providing greater service to the public. Subject to adverse agency impact, AWSs shall be available to bargaining unit employees except as set forth in this article.
    - a. The work schedules of employees shall be consistent with staffing that is adequate as determined by the Agency.
    - b. Due to the nature of their duties and requirements of some positions, not every employee may have the option of working every AWS.
  - 2. Working under a telework agreement shall not in and of itself disqualify an employee from working an AWS.
- B. All eligible employees may work any of the following AWS options (flexible or “FWS” and compressed or “CWS”) to fulfill their basic work requirement:
  - 1. Flexitour. The Flexitour schedule is a type of FWS on which full-time employees work daily during the core hours established in this Article according to a schedule fixed in advance of the pay period, but with “in”/“out” and lunch break starting/stopping times which may, as agreed between the employee and supervisor, differ from one another freely. Thus, employees may choose “in” and “out” times within the periods of 6:00 a.m.-9:00 a.m., and 2:30 p.m.-6:00 p.m. respectively. Employees work eight (8) hours each work day for a total of 80 hours each biweekly pay period, e.g., 8:00 a.m.-4:30 p.m., or 8:15 a.m.-4:45 p.m. Flexible lunch breaks are available for employees working a Flexitour schedule so, subject to work needs, the employee does not have fixed lunch break starting/stopping times but elects when to take his/her lunch break starting no earlier than 11:00 a.m. and ending no later than 2:00 p.m., subject to work needs.

2. Gliding. The Gliding schedule is a type of FWS on which full-time employees work daily during the core hours established in this Article according to a schedule of workdays fixed in advance, but with freedom during the pay period to alter freely their “in”/“out” and lunch break starting/stopping times. Thus, employees may, if they wish: (a) choose different “in”/“out” times within the periods of 6:00 a.m.-9 a.m., and 2:30 p.m.-6:00 p.m. respectively for each workday during the pay period; and (b) work eight (8) hours each work day for a total of 80 hours each biweekly pay period, e.g., 8:00 a.m.-4:30 p.m. on Monday, 8:15 a.m.-4:45 p.m. on Tuesday, etc. Flexible lunch breaks are available for employees working a Gliding schedule so, subject to work needs, the employee does not have fixed lunch break starting/stopping times but elects when to take his/her lunch break starting no earlier than 11:00 a.m. and ending no later than 2 p.m.
3. The “Maxiflex 5/4-9” schedule is a type of FWS available in Indiana on which full-time employees work eight 9-hour workdays and one 8-hour workday for a total of 80 hours in a biweekly pay period according to a schedule fixed in advance of the pay period. The employee may flex his/her “in” and “out” times each workday within the periods of 6:00 a.m.-9 a.m., and 2:30 p.m.-6:00 p.m. respectively.

A part-time employee fulfills his/her work requirement (as established in his/her appointment) on nine (9) days during a biweekly pay period. The employee must obtain supervisory approval of the number of hours the employee must work each day, based on the particular part-time appointment.

Both full-time and part-time employees must obtain supervisory approval of the fixed starting/stopping times of their lunch breaks, subject to work needs.

4. Compressed 5/4-9. The Compressed 5/4-9 schedule is a type of CWS on which full-time employees work eight 9-hour workdays and one 8-hour workday during the core hours established in this Article according to a schedule fixed in advance of the biweekly pay period for a total of 80 hours in the pay period. Thus, the employee chooses: (a) fixed “in” and “out” times between 6 a.m.-9 a.m. and 2:30 p.m.-6:00 p.m. respectively; and (b) fixed lunch break starting/stopping times.

A part-time employee fulfills his/her work requirement (as established in his/her appointment) on nine (9) days during a biweekly pay period. The employee must obtain supervisory approval, based on the particular part-time appointment, of the number of hours the employee must work each workday.

Both full-time and part-time employees must obtain supervisory approval of the fixed starting/stopping times of their lunch breaks, subject to work needs.

5. Compressed 4-10. The Compressed 4-10 schedule is a type of CWS on which full-time employees work 4 10-hour workdays in each work week during the core hours established in this Article according to a schedule fixed in advance of the biweekly pay period for a total of 80 hours in the pay period. Thus, the employee chooses: (a) fixed “in” and “out” times between 6 a.m.–7:30 a.m. and 4:30 p.m.–6:00 p.m. respectively; and (b) fixed lunch break starting/stopping times.

A part-time employee fulfills his/her work requirement (as established in his/her appointment). The employee and supervisor negotiate, based on the particular part-time appointment, the number of hours the employee must work each workday.

Both full-time and part-time employees negotiate with their supervisors the fixed starting/stopping times of their lunch breaks, subject to work needs.

#### C. Requests for AWSs

1. Employees may request to change their schedules once before the beginning of each calendar quarter that begins in January, April, July, and October. Requests must be submitted at least two (2) full pay periods before the first workday of the first full pay period in the quarter. Employee may submit a request to change their schedule more often when a hardship exists. In any event the employee will not change their schedule more than four times a calendar year.
2. An employee who requests a FWS must indicate which FWS he or she is requesting. Employees who request FWSs must select anticipated “in” and “out” times within the periods of 6:00 a.m.-9 a.m., and 2:30 p.m.-6:00 p.m., respectively.
3. An employee who requests a CWS must indicate which schedule he or she is requesting, which day is requested as the non-workday(s), and in the case of the 5/4-9 schedule, which workday is requested to be the eight-hour day. The employee must also select a starting and stopping time within the arrival and departure time bands. Once these times have been selected and approved, the employee may not vary these times until a new request is submitted and approved (at the calendar quarter) except under extenuating circumstances.

- D. Subject to supervisory approval, employees who work a FWS may “flex out and in” both inside and outside the core hours of 9:00 a.m.-2:30 p.m. Absent the supervisor’s approval the employee must both cover core hours and work the required number of hours each workday. Therefore, if the combination of an employee’s starting time and the amount of time the employee is away from the worksite precludes coverage of core hours and/or the completion of a full workday prior to the completion of the Agency’s

latest departure time, the employee shall take the appropriate leave at his/her request. On occasion, with supervisory approval, employees on the Maxiflex 5/4-9 work schedule may expand their lunch period within the established lunch band and make it up at the end of the day without a charge to leave.

- E. If a supervisor denies a request for an established AWS or proposes to terminate an individual employee's participation in an AWS, he or she shall notify the employee in writing, provide the basis for the denial or termination and provide an alternate schedule to the employee. The supervisor may deny an employee's request for or propose to terminate an employee's participation in a particular AWS if the supervisor determines that the employee's participation could negatively impact the mission's work, coverage requirements or the need to respond to the public. Denials of requests to work AWSs shall not be arbitrary or capricious. An employee may challenge a supervisor's denial as set forth in Article 26, "Negotiated Grievance Procedure".

## **Section 8 - Temporary Suspension of AWSs**

- A. The Agency shall make a reasonable effort to continue the participation of employees in AWSs without interruption. However, occasions may arise when, because of a need created by unusual and/or unanticipated workload or operational demands, the Agency must suspend AWSs temporarily. When such a need arises, the Agency shall notify the employee at least one (1) pay period in advance unless circumstances require that notice be shorter. The suspension shall be no longer than is necessary to meet the temporary need. If an employee's FWS is suspended temporarily, the Agency shall restore it automatically as soon as possible after the temporary need has ended. For the purposes of this Agreement, a FWS suspended "temporarily" is one that is suspended for a period of 28 days or less. If the Agency believes it will be necessary to repeat any suspension or start a new suspension without first restoring the participation of an employee in AWSs, the Agency shall notify the Union before the end of the suspension. The Agency shall not suspend AWSs without good cause.
- B. A supervisor may require that employees revert back to the basic eight (8) hour day and 40 hour work week for a full pay period when an AWS is inconsistent with a need to accommodate (i) temporary assigned duties, or (ii) training/travel of more than three (3) days duration, or (iii) military leave, or (iv) any similar temporary factor.
- C. To meet unforeseen urgent mission requirements, employees may be required to work on their scheduled day off. In those instances, employees who are not "exempt" under the Fair Labor Standards Act ("FLSA") shall be compensated for such work by, at the election of the employee, receiving either (i) payment at overtime rates or (ii) compensatory time off. Employees who are "exempt" under the FLSA shall be compensated for such work by receiving compensatory time off.

- D. Employees temporarily assigned to other parts of the organization shall work a schedule that meets the mission, operational, and customer service requirements of their assignments.

### **Section 9 - Terminating AWSs**

If the head of the Agency finds that a particular AWS has had an “adverse Agency impact,” as defined in 5 U.S.C. 6131(b), the Agency must promptly provide notice to the Union of its desire to reopen the Agreement to terminate the availability of that particular AWS. Upon demand by the Union, the parties shall then negotiate over the Agency’s proposal.

### **Section 10 - Credit Hours**

- A. Employees who work FWSs, including the “Maxiflex 5/4-9”, may earn credit hours. Employees who are in designated fixed schedule positions and employees who work CWSs are not eligible to earn credit hours.
- B. Employees must request to work credit hours in advance. Supervisors shall approve or deny such requests promptly. Upon request of the employee, the earning of credit hours may be approved retroactively where the circumstances warrant (e.g., where it was impractical for the employee to obtain advance approval and performing the work was necessary).
  - 1. Employees shall not be authorized to work credit hours on holidays unless the employee is already scheduled to work.
  - 2. Employees shall not normally be authorized to earn credit hours on a regular scheduled day off, except in situations where the employee has a substantiated need to build time to account for an anticipated unusual need for time off.
- C. If credit hours are approved and overtime is subsequently made available prior to the working of the credit hours, the employee shall be afforded the opportunity to elect to work the overtime.
- D. Eligible employees may be authorized to earn up to four (4) credit hours per day, and up to twelve (12) credit hours per week, provided work that can be performed at the requested time is available for the employee and it can be performed at the requested time(s).
- E. Credit hours may be earned and used in increments of one-quarter hour (15 minutes).

- F. Full-time employees may accumulate and carry over from one pay period to another a total of no more than 24 credit hours. Part-time employees may accumulate and carry over from one pay period to another a total of no more than  $\frac{1}{4}$  of the hours in their biweekly basic work requirement. A full-time employee who has accumulated more than 24 credit hours (or a part-time employee who has accumulated more than the maximum allowed) is subject to forfeiture of the excess hours if they are not used prior to the end of the pay period.
- G. The use of credit hours shall be subject to the same criteria as annual or sick leave. An employee may use earned credit hours for all or any part of any approved leave. Credit hours must be earned before they may be used.

## **Section 11 - Holidays**

- A. All employees shall be entitled to all Federal holidays, declared by law or Executive Order.
  - 1. For full time employees working a Monday-Friday schedule, if a holiday falls on a Saturday, it shall be observed the preceding Friday. If a holiday falls on a Sunday, it shall be observed the following Monday. This is referred to as an “in lieu of” holiday.
  - 2. When a holiday falls on a non-work day of a part-time employee, that employee is not entitled to an “in lieu of” day for that holiday.
- B. Regular Schedule
  - 1. Full-time employees on a regular schedule (neither FWS nor CWS) who are relieved or prevented from working on a workday designated as a holiday shall receive their regular rate of basic pay for eight (8) hours on that workday.
  - 2. A full-time employee who performs work on overtime on a holiday is entitled to his or her rate of basic pay plus premium pay equal to his or her rate of basic pay (double time) for that holiday work. Holiday premium pay is limited to a maximum of (8) hours.
  - 3. A part-time employee who performs work on a holiday shall receive his or her regular rate of basic pay for the hours the employee is scheduled to work that day, not to exceed eight (8) hours.

C. FWSs

1. Full-time employees performing work on a FWS under this Article who are relieved from working on a day designated as a holiday shall receive their regular rate of basic pay for eight (8) hours on that day.
2. A full-time employee who has been approved to perform work on overtime on a holiday is entitled to his or her rate of basic pay plus premium pay equal to his or her rate of basic pay (double time) for that holiday work. Holiday premium pay is limited to a maximum of (8) hours.
3. A part-time employee working a FWS who is relieved from working on a holiday shall receive his or her regular rate of basic pay for the hours the employee is scheduled to work that day, not to exceed eight (8) hours. For example, an employee who works 10 hours on a holiday (including one (1) hour of overtime work ordered by a supervisor) and who has a 9-hour basic work requirement on that day would earn holiday premium pay for the 8 holiday hours, his or her regular rate of basic pay for one (1) hour within the basic work requirement), and one (1) hour of overtime pay.
4. A part-time employee working a FWS who performs approved work on a holiday is entitled to holiday premium pay only for work performed during his or her basic work requirement.

D. CWSs

1. Full-time employees working a CWS in accordance with this Article (see § 7-B-3 above) who are relieved from working on a workday designated as a holiday shall receive their regular rate of basic pay for the number of hours of their CWS on that workday.
2. The Agency shall not require employees to move their regularly scheduled workdays off solely in order to avoid paying holiday premium pay or to reduce the number of holiday hours included in the basic work requirement.

**Section 12 - Use of WebTA**

All employees working under FWSs shall record their exact daily arrival (or “in”) and departure (or “out”) times in the Agency’s designated system for recording time and attendance.

### **Section 13 - Breaks**

- A. Employees are authorized two (2) breaks lasting up to fifteen (15) minutes each day. No more than one break period shall be taken in the morning or in the afternoon. Breaks may not be used to delay arrival times, extend lunch periods, or advance departure times, and may not be carried over or accumulated.
- B. Break periods are part of the duty day and are compensable. It may be necessary, from time to time, to interrupt an employee's break because of Agency business, e.g., phone calls, or walk-in customers. In such cases, the employee shall shorten that break but is still authorized a total of fifteen (15) minutes at some time each morning and afternoon. Breaks shall be scheduled so as to maintain appropriate office coverage.
- C. Employees shall: (1) inform supervisors or the Office if they anticipate deviating from their normal break time; and (2) remain reasonably accessible during break periods.

# **Article 11**

## **Pay Administration**

### **Section 1 - Applicable regulations**

Rural Development Indiana employees will be regulated by RD Instruction 2051-H, "Overtime Pay".

### **Section 2 - Guidelines**

- A. Overtime shall be distributed fairly and equitably to all bargaining unit employees.
- B. Overtime shall not be distributed or withheld as a reward or penalty.
- C. The Employer will, to the maximum extent reasonably possible, notify the employees of the opportunity to work overtime work.
- D. The Employer will, to the maximum extent reasonably possible, give notice three (3) days in advance to employees who will be required to work after their normal tour of duty.

## **Article 12**

### **Holiday Work**

The Agency shall, to the maximum extent reasonably possible, avoid requiring employees to work on holidays. However, in the event the Agency decides holiday work is needed, the State Director or other authorized official may approve such work. The Agency shall not assign employees to work on a holiday as a reward or penalty, but solely in accordance with actual needs, and normally only to employees who volunteer.

- A. In the event the Agency decides holiday work is needed, the Agency shall consider assigning the work to those employees whom the Agency decides are qualified to perform the work of the assignment in the following order: (1) those who are currently assigned to the office needing the work; and (2) those from other offices.
- B. In order to ensure consistency, the Agency shall normally, upon reasonable request, excuse employees from working on a holiday if another employee with the required skills is readily available and willing to work.
- C. The business rationale concerning holiday hours worked shall be made available, when requested, to employees and/or the Union to aid in resolving specific complaints concerning distribution of work on holidays. If a dispute arises, the grievance procedure shall be followed.
- D. The Agency shall notify those employees who are needed for holiday work assignments as far in advance as reasonably possible.
- E. If an employee is not more than thirty (30) minutes late in reporting for a holiday work assignment, he/she shall not be denied the remainder of the holiday work assignment. If an employee who has been assigned holiday work cannot report for the assignment due to illness or emergency, such employee shall notify the appropriate available supervisor. However, the Agency shall give consideration to an employee who, because of special or unique circumstances, is unable to meet these requirements. In this connection, all employees shall be informed as to the proper procedure to give notice of absence.
- F. The following Federal designated holidays shall be granted to all bargaining unit members unless changed by law and/or regulations.

#### **Holidays by Federal Statute**

New Year's Day - January 1  
Martin Luther King - third Monday in January  
Washington's Birthday - third Monday in February  
Memorial Day - last Monday in May  
Independence Day - July 4  
Labor Day - first Monday in September  
Columbus Day - second Monday in October  
Veterans Day - November 11

Thanksgiving Day - fourth Thursday in November  
Christmas Day - December 25

**In the event Congress creates by statute a Federal Holiday not listed above, the same shall be granted to all bargaining unit employees.**

## **Article 13**

### **Use of Facilities**

#### **Section 1 - Office Space and Furnishings**

- A. The Employer will make available adequate space for confidential discussions between bargaining unit members and designated Union representatives, when such discussions are part of or reasonably necessary so the Union can perform its representational role. When available, suitable and allowable under any existing lease agreement, during and after duty hours, the Union may reserve and use the Employer's conference rooms or other suitable spaces for meetings of its officers, stewards, and members to conduct internal union business so long as employees of the Employer are neither in duty status nor on official time. The Union agrees to pay for any extra cost of using facilities outside of normal business hours, if such payment is required by the lease contract. The payment will not exceed the net cost to the Agency.

#### **Section 2 - Issuances**

- A. The Employer will permit the Union to use a copier to make one copy of any non-confidential document issued by the Employer or the Department concerning personnel policies, practices, or working conditions, organizational structures, labor-management relations, or any other matter that may have an impact on the conditions of employment of bargaining unit employees. Confidential documents shared by either party will be based in trust and respect and must not be duplicated or shared with others without the sharing party's express consent.
- B. The Union will be permitted access to personnel manuals and guidelines, and may, on request, make copies of such materials.
- C. Usually, all distribution of issuances under this Article will be at no cost to the Union.

#### **Section 3 - Other Facilities and Services**

The Employer will continue to furnish Union representatives, including those performing representational duties on official time away from their permanent duty stations, customary routine services that are consistent with the best interest of the Employer, employees and the Union. Such services include the use of the internal mail distribution (for other than mass mailing), trivial amounts of photocopying, and the like.

**NOTE:** The Union's use of official facilities under this Article will ONLY be for the purpose of representing employees of Rural Development Indiana, except to the extent that issues related to USDA Field Service Centers or Service Center Initiatives within the Department may

affect those employees. Any misuse of equipment and facilities may result in the temporary or permanent loss of these privileges.

## **Article 14**

### **Communications**

#### **Section 1 - Bulletin Boards**

- A. The Employer will provide the Union not less than 36 inches x 36 inches of bulletin board space in areas accessible to bargaining unit employees.
- B. Union bulletin boards will be identified as such by the Union. All postings will be marked prominently as “Union Notices”, and only the designated Union bulletin boards will be used for such postings.
- C. The Union bulletin board will be used solely for Union materials. The employer will not post any material on the bulletin board without the consent of an elected official of the Union.

#### **Section 2 - Distribution of Union Publications**

Official publications of the Union may be distributed on USDA, Rural Development property by Union representatives during the non-duty time of the Union representatives who are distributing, and of the employees receiving the materials; distribution shall not disrupt operations. All such materials shall be properly identified as official Union issuances.

#### **Section 3 - Contents of Literature**

Union literature, whether posted on bulletin boards or distributed, must not violate any law, regulations, security of the office, or provisions of this agreement. Union Statements will not include defamatory or derogatory remarks that undermine the authority of the agency and its officials, when the remarks have no reasonable nexus to legitimate representational issues. Any complaint concerning the Union’s compliance with these requirements may be made the subject of a grievance in the Negotiated Grievance Procedure.

#### **Section 4 - Space for Pamphlet Racks**

To the extent needed and reasonably practicable, the Employer will provide floor space for Union-supplied publication racks.

## **Section 5 - Addressing New Employees**

During orientation sessions held by the Employer to orient new employees, the Employer will introduce a Union representative designated by the Union and will provide the Union's representative an opportunity, usually not lasting more than thirty (30) minutes, to address the employees.

## **Section 6 - Use of E-Fax and Office Copying Equipment**

The Employer will permit reasonable use of e-fax and office copying equipment to reproduce materials for use in Labor-Management relations.

## **Article 15**

### **Parking and Parking Areas**

- A. The Agency shall, insofar as reasonably possible, locate offices in facilities with sufficient parking space for all employees.
- B. At each facility, the Agency shall clearly identify any parking space reserved for limited/preferential use that is not available to bargaining unit employees.
- C. Parking space limited to/reserved for handicapped employees.
  - 1. Any employee seeking the use of a parking space reserved for handicapped employees shall submit to the Agency documentation showing that: (a) they have requested handicapped vehicle identification (e.g., a hanging tag, a special license plate, etc.) from the government of the state in which they reside; and (b) the government of that state issued such vehicle identification to them.
  - 2. When the Agency receives such a properly documented request, the Agency shall respond by approving the request and permitting the preferential use of a parking space within ten (10) workdays. The space shall be: (a) the closest available to the employee's normal workplace entry; and (b) sufficient to accommodate the employee's documented handicap.
  - 3. In order to continue using a parking space reserved for handicapped employees, the employee shall reaffirm their handicapped eligibility status annually by submitting current documentation of the type identified in the preceding paragraph.
- D. When the limited/preferential use of parking spaces is to be assigned to individual bargaining unit employees, the Agency shall: (a) notify the Union; and (b) permit the Union an opportunity to demand to bargain about the matter.

## **Article 16**

### **Reduction-In-Force and Transfer of Function**

#### **Section 1 - Negotiations**

- A. The Employer and the Union recognize that unit employees may be seriously and adversely affected by a reduction-in-force (“RIF”) and/or transfer of function (“TOF”). In the event of a RIF and/or TOF, the Employer will notify the Union and fulfill its obligation to bargain consistent with 5 USC 71.
- B. The Employer shall provide the Union with all available information relevant to bargaining about the RIF and/or TOF in accordance with 5 USC 7114(b)(4).

#### **Section 2 - Notification to the Union**

When it is anticipated that a RIF and/or TOF will affect bargaining unit employees, the Union President will be given the earliest reasonably possible preliminary notification in writing prior to employee notice. The preliminary notice will, as applicable, include the following information:

- 1. Specific functions to be transferred and identification of employees assigned to this function;
- 2. The reason for the RIF or TOF;
- 3. The competitive area and personnel levels (type of positions and approximate number of employees) that may be affected initially;
- 4. The anticipated effective date that the action will occur; and
- 5. The manner in which Management anticipates exercising its discretion under 5 CFR 351.

#### **Section 3 - Impact and Notification to Employees**

- A. The Employer will attempt to minimize the adverse effects on employees of actions exercising management rights. All RIFs will be carried out in strict compliance with all applicable laws and regulations.
- B. The Employer will give an advance general notice of 90 calendar days to employees who may be affected by a RIF, and a specific notice of 60 calendar days to individual employees who will be affected by a RIF.

- C. Employees receiving a RIF notice have the right to review retention lists pertaining to all positions for which they are qualified within their competitive area. This includes the retention register for their competitive level and those for other positions for which they are qualified, down to and including those in the same or equivalent grade as the position offered by the Agency. If separation occurs, this includes all positions to or below the grade level of their current positions in their competitive areas. Affected employees shall have the right to the assistance of the Union when reviewing such lists or records.
  
- D. Any career or career-conditional employees whose last performance rating of record is above unacceptable and who are separated because of a RIF must be given information concerning their right to reemployment consideration and career transition assistance plans, among other rights to which they may be entitled. It is understood that acceptance of a temporary appointment will not alter the employee's right to be offered permanent employment.
  
- E. Bargaining unit employees have the right to outplacement services described in the Department of Agriculture and Rural Development Career Transition Assistance Plans and 5 CFR 351.

## **Article 17**

### **Contracting Out Bargaining Unit Work**

#### **Section 1 - Notification to the Union**

- A. When the Employer anticipates contracting out work presently being performed by bargaining unit employees and that doing so would result in a RIF or in the demotion of any bargaining unit employee, it will notify the Union at least 60 days in advance. The notice will identify in general terms the employees who may be affected. Time frames hereby established may be extended by mutual consent.
- B. Following such notice, upon request from the Union, the Employer will meet with the Union to discuss the information contained in the notice.

#### **Section 2 - Management Decisions**

Any Employer decision to possibly contract out work presently being performed by bargaining unit employees will be made in accordance with OMB Circular A-76, applicable rules and regulations, and in keeping with those will ensure the Union is represented in any "Most Efficient Organization" ("MEO") team established as the MEO competes with private enterprises to perform the duties described in the Statement of Work.

#### **Section 3 - Statement of Work**

The Employer will provide the Union with a copy of any Statement of Work which has been developed for the proposed contracting out, and which deals with work currently performed by bargaining unit employees. The Union will be given ten (10) days to comment regarding the Statement of Work. Time frames hereby established may be extended by mutual consent.

#### **Section 4 - Impact and Implementation**

The Employer agrees that prior to implementing a decision to contract out, the Union will be given the opportunity to timely negotiate regarding the impact and procedures for implementing such decision.

Management and Union officials will meet for no more than five (5) workdays to resolve any differences and reach agreement. Time frames hereby established may be extended by mutual consent.

### **Section 5 - Access to Regulations**

The Employer agrees to provide the Union access to all regulations maintained on-site that are relevant to contracting out.

### **Section 6 - Adverse Effects on Bargaining Unit Employees**

If bargaining unit employees are adversely affected (RIF or demotion) by the decision to contract out work presently being performed by bargaining unit employees, the Employer will proceed in accordance with Article 16 of this agreement.

### **Section 7 - Placement Assistance**

The Agency agrees to assist in locating suitable employment for bargaining unit employees who are displaced as a result of contracting out, including:

1. Giving priority consideration for suitable vacant positions within Rural Development - Indiana in accordance with Agency policies and procedures;
2. Paying reasonable costs for training and relocation, according to Federal Travel Regulations;
3. Making reasonable efforts to arrange for gradual transition when conversions are made to provide greater opportunity for attrition and placement; and
4. Implementing the Career Transition Assistance Plan ("CTAP") and the Interagency Career Transition Assistance Plan ("ICTAP") programs.

## **Article 18**

### **Training and Career Development**

#### **Section 1 - Statement of Policy**

The primary function of training is to assure the optimum use of human resources in attaining organizational needs. The Employer is responsible for determining training needs, and will consider input from employees when doing so. The Employer should provide training necessary for the performance of employee's assigned duties, and for improvement of organization and individual performance. Given the likely future limitation of funds and the need to provide training, USDA is relying on the robust capabilities of AgLearn to meet most USDA RD training needs.

#### **Section 2 - Non-Discrimination**

Nomination and/or selection of employees to participate in training and career development programs and courses shall be non-discriminatory and made without regard to race, color, national origin, ethnicity, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, Union membership or activity, or reprisal or retaliation for prior civil rights activity, and shall be in accordance with equal employment opportunity guidelines, and consistent with other applicable laws.

#### **Section 3 - Individual Development Plan**

Employees will complete Individual Development Plans ("IDPs") via AgLearn with the Employer (usually their supervisors) at the beginning of each performance review period. The supervisor will assist the employee in the preparation of the IDP and will review it with the employee to assure conformance with organizational needs and individual career needs. The plan will be referred to the designated approving official and the employee will be notified of the approval/disapproval or the need for modification.

#### **Section 4 - Employee Training Counseling**

The Employer and the Union recognize that each employee should apply effort, time, and initiative in increasing his/her potential through self-development, training, and job performance. When requested by an employee, the Employer (usually the supervisor) will provide counseling concerning skills the employee might consider developing.

## **Section 5 - Training Expenses**

When local training is approved, the Employer will pay the costs of tuition and required textbooks and other expenses as appropriate whenever reasonably possible, and may pay travel costs, subject to travel regulations and fiscal considerations. If travel funds are not authorized and the training would otherwise be approved, the employee will be notified and given the option of attending the training without travel reimbursement. Duty time will be approved for training, when it is scheduled during the employee's basic workweek, unless the training is deferred or cancelled.

## **Section 6 - Training Needs**

The appropriate supervisory officials will compile training needs as identified in employees' Individual Development Plans ("IDPs") and program trainings and report them to the respective subject area program directors and/or Human Resources Training Coordinator. Based on these needs, and in consideration of changes in regulations, results of internal and external audits, and changes in technology, the Employer will plan training subject to funding availability.

## **Article 19**

### **Incentive Awards**

#### **Section 1 - Purpose and Policy**

- A. An agency may use an appropriate Incentive Awards Program in which both Employees and Managers take an active part to promote team-building and to motivate, reward and recognize employees for their accomplishments thereby increasing the effectiveness of the workforce, raise agency productivity, and improve the working environment.
- B. Within the limits set by policy, budgetary and other legitimate management considerations, the Agency shall follow DR 4040-451-1, “USDA Employee Awards and Recognition Program”, to provide incentive awards to:
  - 1. employees whose individual and/or team performance substantially exceeds normal expectations; and
  - 2. employees who submit suggestions resulting in measurable improvements in productivity.
- C. The Agency shall establish a Committee to review those awards granted to bargaining unit employees and to advise management on all matters concerning the application of the program to bargaining unit employees. This Committee shall be comprised of a diverse group of persons employed by the Agency drawn from the state and field offices both north and south, and shall include a representative nominated by the Union.
- D. The Agency shall disclose to the Committee data detailing the awards granted to bargaining unit employees identified by: (i) gender; (ii) race; (iii) grade; and (iv) occupation.
- E. All proceedings and discussions of the Committee, including information disclosed to the Committee about individual persons employed by the Agency shall be treated as confidential.

## **Article 20**

### **Equal Employment Opportunity**

#### **Section 1 - Equal Employment Opportunity**

- A. Equal Employment Opportunity (“EEO”) shall be advanced in accordance with Title 5 USC, Executive Order 11478, authorizing legislation, applicable USDA regulations, and RD Instructions.
- B. The Employer shall make available to employees written information describing the EEO complaints procedure.
- C. The Employer shall make available to the Union as requested, information concerning the workforce profile (i) by grade according to gender and race, (ii) by occupation according to gender and race, and (iii) concerning promotions according to gender and race.
- D. Guidelines on EEO policies and related subjects are disseminated by the Agency through AgLearn.

#### **Section 2 - Complaints**

- A. Any employee who wishes to file or has filed a complaint shall be free from coercion, interference, and reprisal, and shall be entitled to expeditious processing of the complaint within the time limits prescribed by regulations. Any employee who seeks to file a complaint shall have the right to select a representative as provided by 29 CFR 1614.
- B. An employee has the option of filing a complaint under the Negotiated Grievance Procedure (Article 26) or under the Agency EEO complaint procedure, but not both. An employee shall be deemed to have exercised his or her option at such time as the employee timely files under the statutory procedure or the Negotiated Grievance Procedure, whichever occurs first. EEO counselors will provide employees with written descriptions of both procedures.

#### **Section 3 - Duty Status**

Union representatives participating in discussions of informal EEO complaints under this article shall be on official time as outlined in Article 31, “Official Time”, of this Agreement.

#### **Section 4 - Reasonable Accommodation**

The Employer shall provide reasonable accommodation in accordance with law and regulations. Employees are responsible for communicating the need for accommodation and for following established procedures. Initiate your request with your immediate supervisor who will work

with the appropriate Manager to meet your needs.

## **Article 21**

### **Labor-Management Forum**

The parties hereby establish a Labor-Management Forum as provided and set forth in the “Charter for the USDA Rural Development Indiana Collaborative Labor-Management Forum” in Addendum ‘A’ to this Article.

#### [Addendum ‘A’]

#### **CHARTER** **for the** **USDA Rural Development Indiana** **COLLABORATIVE LABOR-MANAGEMENT FORUM**

#### **I. Introduction**

The mission of USDA Rural Development is to help improve the economic well-being and quality of life in rural America.

On December 9, 2009, President Barack Obama issued Executive Order 13522, “**Creating Labor-Management Forums to Improve Delivery of Government Services**” (“the E.O.”), directing executive branch departments and agencies to pursue a cooperative and productive form of labor-management relations by establishing collaborative labor-management forums (“LMFs”) as a means of improving the effectiveness and efficiency of government operations.

#### **II. Guiding Principles**

USDA Rural Development Indiana (“Agency”) and American Federation of Government Employees Local 622 (“Union”) hereby establish the USDA Rural Development Indiana/American Federation of Government Employees Local 622 Collaborative Labor-Management Forum and adopt the following guiding principles:

1. The Forum should contribute positively to the performance of the Agency;
2. The Forum should promote the economic and workplace interests of employees, managers, and the Agency;
3. The Forum should operate with a clearly articulated shared understanding that the parties have broad authority to develop solutions jointly on issues that fall outside the scope of bargaining;
4. Employees and their Union representatives should have pre-decisional involvement concerning management’s decisions about the agreed upon matters to the fullest

extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106;

5. Budget permitting, Agency and Union officials and participants in labor-management forums should receive training on the requirements of the E.O., these guiding principles, and tools and processes that could facilitate problem-solving and conflict resolution;
6. Labor-management forums should set specific, measurable, achievable, realistic, and time-targeted goals, measure performance, and communicate results;
7. Managers and Union representatives at all levels should be committed to making labor-management forums work, which means being personally engaged;
8. In the spirit of the larger collaborative labor-management engagement process, all parties should approach pre-decisional involvement of the Union in issues involving the employees' overall well-being and the Agency's achievement of its mission in a spirit of cooperation;
9. Labor-management forums should be led by relevant decision makers and supported by appropriate staff; and
10. The parties should devote sufficient resources to the implementation of the E.O.
11. All Forum recommendations shall be sent to the State Director for consideration.
12. No recommendation for a course of action, resolution of an issue, solution of a problem, or other agreement reached by the Forum shall be contractually binding on either party unless and until it has been reduced to writing, approved by the Union President and State Director, executed by the parties, and becomes effective pursuant to § 7114(c) of Federal Service Labor-Management Relations Statute ("Statute").

**Vision:** Labor and management collaborate to work as partners to make recommendations regarding issues involving communications, training, and the workplace environment for the overall well-being of employees and to achieve the Agency's mission.

**Mission:** Work as a team or equal partners to accomplish the Agency's goals and better serve the Agency's customers.

**Membership:** The Forum shall consist of four (4) regular members, two (2) of which shall be bargaining unit employee-members appointed by the Union, and two (2) of which shall be members appointed by management. The members serve at the sole discretion of the respective appointing parties. Substitutions shall be allowed so long as the substituting party gives the other party notice at least 24 hours before the meeting. There shall be two co-chairs, i.e., one each from management and from the Union.

**Functions:** The Forum may consider matters such as the following:

- Maintaining employee productivity and morale including training initiatives.
- Maintaining and enhancing a safe, clean, and enjoyable workspace environment.
- Improving communications between employees and supervisors.

### III. Metrics

The E.O. requires the development of metrics to monitor improvements in areas such as labor-management satisfaction, productivity gains, cost savings, and other areas as identified by the Forum's participants. In furtherance of this requirement, the parties adopt the following recommendations on metrics from the USDA Forum:

#### 1. GOAL

Maintain and enhance employee productivity and morale including training initiatives

Maintain and enhance a safe, clean, and enjoyable workspace environment

Improve communications between employees and supervisors.

Improve the Agency's ability to accomplish its mission and deliver high quality products and services to the public

#### METRICS

Higher productivity

Improved customer satisfaction

Better service delivery

Cost savings

Speed and quality of adoption of new business processes and technology

#### 2. GOAL

Maintain and enhance employee productivity and morale

#### METRICS

Higher employee morale

Greater job satisfaction

Lower attrition rates

Employee development and training

### 3. GOAL

Improve the labor-management relations climate

#### METRICS

Greater union and employee engagement in workplace decisions (establish baseline via survey)

Cost savings and/or cost avoidance

Increase in disputes resolved

## **IV. Meetings**

The Forum shall meet quarterly, or as determined by its members. A quorum consists of at least half of the permanent representatives from labor and management respectively. Meetings shall normally last no longer than four (4) hours.

To the maximum extent possible, telecommunication tools shall be used in place of in-person meetings. In-person meetings shall normally be held at the State Office or a Service Center office.

Co-chairs shall normally: (1) take turns chairing regular meetings; (2) solicit agenda items from permanent members or their designees two (2) weeks prior to meetings; and (3) distribute agendas for an up-coming meeting before the meeting. Additional items for discussion may be added to the agenda by consensus.

For issues concerning Forum governance or operation, decisions require consensus, i.e., unanimity. For pursuing the purposes of the Forum, consensus is reached after all participants have had an opportunity to be heard and agree they can live with a particular proposed recommendation.

Only permanent Forum members or their designees may participate in reaching consensus.

Subject matter experts may be invited to meetings with mutual consent of the parties.

The Forum may create subgroups and may delegate specific responsibilities to such subgroups. The parties shall jointly determine the size of the subgroups and allow the appointment of an equal number of labor and management members.

## **V. Minutes**

Minutes of Forum meetings shall be recorded by a note-taker designated by the co-chair who is not chairing the meeting, and sent to all permanent members (or their designees) for review within seven (7) calendar days following meetings.

Approval of the minutes shall be the first order of business at the next meeting of the Forum.

Action items shall be summarized at the end of each meeting.

## **VI. Funding**

Budget permitting, Forum-related expenses shall be paid by the Agency.

## **VII. Charter Amendments**

This Charter may be amended by agreement of the Agency and Union.

## **VIII. Pre-Decisional Involvement**

Pre-decisional involvement (“PDI”) is management’s voluntary involvement of the Union in thinking about decisions prior to decisions being made and announced by management. PDI is the result of management taking the initiative to involve the Union in a collaborative pre-decisional labor-management relationship.

In order for the Forum to be successful, it is critical that both parties to the relationship, labor and management:

- have a common understanding of what PDI means;
- share a mutual appreciation of why it is in their own best interest to engage in PDI;
- have similar expectations of the results they seek to obtain from PDI; and
- agree on what actions occur after PDI has concluded.

The following principles of PDI shall be used:

- The process begins early when ideas are forming;
- The parties have common expectations;
- Information is freely shared throughout the process and there is an understanding on confidentiality of the information and the process;
- The participants utilize a problem-solving approach founded on interest-based principles;
- The participants adapt a team approach to their activities; and
- The parties and the participants demonstrate a high degree of commitment to the process and to achieving their shared expectations.

## **IX. Impact on Statutory Rights**

For issues concerning PDI, USDA retains its decision-making authority and, unless specifically and explicitly waived, the Union retains its rights to bargain in accordance with law if no agreement is reached during PDI.

PDI does not waive management's rights under § 7106 of the Statute to make and effectuate decisions, nor does it waive labor unions' rights to engage in bargaining prior to implementation of working conditions to the extent required by law.

Further, neither the Executive Order nor this Charter supersedes any negotiated agreements between the Agency and the exclusive representative of the Agency's employees.

PDI is not co-management. Management is ultimately responsible for making decisions. Instead, PDI is intended to compliment—not replace—collective bargaining. Therefore, where PDI fails to resolve bargainable issues, management shall still adhere to the requirements of applicable law, rule, regulation, and collective bargaining agreements.

## **X. Dissolution**

The Forum shall continue so long as both parties agree to continue it.

## **Article 22**

### **Telework**

This article supplements USDA Departmental Regulation 4080-811-002, “Telework Program” (dated January 30, 2014) (hereinafter “USDA DR”), and is not intended to alter its substance or application but to clarify and educate. Employees who telework or are interested in teleworking should study both the USDA DR and this article.

#### **Section 1 - Purpose**

Teleworking permits employees to work voluntarily at approved Alternative Worksite (AWkSs) as defined in the USDA DR other than their Official Duty Station/Worksites (ODS) when the duties of the employees’ positions are such that they can be performed from AWkSs. This Article applies to Core (Regular/Recurring) and Situational/*ad hoc*/Unscheduled Telework Agreements. (see USDA DR @ § 5-a, b, c, g, j, and 1; and § 7-c-(1))

#### **Section 2 - References**

Conditions of employment related to telework for bargaining unit employees shall be governed solely by the provisions of law, Government-wide regulations, the USDA DR, and this Agreement. Any issue not addressed directly by this Article shall be governed by USDA DR. (see USDA DR @ § 2)

#### **Section 3 - Special Instructions [reserved]**

#### **Section 4 - Policy**

- A. The Agency shall apply Telework policies fairly and equitably. (see USDA DR @ § 6)
- B. This Agreement and all governing directives shall apply to employees in telework status just as they apply to on-site (i.e., on-ODS) employees. The Agency may not impose any additional requirements on telework employees that the Agency does not impose on its on-site employees. (see USDA DR @ § 4-g and q)
- C. All telework eligible employees may participate in flexible or compressed work schedules, or other flexible work arrangements (including Maxiflex) in combination with Core (Regular/Recurring) and Situational/*ad hoc*/Unscheduled telework, consistent with terms of their Telework Agreements. (see USDA DR @ § 7-a-(4))
- D. The Agency shall treat telework days as regular workdays. During their scheduled daily tours of duty, teleworking employees shall be as available to the Agency’s supervisors,

their coworkers, and Agency customers as are those employees who are on-site. (see USDA DR @ § 4-q; and § 6-i-(3))

- E. The Agency shall presume that all positions are eligible for participation in the Telework Program unless it determines the position is unsuitable for teleworking and provides the Union with a written explanation. (see USDA DR @ § 4-b)
- F. Any employee has the right to discontinue his/her involvement in the Telework Program at any time. (see USDA DR @ § 4-f)
- G. When an employee no longer meets the eligibility criteria or performance obligations for teleworking, the Agency may amend, alter, adjust, cancel, reschedule, suspend, or terminate that employee's participation in the Telework Program at any time with a reasonable notice. (see 22-7-T-2 below and also USDA DR @ § 7-a-(1)-(a))
- H. A Telework Agreement does not alter the terms and conditions of the appointment including, e.g., an employee's salary, benefits, individual rights, or obligations. The Agency shall base all pay, leave, and travel entitlements on the employee's ODS. The Telework Agreement may not affect other conditions of employment. (see USDA DR @ § 5-g and k)
- I. All deviations from the normal telework arrangements must be requested and approved by supervisors/designees in advance. (see USDA DR @ § 5-l-(2))
- J. A mutually agreed-to short-term change of less than thirty (30) calendar days to a telework arrangement does not require a new Telework Agreement, but must be recorded by a written exchange between the employee and his/her supervisor. (see USDA DR @ § 5-b)
- K. Employees who are teleworking should ensure the existence of appropriate arrangements for the care of others (e.g., children and/or seniors) and/or pets present at the AWkS while the employee teleworks. Others who are capable of caring for themselves may be present at the AWkS provided their presence does not disrupt the employee's effective teleworking. If the Agency finds that a teleworking employee (i) has present at the AWkS others and/or pets needing constant supervision or care but (ii) has not made appropriate arrangements for their care, the Agency may remove that employee from the telework program until he/she is compliant. If at any time an employee is tending for another and/or a pet and is therefore not performing official duties, the employee must charge leave or make up the time as appropriate. (see USDA DR @ § 6-i-(7))

## **Section 5 - Definitions [reserved]**

## Section 6 - Responsibilities

- A. The Agency shall give each employee a list in writing of: (i) all organizational and individual work requirements for his/her respective workplace and/or position; and (ii) all identified connectivity requirements and technologies approved for telework under this telework program. (see USDA DR @ § 6-i-(4)&(8); see also 22-7-H-1 below)
- B. Employees must properly record all telework hours on the Agency's approved Time and Attendance recording system. (see USDA DR @ § 6-i-(6); and § 7-c)

## Section 7 - Procedures

- A. Employees may request to Telework on a Core (Regular/Recurring) or Situational/*ad hoc*/Unscheduled basis. (see USDA DR @ § 5-a and c)
- B. Employees may submit to their respective supervisors their original applications to telework along with any supporting documentation at any time. (see USDA DR @ § 7-a)
- C. Before the Agency may approve an employee's telework request, the employee must meet all eligibility requirements, and properly complete and submit all required forms and documentation. (see USDA DR @ § 4-f)
- D. Before a supervisor approves/disapproves an employee's Telework request, he/she shall meet with the employee to discuss the relevant considerations (i.e., changing circumstances, resources, operational needs/capabilities/commitments, and reasonably expected employee performance) in order to assist the supervisor in determining the number of days per week he/she will authorize. (see USDA DR @ § 4-g)
- E. In the event of multiple employee requests for telework schedules which conflict so that one or more requests must be disapproved, the Agency shall resolve such conflicts on the basis of the requesting employees' greater/greatest: (i) continuous USDA seniority; then (ii) General Schedule grade/step level; then (iii) federal government service as measured by Service Computation Date for Leave; then (iv) continuous seniority in Rural Development agencies. (see USDA DR @ § 4-g)
- F. Within two (2) weeks after receiving a written request to telework, the Agency shall provide a copy of an approved or denied Telework Agreement to the employee and the Human Resources (HR) Office. (see USDA DR @ § 4-g)
- G. Once the Agency approves an employee's telework schedule, another employee may not "bump" that employee from his/her scheduled telework day. (see USDA DR @ § 4-g)
- H. Equipment (see USDA DR @ § 6-i-(8))
  - 1. The Agency shall identify the equipment and services to be provided by the teleworking employee and Agency respectively (see 22-6-A above).

2. The Agency or the employee may process employee-initiated trouble tickets for equipment malfunctions. If the Agency cannot remedy the problem remotely, the employee must bring the malfunctioning equipment to the office for repair.
  3. In order to telework from an AWkS, the employee must be able to connect securely to any USDA systems that are necessary for the employee to perform his/her duties and responsibilities.
- I. On a case-by-case basis, employees with approved Core (Regular/Recurring) schedules may agree with their supervisors to change those schedules in order to meet *ad hoc* requests. (see USDA DR @ § 7-b; and § 7-b-(2))
  - J. If circumstances occur that prevent an otherwise telework-ready employee from teleworking on a workday when he/she was required or expected to telework, the employee shall notify his/her immediate supervisor or designee that he/she is having technical difficulties. (NOTE: such “circumstances” include, e.g., the unavailability or inaccessibility of specialized equipment necessary for teleworking, power outages, interference with internet connectivity.) If the employee has not regained connectivity within one (1) hour after giving such notice, the Agency shall offer the employee the option of: (i) coming to the work site; and/or (ii) using accumulated leave, compensatory or other accrued time, or credit hours for the remainder of the workday; and/or (iii) performing work that does not require connectivity. Whenever an employee comes to work on a previously scheduled telework day under such circumstances, the Agency shall consider the employee’s commute time to the ODS as duty time. (see USDA DR @ § 7-b-(6))
  - K. Teleworking when there is an event of either office closure (i.e., an office does not open, opens late, or closes early) or of the employee’s permitted flexible presence (i.e., employees are permitted to arrive late at an office that is already open or are permitted to depart early from an office that is not-yet closed). (see USDA DR @ § 5-1-(1); § 7-b-(5); and “Telework Agreement”, Form AD-3018)
    1. When the event is unexpected because of inclement weather or a national security or other emergency:
      - a. Those employees who are telework-ready and have Core (Regular/Recurring) Telework Agreements shall telework if the event falls on a workday the employee is regularly scheduled to telework.
      - b. Those employees who are telework-ready and have Situational/*ad hoc*/Unscheduled Telework Agreements shall telework if the event falls on a workday for which the employee previously obtained their supervisor’s *ad hoc* approval to telework.
      - c. Any employee on a Telework Agreement who obtains specific supervisory *ad hoc* approval may telework.

2. When it was reasonable to anticipate the possibility of the event (e.g., because a storm was widely predicted in the broadcast media, or because the Agency sent a “heads-up” advisory to employees):
  - a. All those employees who are telework-ready and have Telework Agreements shall complete their Tour of Duty by, as appropriate, teleworking at the AWkS and/or using accrued leave/credit hours and/or working at the ODS. If the employee is unable to complete his/her Tour of Duty by 6 p.m., he/she may use accrued leave/credit hours.
  - b. If, during such an event, an employee with a Telework Agreement who is not prepared to telework shall complete their Tour of Duty by, as appropriate, using accrued leave/credit hours and/or working at the ODS. The employee shall personally notify his/her immediate supervisor or designee of his/her actions. If the employee is unable to complete his/her Tour of Duty by 6 p.m., he/she may use accrued leave/credit hours.
  - c. Telework-ready employees who are affected by an emergency condition (e.g., power or service outage or because of equipment failure) that render them unable to accomplish Agency work at the AWkS will be treated the same as employees affected by the event who do not have a Telework Agreement. Employees in this situation shall: (i) personally notify his/her immediate supervisor or designee of that fact; and (ii) identify the specific effect of the outage.
  - d. In any such situation where the Agency directs an employee to report to the ODS when the employee would otherwise not have reported, the employee’s time driving to the ODS shall be compensable as duty time. (See 22-7-N below.)
  
- L. When the Agency of its own accord authorizes teleworking by eligible employees at a time for which the employee had not previously requested and been authorized to telework, those employees who intend to telework must notify their supervisors by: (i) email; or (ii) a personal telephone call; or (iii) if neither emailing nor telephoning is successful, voicemail. (see USDA DR @ § 4-l; and § 4-m)
  
- M. When the Agency requires an employee to report to the ODS:
  1. If the employee is teleworking and is required to report in an emergency operational exigency in order to perform work at the ODS, the Agency shall: (i) give the employee reasonable advance notice; (ii) permit the employee up to two (2) hours to report; and (iii) treat the time required for the employee to travel to the ODS as compensable. (see USDA DR @ § 6-i-10)
  2. If the employee is approved for Core (Regular/Recurring) telework and is required to report on one of his/her scheduled telework days, the employee may request and the supervisor/designee may approve an alternate telework day in that week. If the employee is unable to request approval for an alternate telework day

in that week because he/she was required to report on-site at the end of the employee's scheduled workweek, the employee may request and the supervisor/designee may approve an alternate telework day in the next week. When the employee takes the alternate telework day in the next week and that week is in a new pay period, he/she must code the time he/she teleworks on the alternate telework day as Situational/*ad hoc*/Unscheduled Telework. (see USDA DR @ § 7-c-(2))

- N. The teleworking employee and attendance at an event to be held at the ODS at a day/hour during the employee's scheduled teleworking (see USDA DR @ § 5-1-(2)):
1. If the employee's attendance is voluntary and the employee wishes to attend, the employee may choose not to telework that workday. If the employee requests to change from teleworking that particular workday to teleworking another workday in the pay period, the supervisor may at his/her discretion, approve or deny the request.
  2. If the employee's attendance is mandatory (i.e., he/she is required to attend), the employee may choose not to telework that workday. If the employee requests to change from teleworking that particular workday to teleworking another workday in the pay period, the supervisor shall, absent a valid mission need, approve the request.
- O. When an employee with an approved Telework Agreement moves to a different position, the supervisor of that new position shall review the employee's current already-approved Telework Agreement and approve or deny the employee's telework schedule as permitted by the USDA DR. (see USDA DR @ § 4-g)
- P. When an employee is recovering from an injury or illness and the medical condition does not preclude the employee from teleworking, the employee may request additional teleworking as a "reasonable accommodation" under the procedures appropriate for making such a request. (see USDA DR @ § 4-i)
- Q. If a supervisor anticipates that critical work needs are likely to preclude any of the employees under his/her direction from teleworking during any part of the work year, the supervisor shall notify those employees of the likely dates of that period as far in advance as is reasonably possible. (see USDA DR @ § 7-a-1-(b))
- R. Teleworking employees may request Union representation while at their AWkS. However, a Union representative shall not leave his/her current duty station to handle the issue. (see USDA DR @ § 6-i-(11))
- S. Terminating an employee's participation in the Telework Program. (see USDA DR @ § 7-1-a)
1. Any employee who wishes to terminate his/her involvement in the Telework Program may do so by submitting a written request to do so to his/her supervisor/designee.

2. Before the Agency terminates/suspends an employee's participation in the Telework Program: (i) the supervisor and employee shall attempt to work out any specific problems; and (ii) the Agency shall give the employee written notice at least two (2) weeks in advance, unless shortening the advance notice is justified by an emergency. This notice shall indicate the reason(s) for the termination/suspension. Unless otherwise indicated, the employee may re-apply to participate in the Telework Program after thirty (30) calendar days provided the reason for the termination/suspension no longer exists. If the Agency terminates/suspends the employee's participation because of mission-related reasons, the employee may ask for reconsideration of the termination/suspension when the mission-related reasons change or end. (see 22-4-G above and also USDA DR @ § 7-a)

## **Section 8 - Inquiries [reserved]**

## **Article 23**

### **Performance Management System**

#### **Section 1 - Overview**

- A. The Agency and the Union are committed to providing quality public service. Accomplishment of the Agency mission should be achieved in an environment that recognizes the value of its employees and the importance of teamwork.
  
- B. Performance of Agency objectives is a function of systems implemented and administered by management, and individual performance by motivated, trained, and valued individual employees. Improvement in Agency performance shall be sought by analyzing work processes and correcting systemic problems and/or revising processes, as appropriate. Consistent with the Agency's commitment to an environment that promotes teamwork, the accomplishment of group or team objectives shall be the cornerstone of performance assessment.
  
- C. The purpose of the performance assessment system in this Article is to provide a framework to ensure honest feedback and open, two-way communications between employees and their supervisors (or other rating officials). The system focuses on contributions within the scope of the employee's job description in achievement of the Agency's overall service mission. Accomplishment of objectives is intended to be achieved within a teamwork environment. The main emphasis of this system is day-to-day interaction among employees and supervisors which includes the implementation of modern and flexible work practices where the Agency's objectives are emphasized by progressive personnel management.
  
- D. This system shall be a positive building block in the foundation of a relationship based on shared interests and mutual objectives. The assessment system shall emphasize:
  - 1. Employee development;
  - 2. Administrative simplicity;
  - 3. The supervisor's role as team leader and coach;
  - 4. Overall employee contributions;
  - 5. Recognition of special skills and contributions such as translation and interpretive activities done as part of or in addition to regular job duties; and
  - 6. Unit and group achievement of the Agency's mission.
  
- E. The assessment system shall not:

1. Be used as a disciplinary tool;
  2. Foster individual competition;
  3. Be based on numerical goals and/or numerical performance levels not contained in the employee's own performance standards;
  4. Be punitive, adversarial or overly labor-intensive;
  5. Apply absolute performance standards except where they are crucial to the mission; and
  6. Be based on expectations or requirements that are unrealistic and unattainable by most employees working under normal conditions.
- F. The Agency shall not prescribe a distribution of levels of ratings for employees covered by this Agreement. Each employee's performance shall be judged solely against their performance standards.

## **Section 2 - Policy**

- A. The provisions of this Article shall apply to all bargaining unit employees in the competitive service.
- B. The employee performance management system and the Agency's application of it shall be fair, equitable, reasonable and related to the employee's position description.

## **Section 3 - Definitions**

Terms such as "appraisal", "critical element", or "performance rating" that relate to the Performance Management System and appear in this article shall, as appropriate, have the same meanings as in government-wide regulations.

## **Section 4 - Critical Elements**

- A. Critical elements are those work assignments or responsibilities of such importance that unacceptable performance on one or any parts of the element would result in a determination that the employee's overall performance was unacceptable.

- B. All critical elements to be used for performance appraisals shall be: (1) directly related to the employee's assigned Position Description, that the supervisor or other appropriate management official has reviewed; (2) determined to be complete and accurate for the duties assigned to the employee; and (3) communicated to the employee at the beginning of the rating period or when a new there are changes in elements or standards.
- C. To the maximum extent feasible, the critical elements shall be consistent for standard or like positions. Variations from these critical elements shall be based on real differences in the job.

### **Section 5 - Performance Standards**

- A. To the maximum extent feasible, performance standards shall be: (1) based on objective, reasonable, and measurable criteria; and (2) provide a clear means of assessing whether objectives have been met.
- B. To the maximum extent feasible, the performance standards shall be consistent for standard or like positions. Variations from these performance standards shall be based on real differences in the job.
- C. Application of all performance standards shall be fair and equitable, and consistent with regulatory requirements.
- D. When quality is expressed in a standard as a percentage error rate or percentage error-free rate, valid statistical methods shall be used to determine if the true error rate is put in the stated standard.
- E. When quality is expressed in a standard in terms of a number of allowable errors, the sample size shall be the same for each employee performing like duties and working under the same position description. If a larger or smaller sample size is reviewed for an employee, valid statistical methods shall be employed to determine if the true error rate is within the error rate expressed in the standard for the sample size in the normal review.

### **Section 6 - New and Revised Critical Elements and Performance Standards**

- A. The Agency shall provide the Union copies of critical job elements and standards that are new or revised and shall afford it an opportunity to bargain before the critical job elements and standards are implemented and issued to the employee.

- B. If deletions are made for any reason in job elements, performance standards, or the aspects that make up the job elements, the Union shall be notified and afforded an opportunity to bargain before the deletion is effective.
- C. The Union shall be notified and allowed an opportunity to attend any meetings that rating officials have with employees to present or discuss performance standards.

## **Section 7 - Communications**

- A. At the beginning of every rating period, or when there are changes to the performance plan or within the first two weeks of employment for new employees, employees shall meet with their rating official regarding the employee's job functions and responsibilities. The rating official shall present to the employee a proposed Performance Plan which contains the critical elements and other performance elements as well as the performance standards for each of these elements. If the employee wishes to review the proposed plan during duty time, he/she shall be permitted up to four (4) hours for that purpose. If he/she wishes to recommend any changes, deletions, additions, justification for the recommendations, etc., he/she shall do so within five (5) work days of having received the plan. Within five (5) work days of the employee's submission of his/her recommendations, the rating official shall meet with the employee and present the employee's Performance Plan. At this time, if the rating official did not adopt any of the employee's recommendations, the official shall explain his/her reasons for not adopting them.
- B. When entering on duty or changing positions or when the Position Description for an employee's position changes, the employee shall meet with his/her supervisor regarding his/her job functions and responsibilities. During this meeting, the supervisor and the employee shall have an oral discussion to explain, clarify and communicate the employee's job responsibilities to ensure that there is a clear and common understanding of: (1) the duties and responsibilities contained in the employee's Position Description; and (2) their relationship to the Agency's mission. If there are no changes in job functions and responsibilities, or their relationship to the employee's Performance Plan, the supervisor shall advise the employee of that fact, and document in the employee's records that he/she has so advised the employee.
- C. Subsequent discussions between the employee and supervisor/rating official shall be held, and critical elements or performance standards may be changed when there is a change in the work situation such as, but not limited to:
  - 1. change in the supervisor of record;
  - 2. detail;

3. change in the component's goals or objectives;
4. change in assignments;
5. change in the work process or product of the component;
6. change in the composition of the work team; or
7. when an employee returns from an extended absence of 90 days or more.

D. Ongoing Performance Discussions

1. Informal discussions are a standard part of supervision and should occur throughout the annual assessment period. Discussions may be initiated by the supervisor, rating official (if not the immediate supervisor) or employee. Discussions may be held one-on-one or between an employee and both a supervisor and a rating official. In instances where there will be more attendees to a performance meeting than the supervisor/official and the employee, the employee shall be allowed to request a Union representative. If an employee requests a discussion with his/her supervisor/official to discuss his/her performance, the discussion shall be scheduled within fifteen (15) work days. If, in rare circumstances, this is impossible, documentation showing the request for a discussion and the failure to have one within fifteen (15) work days should be placed in the file on the employee kept by the supervisor.
2. Discussions should be candid, forthright dialogues between the supervisor or rating official and employee(s) aimed at improving the work process or product and developing the employee. The discussion shall provide the opportunity to assess accomplishments and progress and identify and resolve any problems in the employee's or work team's work product.
3. Where indicated, the supervisor or rating official should provide additional guidance aimed at developing the employee, removing obstacles and improving the work product or outcome. Discussions shall provide the employee the opportunity to seek further guidance and understanding of his or her work performance and offer suggestions for improving processes.

- E. All performance discussions shall be documented in the file on the employee kept by the supervisor, and the employee shall be given a copy of the entry. No employee shall be required to sign and or indicate completion of a performance meeting or discussion until they have received a copy of the entry, and no such discussion shall be deemed completed until it has been signed or otherwise acknowledged in writing by the employee. In the event a Performance Plan is issued and the supervisor has not explained what is required to meet and/or exceed each standard, the supervisor shall certify in the employee's records as to the fact there was no discussion of expectation. In the event an

employee refuses to sign and thereby document the completion of a performance meeting, discussion and receipt of the performance plan, the supervisor shall certify in the employee's records the fact that the employee refused to sign.

- F. If there is no explanation of expectations for any Element or Standard the employee may assume the Element or Standard will be applied in the same manner as it was applied in the previous years.

## **Section 8 - Mechanics**

- A. All bargaining unit employees shall receive an annual performance rating for the assessment period October 1 through September 30. The performance rating shall be issued in writing to the employees within 30 days of the end of the assessment period. This assessment period shall be extended where an employee is subject to a Performance Improvement Plan (PIP) under Section 10, and the usual September 30 ending date would not afford him/her a reasonable opportunity to demonstrate improved performance.
- B. Employees working under a Performance Plan which is new to them must do so for a minimum of 90 days before a rating can be given.
- C. When an employee's Performance Plan changes less than 90 days before the end of the rating period, the employee shall be evaluated based on those parts of the Performance Plan that had previously been in place. In rare instances, rating periods may be extended if changes to the Performance Plan are changed shortly before the normal period ends.
- D. In evaluating performance, no employee shall be held responsible for matters beyond his/her control.
- E. Rating officials shall give employees at least one (1) formal written progress review during the rating period at about the mid-point of the assessment period. Rating officials may review the progress of employees more frequently than at the assessment period's mid-point, and an additional review is required if the supervisor believes the employee is not performing in a successful manner. The progress review shall indicate to the employee: (i) how the employee is performing with respect to each critical job element; and (ii) what the employee must do to improve their performance rating. If, at the time of a progress review, the Agency is aware of an instance(s) of performance deficiency, it shall provide that information to the employee at that progress review. Otherwise, the information shall not be used to adversely affect that performance rating.
- F. No later than fifteen (15) calendar days from the end of the rating period, the rating official shall provide the employee with a draft performance appraisal which includes the rating of how the employee performed in regard to each critical element, and a summary rating.

- G. The employee shall have seven (7) calendar days to make a written response to the draft that explains and documents why the employee disagrees with any of the findings of the rating official. If the employee wishes, this response shall be attached to the material submitted by the rating official to the reviewing official. Making or not making a response has no effect on an employee's right to grieve the performance rating under Article 26, "Negotiated Grievance Procedure".
- H. Within seven (7) calendar days from the deadline for the employee's response, the rating official shall give the employee the final appraisal.

### **Section 9 - Uses of the Performance Rating**

The performance rating given to employees under this performance assessment system is used for a number of purposes.

- A. Within-Grade Increases (WIGI). Employees who attain a rating of at least "Fully Successful" and achieve an "acceptable level of competence" shall be entitled to appropriate within-grade increases.
- B. The rating of record may be used in consideration for appropriate awards, promotions, and other personnel actions.
- C. The performance rating shall be considered in making determinations regarding reductions-in-force (RIF) within the Agency in accordance with Article 16 of this Agreement.
- D. The rating of record may be used in evaluating candidates under the merit promotion system contained in Article 28 of this Agreement.
- E. Individual ratings of record may be used to evaluate proposed changes in operations, work processes, training, teamwork, etc.

### **Section 10 - Performance Improvement Plan and Period**

- A. It is the responsibility of the Agency to monitor employee performance throughout the rating period. If at any time during the rating period the rating official determines that an employee is performing at a "Does Not Meet" level in one or more critical elements, the rating official shall call for a meeting with the employee to discuss the employee's performance. The Agency shall inform the employee that, if he/she wishes to arrange for a Union official to be present at this meeting to observe, he/she may do so.

- B. The rating official, supervisor (if different from the rating official), employee, and Union official (if requested), shall meet to discuss the specific problem and its root cause, and so the employee has the opportunity to offer suggestions for a written PIP to resolve the problem. The Union official may participate in, but not disrupt, the meeting. If the Union official is an Agency employee the Agency shall approve official time and, subject to General Service Administration travel regulations, pay for mileage so the Union official may attend the meeting. Following this conversation, the rating official/supervisor shall develop the PIP and meet with the employee to deliver and discuss it.
- C. The PIP shall:
1. Identify the critical element(s) for which performance is at the “Does Not Meet” level and inform the employee of the performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance.
  2. State the assigned tasks for which the employee’s performance is at the “Does Not Meet” level and how they relate to an identified job requirement(s), element(s), and standard(s), as applicable.
  3. State that unless performance in a critical element(s) improves to and is sustained at the “Fully Successful” level for a minimum period of one (1) year, the employee may be reduced in grade, reassigned or removed from Federal service.
  4. Afford the employee a reasonable opportunity of at least 90 days to resolve the identified performance-related problem.
  5. Be tailored to the specific needs of the employee and may include formal training, on-the-job training, counseling, assignment of a mentor, or other assistance as appropriate.
  6. State which supervisor or management officials will be available to guide, coach, and otherwise assist the employee in meeting “Fully Successful” performance, what specific assistance will be provided and when. Employees may request additional assistance.
- D. The Agency shall inform the employee separately in writing that personnel-related actions (WIGIs, awards) may be withheld while the “Does Not Meet” level of performance continues.
- E. The purpose of the Performance Improvement Period is to help the employee improve, rather than for the supervisor to accumulate documentation as the basis for a future performance-related adverse action. Placing the employee on 100% review does not equate to appropriate assistance.

- F. If, following the Performance Improvement Period, the rating official is unable to make an assessment that the employee is successfully performing his/her critical job duties and responsibilities, the rating official shall give the employee a documented performance interview communicating this determination. In that case, it is appropriate to extend the Performance Improvement Period for a specified period of time until an assessment can be made, consistent with law.
- G. Determination of unit, office, and/or component success may require the collection and analysis of group data. The focus of data collection shall be on the work processes and not on the individual employee. However, the data may indicate repeated problems at a particular point in the process attributable to a specific job family and/or individual employee. If data clearly points to significant performance-related problems of an individual employee, then the provisions of this Article shall be followed.
- H. If the employee has chosen to be represented by the Union, a Union representative has the right to be present at all performance-related meetings with the employee.

### **Section 11 - Action Based on Unacceptable Performance**

- A. If all remedial action fails and the employee's performance is determined to be unacceptable, the supervisor shall provide written notification to the employee that the employee may be subject to one of the following actions:
  - 1. When the employee is capable of performing another position of the same grade, the supervisor may propose to reassign the employee to such a position.
  - 2. When the employee is not capable of performing any position at the same grade but is capable of performing a position at a lesser grade, in the same or different job series, the supervisor may propose a demotion to a position at the next lower grade.
  - 3. If neither A-1 nor A-2 above is feasible, the supervisor may propose a removal.
- B. An employee who is reassigned or demoted to a position at a lower grade based on unacceptable performance shall, in accordance with this Article, receive a new Position Description and Performance Plan.
- C. An employee whose reduction in grade or removal is proposed for unacceptable performance is entitled to:
  - 1. 30 days advance written notice of the proposed action, which identifies the specific basis (i.e., the critical job duties and responsibilities) for the proposed action including specific instances of unacceptable performance.

2. A representative. The employee shall inform the deciding official, in writing, of the representative's name.
  3. A reasonable time, not to exceed ten (10) days, to answer orally and in writing, and to provide witnesses and work product or other evidence to challenge the proposed action.
- D. A decision whether to reduce in grade or remove an employee shall be made not later than thirty (30) days after the date of expiration of the notice period. The employee shall be given this decision in writing. Such action may be proposed by the State Director, and the deciding official shall be the Deputy Administrator Operations & Management. The decision shall:
1. Specify the instances of unacceptable performance and the critical element(s) for which the employee did not achieve "Fully Successful" performance, and on what the decision is based;
  2. Specify the action to be taken, the effective date, and the employee's right to appeal the decision.
- E. The employee may appeal to either the Merit Systems Protection Board in accordance with applicable law, or the Union may timely file on behalf of the employee a written request to invoke arbitration under the terms of Article 27, "Arbitration". An employee shall be deemed to have exercised the appellate option at such time as the employee timely initiates an appeal under the statutory procedure or the Union, on behalf of the employee, timely files a written request to invoke arbitration, whichever occurs first. Arbitration shall be invoked no later than (thirty) 30 days after the effective date of the action unless EEO counseling is initiated.

## **Section 12 - Electronic Performance Management System**

If the Agency decides to alter or replace the electronic system it uses to process some or all records in the Performance Management System, the Agency shall notify the Union and give it an opportunity to bargain in accordance with Article 5, "Negotiations During the Term of the Agreement".

- A. Should the Agency alter or replace its present electronic performance management system, all bargaining unit employees shall be trained in how to use to the new system before it is implemented. At a minimum, this training shall include such matters as a general understanding of how it works, what information is being kept, how to access information about oneself, how to enter information about oneself into the system, etc.

- B. All bargaining unit employees shall have access to computers and duty time for the purpose of utilizing the electronic performance management system. All efforts shall be made to avoid disadvantaging employees who do not regularly use a computer in their jobs. To the extent the Agency requires employees to use computers for the Performance Management System, those employees shall receive any necessary assistance, in addition to the basic training called for in Section 12-A above, in using the computer for this purpose.
- C. Employees, and their union representatives if requested, shall be able to see the performance related information about themselves that is kept in the system and shall have a reasonable amount of time during their regular work schedules and the right to enter into the system their own achievements, successes and rebuttals to any information they believe is inaccurate. No individual may change anything that was entered by another person (i.e., supervisors cannot change an employee's entries).
- D. The Agency shall train employees annually in how to prepare self-assessments of their own performance. Employees shall present their written self-assessments to their supervisors/rating officials at least 30 calendar days preceding both their mid-year performance reviews and their annual reviews.
- E. The Agency shall give serious consideration to an employee's self-assessment in developing the performance rating for that employee.
- F. An employee's failure to provide the voluntary self-assessment shall not, in and of itself, disadvantage an employee relative to those who do provide such assessments. However, it is the performance of the employee with regard to the Performance Plan that should determine the rating, and the rating official remains responsible for adequately and accurately observing, fostering, motivating and evaluating that performance throughout the entire rating period.
- G. The Agency shall ensure that the electronic performance management system complies with all privacy requirements.

## **Article 24**

### **Within Grade Increases**

#### **Section 1 - General**

Pursuant to 5 USC 5335, an employee is entitled to receive a within-grade increase subject to completion of the appropriate waiting period and a determination that the employee's work is of an acceptable level of competence (performance). Such determination must be made upon completion of the waiting period.

#### **Section 2 - Basis for Granting or Denying**

Within-grade increases will be granted or denied on the basis of whether an employee attains an acceptable level of competence (performance) and meets other statutory requirements.

#### **Section 3 - Supervisory Responsibilities**

- A. The decision to grant or withhold a within-grade increase must be supported by the employee's most recent rating of record.
- B. Denial of a within-grade increase may not be used in lieu of disciplinary action.

#### **Section 4 - Decisions**

After completion of the waiting period, if the within-grade increase is to be denied, the employee will be given the supervisor's official determination in writing. The determination will include:

- A. A statement of the reasons for the negative determination;
- B. Identification of the areas in which the employee must improve in order to be granted a within-grade increase;
- C. The right to file a written request for reconsideration not more than fifteen (15) days, or any other time frame that may be required by regulation, after receiving the negative determination;
- D. The name and address of the official, usually the State Director or the State Director's designee, who will reconsider the official determination and with whom the request for reconsideration should be filed.

## **Section 5 - Appeal Rights**

When the agency has affirmed its initial decision on reconsideration that an employee's performance is not at an acceptable level and the determination is final, an employee may file a grievance/complaint or appeal the adverse action to the Merit Systems Protections Board.

## **Section 6 - Effective Date/Administrative Error**

A within-grade increase shall be effective on the first day of the first pay-period following completion of the required waiting period and the employee meets conditions for eligibility, within technical limitations by the National Finance Center. When, due to administrative error, oversight or delay, a positive determination made after the waiting period is completed, the effective date of the within-grade increase shall be retroactive to the original due date.

## **Article 25**

### **Disciplinary and Adverse Actions**

#### **Section 1 - Statement of Assumptions, Purpose and Policy**

- A. The objective of discipline is to correct and improve employee behavior so as to promote the efficiency of the Agency. The Agency usually disciplines progressively for the purpose of correcting and improving employee behavior. However, there may be circumstances when progressive discipline is not appropriate and more immediate action is required.
- B. Early communication between the affected employee and supervisor to achieve resolution is encouraged. If either party (employee or supervisor) believes that resolution would be aided if the Union were involved in these early discussions, he or she is encouraged to contact the applicable Union Steward. Every effort will be made to assure that actions/agreements are fair and equitable to both parties involved.

#### **Section 2 - Obligations: General**

- A. Bargaining unit employees shall be subjected to disciplinary or adverse action only for just cause.
- B. All disciplinary and adverse actions shall be consistent with Agency regulations, government-wide regulations, and laws in effect at the time.

#### **Section 3 - Definitions**

For the purpose of this Article:

- A. Day - refers to a calendar day unless otherwise specified.
- B. Disciplinary action - refers to a letter of official reprimand or a suspension for fourteen (14) days or less as outlined in 5 U.S.C. Chapter 75, Subchapter I.
- C. Adverse action - refers to a removal, suspension for more than fourteen (14) days, reduction in grade, reduction in pay or furlough of thirty (30) days or less as outlined in 5 U.S.C. Chapter 75, Subchapter II.

#### **Section 4 - Counseling and Warnings**

- A. Discipline may be preceded by counseling and assistance including oral warnings that are informal in nature.

- B. Counseling, assistance and warnings shall be conducted privately and in a manner that avoids embarrassing the employee.

### **Section 5 - Reprimand**

- A. An official reprimand is a written disciplinary action that specifies the reasons for the action. The reprimand shall specify that the employee may be subject to more severe disciplinary action upon any further offense and that a copy of the reprimand will be a part of the personnel folder for up to two (2) years.
- B. The letter of reprimand shall inform the employee that he/she has the right to grieve the reprimand under the Negotiated Grievance Procedure, and the right to Union representation.

### **Section 6 - Short-term Suspensions**

- A. An employee against whom a suspension for fourteen (14) days or less is proposed is entitled to:
  - 1. An advance written notice stating the specific reasons for the proposed action; and
  - 2. A copy of all documentation and evidence relied on in proposing the action; and
  - 3. Ten (10) calendar days to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer; and
  - 4. Be represented.
- B. After considering the employee's response, the Agency shall issue a written decision. If the decision is unfavorable to the employee, the decision may be grieved, beginning at the last step of the grievance procedure, i.e., the State Director.

### **Section 7 - Removal, suspension for more than fourteen (14) days, Reduction-in-Grade, Reduction-in-Pay, Furlough of 30 days or less**

- A. An employee against whom such action is proposed is entitled to:
  - 1. Thirty (30) days advance written notice stating the specific reasons for the proposed action. This does not apply in instances where the Agency invokes the "Crime Provision."
  - 2. A copy of all documentation and evidence relied on in proposing the

action.

3. Ten (10) calendar days to answer orally and in writing, and to furnish affidavits and other documentary material evidence in support of the answer; and
  4. Be represented.
- B. After considering the employee's response, the Agency shall issue a written decision.
1. If the decision is to effect an action specified in this section, it shall specify the reason therefore, the effective date, the action to be taken, and the right to grieve or appeal the decision but not both.
  2. In accordance with 5 U.S.C. chapter 71, the employee may either: (1) appeal the matter to the Merit Systems Protection Board or (2) grieve the matter under the terms of this Agreement beginning at the last step of the grievance procedure, i.e., the State Director. The choice of forum is irrevocable. An employee shall be deemed to have exercised his or her option at such time as the employee timely files under the statutory procedure or the negotiated grievance procedure, whichever occurs first.
- C. Employees shall be entitled to representation in all phases of the procedure.

## **Article 26**

### **Negotiated Grievance Procedure**

#### **Section 1 - Purpose**

The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable settlement of grievances filed by bargaining unit employee(s), the Union, or the Agency. The Agency shall not construe the filing of grievances as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the organization, nor shall the Union or employees file grievances in order to affect adversely the perception of the person or reputation of any representative of the Agency.

#### **Section 2 - Definitions, Coverage, and Scope**

A grievance means any complaint:

- A. By an employee in the bargaining unit concerning any matter relating to the employment of the employee;
- B. By the Union concerning any matter relating to the employment of any employee in the bargaining unit; and
- C. By any employee in the bargaining unit, the Union, or the Agency concerning:
  - 1. The effect or interpretation, or a claim of breach, of this collective bargaining agreement; or
  - 2. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- D. Grievances on the following matters are excluded from the scope of this procedure:
  - 1. Any claimed violation of 5 USC 73 relating to prohibited political activities;
  - 2. Retirement, life insurance, or health insurance;
  - 3. A suspension or removal under 5 USC 7532 relating to national security;
  - 4. Any examination, certification, or appointment; or
  - 5. The classification of any position which does not result in the reduction in grade or pay of an employee; or
  - 6. Reductions In Force

### **Section 3 - Exclusivity**

Grievances may be initiated by employee(s) covered by this Agreement and/or their Union representative, or by the Agency. Representation of bargaining unit employees shall be the sole and exclusive province of the Union. This is the exclusive procedure available to bargaining unit employees, the Union, or the Agency for the resolution of grievances arising under this Agreement.

### **Section 4 - Representation**

- A. Absent an employee stating in writing they will be self-represented, bargaining unit employees filing grievances under this procedure shall be considered as being represented by the Union and all arrangements for meetings, communications, and resolution discussions shall be made through the designated union representative.
- B. Bargaining unit employees may elect to represent themselves in processing a grievance filed under this article by submitting timely notice in writing to the Agency and the Union.
- C. When an employee is self-represented at proceedings under this article, the Union has a right to be present in order to represent the bargaining unit.

### **Section 5 - Resolution of Grievances and Employee Standing**

- A. Employees dissatisfied with an order properly grounded in supervisory authority must follow the order first and then grieve the matter unless obeying the order would be unsafe, immoral, or unlawful.
- B. Because grievances should be settled in an orderly, prompt, and equitable manner so as to maintain Agency efficiency and employee morale unimpaired, the Agency and the Union will attempt to settle grievances at the lowest appropriate level of supervision. Employees and employee representatives seeking to adjust grievances shall be unimpeded and free from restraint, interference, coercion, discrimination, or reprisal, consistent with 5 USC 71 and this Agreement.

### **Section 6 - Grievability/Arbitrability Questions**

- A. In the event either party declares a grievance to be non-grievable or non-arbitrable, the original grievance shall be considered amended to include this issue. All disputes of grievability/arbitrability shall be referred as threshold issues in the related grievance, except where the parties agree to hear the threshold issue and merits of the grievance separately.

- B. If either party declares that a complaint is non-grievable and/or that a grievance is non-arbitrable, it must do so no later than the Step 2 written response, unless the event or issue giving rise to the claim occurred after the Step 2 written response. If either party makes such a declaration following the Step 2 written response, it must do so before the parties select the arbitrator.

### **Section 7 - Time Limits**

- A. In order to be timely, a grievance must be presented within the period of time specified by, as appropriate, Section 9 or 10 below.
- B. Proof of service shall be either: (1) a return post office receipt executed by the person served; or (2) a written acknowledgment from the person served when hand-delivered; or electronic receipt or confirmation.
- C. All the time limits in this Article may be extended by mutual consent if done so in writing.

### **Section 8 - Options**

- A. In accordance with 5 USC 7121, an employee at his/her option may raise matters covered under Section 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. Similarly, an employee who claims to have been affected by a prohibited personnel practice under Section 2302(b)(1) of the Civil Service Reform Act may raise the matter under a statutory procedure or the Negotiated Grievance Procedure, but not both. An employee shall be deemed to have exercised his/her option at such time as he/she timely files a grievance in writing or files a written formal complaint under the statutory EEO procedure, whichever event occurs first.
- B. If the employee elects to file under the Negotiated Grievance Procedure, he/she shall proceed under Section 9 of this Article within fifteen (15) working days after the alleged discriminatory act. Starting with the Step 2 official or higher, that official shall have thirty (30) days to attempt to resolve the matter and issue a decision.

### **Section 9 - Procedures for Employee Grievances**

- A. A complaining employee shall first raise the matter to be grieved with the appropriate Union official in person, if on site, or by telephone. The Union shall raise the issue

with the complaining employee's immediate supervisor by filing a written grievance within fifteen (15) working days of (a) the date of the incident underlying the complaint or (b) the date the employee became aware of it. A grievance concerning a current continuing practice may be presented at any time. The written grievance shall include: (a) specific detail sufficient to permit the Agency to investigate and confirm or deny the complaint; (b) the specific remedy being sought; and (c) the designation of the Union Representative with whom the Agency should deal in connection with the grievance.

- B. Within seven (7) days of receiving the written grievance, the supervisor shall review the matter being grieved and hold a Step 1 meeting to discuss the grievance. Those invited to the Step 1 meeting shall include the supervisor, the Grievant, and the designated Union representative. The supervisor may have a labor relations advisor present to advise the supervisor. Within ten (10) days of that Step 1 meeting, the supervisor shall respond to the grievance in writing: (a) with sufficient specificity to allow the Employee and/or the Union to confirm or deny the response; and (b) granting and/or denying the requested remedy in whole or in part.
- C. If not satisfied with the supervisor's response at Step 1, the Union shall have fifteen (15) days to request in writing that the State Director review the supervisor's response. Within ten (10) days of receiving the Union's request, the Agency shall schedule a Step 2 meeting to discuss the grievance. Those invited to the Step 2 meeting shall include the Union's representative and the Grievant, together with the State Director or their designee and one representative of their choosing. Within fifteen (15) days of that Step 2 meeting, the State Director or his designee shall respond to the grievance in writing: (a) with sufficiently specificity to allow the employee and /or the Union to confirm or deny the decision; and (b) granting or denying the requested remedy in whole or in part.
- D. If the Union is not satisfied with the State Director's response at Step 2, it may proceed as provided in Article 27, "Arbitration", within 30 days.
- E. The Agency's failure to meet any of the timeliness requirements of this procedure shall permit the Grievant to advance the grievance to the next step. If the Grievant fails to timely pursue the grievance to the next step in accordance with the terms of this agreement, the grievance shall be closed.

## **Section 10 - Union-Agency Grievances**

- A. The Union and the Agency may each submit institutional grievances (i.e., grievances (i) concerning the unit generally and/or (ii) an alleged violation of the rights of the Union or Agency).
- B. A grievance concerning a particular act or occurrence must be presented to the other party within fifteen (15) working days of (a) the action or incident underlying the complaint or (b) the date the moving party became aware of it. A grievance concerning a current continuing practice may be presented at any time.

- C. When a grievance is filed, the parties shall meet and/or discuss the matter within ten (10) working days. The party against whose action the grievance was filed shall issue a written decision within ten (10) working days of the meeting/discussion.
- D. If either party fails to meet any of the timeliness requirements of this procedure, or if the grievance is not settled by the written decision, either party may invoke arbitration within 30 working days as provided in Article 27, "Arbitration". If neither party invokes arbitration, the grievance shall be considered closed.

## **Article 27**

### **Arbitration**

#### **Section 1 - Invoking Arbitration**

- A. A grievance that remains unresolved after being processed under Article 26, “Grievance Procedure” of this Agreement may be referred to arbitration as provided for in this Article. A referral to arbitration can be made only by the Union or the Employer, and shall be in writing. Such referral shall be made within thirty (30) days after receipt of the written decision rendered, or when a decision was due, at the final step of an action processed under Article 26, “Grievance Procedure”.
- B. Within seven (7) days from the date of the request for arbitration, the party invoking arbitration will request from the Federal Mediation and Conciliation Service (“FMCS”), the American Arbitration Association (“AAA”), or other source of qualified labor arbitrators as mutually agreed upon by the parties, a list of seven (7) impartial persons qualified to act as arbitrators. The parties shall, within seven (7) days after receiving the list of names, select one of the arbitrators. If they cannot mutually agree upon a selection, the parties will alternatively strike one name from the list until the list contains only one name. The initial strike on the list shall be made by the party who wins the flip of a coin. This person shall be the duly selected Arbitrator. If for any reason either party refuses to participate in selecting an Arbitrator, the other party shall choose the Arbitrator.
- C. The party invoking arbitration shall bear any costs charged by the FMCS, AAA or other source for supplying the list so long as the other responding party provides any relevant information and agrees to receive the list by email. If the responding party insists on receiving the list by regular mail, any costs charged by the source shall be split equally.
- D. If the parties fail to agree on a joint submission of the issue(s) for arbitration, each shall submit a separate submission stating the issue(s) and the Arbitrator shall determine the issue(s) to be heard.
- E. A grievance of the kind described by Section 4-A of this Article shall be processed under the Expedited Arbitration Procedures unless the parties agree otherwise.

#### **Section 2 - Procedures**

- A. The arbitration hearing shall be held during the regular day-shift work hours of the basic workweek. The grievant, representative, and any employee witnesses necessary to the proceedings who are otherwise in a paid duty status shall be excused from duty without loss of pay or charge to annual leave to participate as necessary in the arbitration hearing.
- B. The Arbitrator’s fee and all related expenses shall be borne equally by the parties.

- C. The Employer will reimburse bargaining unit member representatives of the Union and witnesses for travel and related expenses in accordance with applicable rules and regulations.
- D. The Arbitrator will be requested to render the decision as quickly as reasonably possible after the conclusion of the hearing, unless the parties mutually agree to establish a specific deadline or time limit. The Arbitrator shall submit all findings in writing, and this report shall decide all issues raised by any party, including arbitrability.
- E. Issues concerning the arbitrability of a grievance presented for arbitration under the terms of this agreement shall be resolved by the Arbitrator. If the Employer declares a grievance non-grievable or non-arbitrable, the original grievance shall be considered amended to include that issue.
- F. If the Arbitrator requests a transcript, the cost shall be borne equally by both parties. Otherwise, the party requesting a transcript shall bear the cost of the transcript.

### **Section 3 - Effect of Arbitrator's Award**

In considering those grievances concerning actions based on unacceptable performance and adverse actions that are appealable under the statutory appeals procedure, the Arbitrator will be bound by the policy and the precedents of the Merit Systems Protection Board ("MSPB"), and apply the same appellant standards (e.g., 'substantial evidence' for unacceptable performance, 'preponderance of evidence' for adverse actions, and 'arbitrary and capricious abuse of management discretion' for the penalty of an adverse action). The Arbitrator shall have the authority to resolve any question of arbitrability and to interpret this agreement. The Arbitrator is bound by and will apply the "harmful error" concept as developed by MSPB. The Arbitrator shall have no authority to add to or otherwise modify the terms of this agreement or Department of Agriculture policy. Either party may file exceptions to an award with the FLRA or the appropriate court under regulations prescribed by the Civil Service Reform Act or the FLRA.

### **Section 4 - Expedited Arbitration Procedures**

- A. The following expedited arbitration procedure shall be followed with respect to any grievance involving:
  - 1. An employee's formal performance appraisal, other than demotions or removals for unacceptable performance under 5 USC Chapter 43;
  - 2. Final decision to withhold a within-grade salary increase;
  - 3. Reprimands;
  - 4. Action restricting the use or availability of sick leave; and

5. Any other matter mutually agreed upon.
- B. The parties agree that the primary purpose of this expedited arbitration procedure is to provide a swift and economical method to resolve disputes of the kind described in “A” above. The parties agree to take positive action to see that this purpose is fulfilled; and authorize the Arbitrator to take such reasonable steps as are necessary to fulfill that purpose.
    1. The hearing shall be informal.
    2. No briefs shall be filed or transcripts made.
    3. There shall be no formal evidence rules.
  - C. Normally, at least two (2) cases a day will be scheduled and heard. A single case should normally not require more than four (4) hours to be heard with each party being allowed up to two (2) hours to examine witnesses and make opening and closing statements. The Arbitrator shall ensure that the length of the hearing is not unnecessarily extended because of irrelevant or repetitious testimony. The Arbitrator may also waive the time limits for good and sufficient reasons.
  - D. The Arbitrator may issue a bench decision at the hearing. This decision shall be based on the record developed by the parties before and at the hearing and shall include a brief written explanation of the decision. The Arbitrator’s findings and awards shall be final and binding on both parties. Either party may file exceptions to an award with the FLRA or the appropriate court under regulations prescribed by the Civil Service Reform Act or the FLRA.

## **Article 28**

### **Merit Promotion**

The parties recognize that the Agency retains the right to fill bargaining unit positions by using any proper method including non-competitive sources and OPM-authorized lists of eligible applicants. If the Employer chooses to fill a bargaining unit position by merit promotion, the Agency will follow all current laws and government-wide regulations, USDA Departmental Regulation DR 4030-335-002, "Merit Promotion and Internal Placement" (dated August 20, 2013), and this Agreement.

## **Article 29**

### **Details and Reassignments**

#### **Section 1 - Details**

- A. The Employer has the right to assign work and to detail bargaining unit employees in a manner that does not compromise the merit principles of federal employment, and the Union has a responsibility to represent employees with respect to the adverse impact on employees of such details. The Employer will make reasonable efforts, consistent with meeting its business needs, to consider employee claims of personal hardship, minimize the adverse effects of details, and confine the duties assigned to detailed employees having medical limitations to duties within the capacity of the employee.
- B. Definitions.
1. Detail – a detail is the temporary assignment of an employee to a different or equal position within the employee’s same or a different duty station, for a specified period of time, after which the employee returns to his/her regular duties.
  2. Commuting Area – the commuting area is 50 miles from the duty station or the principal residence of the employee.
- C. Details for the purpose of training and professional development will be handled in accordance with the Article (Training and Career Development) of this Agreement devoted to that subject.
- D. All other details will be handled in the following manner.
1. The Employer will notify the Union President in writing of its intent to detail an employee: (a) for a period of five (5) consecutive days; (b) for two or more periods of less than five (5) consecutive days each when they occur within 30 calendar days; and (c) when the alternate duty location is outside the employee’s commuting area. Details should not compromise the open competitive principles of the Merit Promotion System.
  2. The Union shall have five (5) work days after receiving written notice to request to bargain.
  3. The Employer may require employees who claim medical limitations on their capacities to submit reasonable medical documentation in support of the claim.
  4. Merit promotion procedures do not apply when a detail is to a position of the same grade and promotion potential.
  5. Detail assignments, including special project assignments, will not be made or

denied solely in order to reward or punish an employee.

6. If the employee is detailed to a higher graded position for more than 120 days, the employee will be temporarily promoted into that position, if the employee is qualified.
  7. Generally, the State Director or designee may designate an acting official for any position.
  8. To the extent that doing so is reasonably practicable, the Employer shall not detail employees to lower-graded duties.
  9. The Employer will make reasonable efforts to avoid placing a Union official on a detail that would prevent that official from performing his/her representational functions.
  10. When it is necessary to detail an employee for the purpose of improving the job performance of that employee, the Employer will prepare the training program and explain the program to the employee, and give the employee the opportunity to be represented by a Union Official at the discussion.
  11. The employer will provide the detailed employee adequate work space, equipment, and access to computer systems at the detail location.
- E. This section shall not be construed in a manner that restricts the Employer's exercise of rights enumerated in §7106(a) of the Federal Service Labor-Management Relations Statute or that is inconsistent with applicable law, government-wide regulation, and other provisions of this Agreement.

## **Section 2 - Reassignments**

- A. Whenever any employee submits a request for reassignment and documentation to demonstrate the existence of hardship, the Employer will consider the request and documentation in light of the needs of the agency. The Employer will not pay the expenses of relocations that result from voluntary reassignments.
- B. Whenever a reassignment results from the Employer agreeing to an employee request or from the employee's response to the Employer's solicitation of volunteers, the Employer shall not be required to provide notice in advance or bargain about the impact and implementation of the reassignment as might otherwise be required by contract, regulation, or statute.

## **Article 30**

### **Position Description and Additional Duties**

#### **Section 1 - Position Descriptions Generally**

- A. All existing and new position descriptions (“PDs”) shall reflect accurately the principal duties and responsibilities of positions and what is necessary to accomplish the duty successfully. If the duties of a position change significantly, the Agency shall provide the employee(s) occupying such a position with an accurate, updated PD.
- B. PDs shall contain the principal duties and responsibilities of positions for the purpose of classification. Each bargaining unit member shall be provided with an official description of his/her duties and responsibilities in the form of a PD within 30 days after the employee assumes their duties.
- C. Disputes about the appropriate schedule, title, series or grade of an employee’s position are covered by statutory classification appeal procedures.
- D. When an employee believes the PD of his or her position does not accurately reflect his or her regularly assigned responsibilities and regularly performed duties, the employee may: (1) talk to his or her supervisor to resolve the alleged discrepancy; and/or (2) request a desk audit by the servicing Human Resources Office; and/or (3) file a classification appeal to OPM. Any employee may file a statutory classification appeal of his/her position at any time in accordance with appropriate rules and regulations.
- E. Phrases such as “other related duties” or “other duties as assigned” used in PDs mean assignments reasonably related to duties or responsibilities or qualifications for the particular position.
- F. The Agency shall provide any employee with a copy of his/her PD if the employee’s position changes significantly or the employee changes to a different position.
- G. A reclassification to a higher grade shall be effective at the conclusion of the first full pay period following final approval by the servicing Human Resources Office if the incumbent of that position is promoted non-competitively to the position whenever budget and staffing ceilings allow it.
- H. Collateral duties may be part of PDs. The time permitted by the Agency for employees to complete collateral duty assignments shall be reasonable.

#### **Section 2 - Additional Duties**

- A. With respect to all significant additional duties, collateral duties and any other duties which are not referenced in the PDs of employees but which are assigned regularly to

employees either at present or in the future, the Agency shall:

1. Identify all those bargaining unit employees who are qualified to perform each duty; and
  2. Solicit a list of volunteers for each duty; and
  3. Select the senior volunteer(s) for each duty, until the number of employees who have been tasked is sufficient. In the event there are insufficient volunteers, the Agency shall select the least senior non-volunteer(s).
- B. Employees who are assigned additional duties shall receive documented information sufficient to inform an employee of how the Agency will determine an employee has performed the additional duties successfully, how the duty will be rated and/or impact on an employee's performance rating in performing the additional duty, and special skills and/or training that are needed to accomplish the duty.
- C. If the Union believes the Agency has treated employees unfairly, inequitably, arbitrarily or capriciously, the Union shall be free to file a grievance using the Negotiated Grievance Procedure contained in this Agreement.
- D. If an employee believes the Agency has treated employees unfairly, inequitably, arbitrarily or capriciously, the employee shall be free to file a grievance using the Negotiated Grievance Procedure contained in this Agreement.
- E. When assigning additional duties, the Agency shall abide by all applicable laws, government wide rules and/or regulations and this Agreement.

## **Article 31**

### **Official Time**

#### **Section 1 - Time Distribution and Conditions**

- A. As required and permitted by 5 U.S. Code § 7131, the Agency shall approve the use of official time by bargaining unit member Union officials to perform representational tasks on behalf of bargaining unit employees.
- B. The Union's block of 625 hours of official time.
  - 1. The Agency shall approve up to a total of 625 hours of official time per year for officials of AFGE Local 622 to perform representational work on behalf of bargaining unit members.
  - 2. Official time spent performing one of the following activities shall not be charged against the Union's 625-hour block of official time:
    - a. Negotiating agreements for bargaining unit members in Rural Development Indiana;
    - b. Participating in proceedings before the FLRA;
    - c. Representational duties on behalf of employees in replying to a notice of proposed adverse actions or performance based actions or replying to and requesting reconsideration of a denied within grade increase;
    - d. Representing bargaining unit members in an arbitration proceeding;
    - e. Management initiated contacts or meetings.
  - 3. During the three-year term of this initial agreement, if the Union exhausts its block of 625 hours for any year, Union representatives may submit requests for additional official time and the Agency shall approve such requests as are reasonable and necessary.
- C. While the Union retains the right to assign representatives to use official time as it decides is appropriate, the Union shall distribute the use of official time as evenly as practicable between the following Union officials: President; Vice President; Chief Steward; and up to five (5) Stewards. In addition, the Agency shall approve up to 20 hours of official time annually for the Treasurer to collect data and complete reports required by government agencies.
- D. In the event the Agency denies a request, or cancels an approved request, for official time, the Agency shall:

1. Do so only for reasons lawful under the Federal Service Labor-Management Relations Statute;
  2. Give the Union official whose request it denied a written explanation of the reason for the denial that is specific enough to allow the Union to evaluate the appropriateness of the denial;
  3. Advise the Union official of a time when it will authorize the official to use the requested official time; and
  4. Agree with the Union, on request, to toll any relevant contractual deadlines for as long as the Union official is delayed in using the requested official time.
- E. In order to properly keep track of the use of official time, each Union official shall accurately and consistently report all his/her official time usage in the Agency's Time and Attendance system using the "TC" codes identified in Table "A" following this Article.
- F. The Union shall provide the Agency a quarterly report of all official time hours used by each Union Official using the form following Table "A".

## **Section 2 - Internal Union Business**

All internal business of the Union, including but not limited to, solicitation of membership, collection of dues, and campaigning in and conducting elections for Union office shall be performed during non-duty hours.

**Table A – Guidance for coding “official time”**

**Guidance on Coding Official Time For Representational Functions  
by Union Officials or Other Bargaining Unit Employees  
in USDA Rural Development/Indiana**

The accurate coding of official time is necessary in order to ascertain program costs, comply with OPM and other reporting requirements, and provide USDA managers periodic feedback on program activity levels. The guidance in the following table is intended to clarify the manner in which officials of American Federation of Government Employees Local 622 should: (1) use transaction codes (“TC”) 35, 36, 37, and 38 for representational functions to report their use of official time in webTA; and (2) report whether their use of official time should be charged against the Union’s block of 625 hours provided by Article 31, “Official Time”, Section 1, paragraph B, subsections 1 & 2, of the Collective Bargaining Agreement.

<b><u>Transaction Codes and Representational Functions</u></b>			
<b>use TC 35 for any time spent on a purpose in this column Union/Term Contract Negotiations (includes re-opening &amp; renegotiation of term agreement articles) (Interest-based or traditional)</b>	<b>use TC 36 for any time spent on a purpose in this column Union/Mid Term Negotiations (Interest-based or traditional)</b>	<b>use TC 37 for any time spent on a purpose in this column Union/Ongoing LMR Act  (Functions not covered under TC 35, 36, &amp; 38)</b>	<b>use TC 38 for any time spent on a purpose in this column Union/Grievance Appeal</b>
Ground rule negotiations  <b>CBA 31-1-B-2</b>	Ground rules negotiations  <b>CBA 31-1-B-2</b>	Collaborative Labor-Management Forum (E.O. 13522) OR acting as Union appointee to RD/Indiana or RD committee or task force  <b>DO NOT REPORT AS OFFICIAL TIME</b>	Grievance <b>Representation</b> proceeding  <b>CBA 31-1-B-1</b>
		Partnership Council/Committee (E.O. 12871)  <b>CBA 31-1-B-2</b>	Arbitration proceeding  <b>CBA 31-1-B-2</b>

Negotiations <b>CBA 31-1-B-2</b>	Negotiations <b>CBA 31-1-B-2</b>	Attend formal discussion meeting on behalf of Union <b>CBA 31-1-B-2</b>	ULP proceedings <b>CBA 31-1-B-2</b>
Mediation with FMCS <b>CBA 31-1-B-2</b>	Mediation with FMCS <b>CBA 31-1-B-2</b>	Attend <i>Weingarten</i> meeting on behalf of Union <b>CBA 31-1-B-2</b>	Other dispute resolution processes where representational functions are performed, including:  Adverse actions <b>CBA 31-1-B-2</b>  EEO complaints <b>CBA 31-1-B-1</b>
Impasse proceedings <b>CBA 31-1-B-2</b>	Impasse proceedings <b>CBA 31-1-B-2</b>	Attendance at Union sponsored training <b>CBA 31-1-B-1</b>	ADR <b>CBA 31-1-B-1</b>

<p>Negotiability proceedings</p> <p><b>CBA 31-1-B-2</b></p>	<p>Negotiability proceedings</p> <p><b>CBA 31-1-B-2</b></p>	<p>Union representative on agency teams or task forces</p> <p><b>DO NOT REPORT AS OFFICIAL TIME</b></p> <p>Representation Proceedings</p> <p><b>CBA 31-1-B-2</b></p>	<p><b>(unless concerns employee replying to a notice of proposed adverse action or performance-based action or replying to and requesting reconsideration of a denied within-grade increase)</b></p> <p>Other appellant processes</p> <p><b>CBA 31-1-B-2</b></p> <p><b>(unless concerns employee replying to a notice of proposed adverse action or performance-based action or replying to and requesting reconsideration of a denied within-grade increase)</b></p>
<p>Note: For each of the representation functions listed, include preparation time and any travel time as authorized under terms of the agency's collective bargaining agreement or practice</p>			



## **Article 32**

### **Time and Leave**

This article supplements the relevant provisions of applicable statutes, government-wide regulations and Department Regulations which govern the resolution of all disputes concerning matters covered by this article.

#### **Section 1 - General**

Employees shall accrue and use sick and annual and other types of leave in accordance with applicable statutes, OPM regulations, and this Agreement.

- A. All leave charges shall be in increments of one-quarter hour.
- B. For clearly compassionate and appropriate reasons, the Agency may increase the stated limits applicable to all forms of leave in accordance with applicable government-wide regulation and law.
- C. Employees shall not be denied leave based solely on their accrued leave balance.
- D. No arbitrary or capricious restraints shall be established to restrict when leave may be requested.
- E. Changes to the time and attendance system shall be negotiated in accordance with government-wide laws, regulations and this Agreement.
- F. Employees who wish to request their supervisor's approval to use leave may do so by using the Agency's on-line Time & Attendance system, email, or by speaking directly to the supervisor in person or by telephone.
- G. Leave shall be denied only for appropriate reasons and not as a form of discipline. No approved leave or approved absence shall be a basis for disciplinary action except when it is clearly established that the employee submitted fraudulent documentation or misrepresented the reasons for the absence.
- H. Employees shall not be adversely affected in any employment decision solely because of their leave balances.

#### **Section 2 - Annual Leave**

Annual leave is provided to allow employees extended leave for rest and recreation and to provide periods of time off for personal and unscheduled purposes. Subject to supervisory approval, all employees are entitled to request and take at least two consecutive weeks of annual leave per year.

- A. The use of accrued annual leave and the timing of such use must be approved in advance by the Agency.
- B. Employees should submit requests for annual leave as far in advance as possible. The Agency shall render timely decisions on employees' leave requests. The Agency shall make a reasonable effort to accommodate employee requests, consistent with valid operational needs.
  - 1. Vacation - Employees should submit requests for vacation leave as far in advance as possible. The Agency shall render timely decisions on employees' leave requests typically by the end of each pay period. The vacation plan for the next leave year shall be completed by the end of the current calendar year. The procedures for vacation leave shall be appropriate for local negotiations; where current practices are acceptable to the local parties, such negotiations need not occur.
  - 2. Unplanned Leave - When needs arise and the employee requests annual leave, employees must contact their supervisor or designee to request the leave. During operational hours of the Agency, there shall always be someone available who is authorized to receive and act on such a request.
  - 3. Serious Personal Needs Situations - If the leave is requested to begin immediately, employees must contact their supervisor or designee to request the leave. The employee shall be informed whether leave is approved or disapproved at the time it is requested. During operational hours of the Agency, there shall always be someone available who is authorized to receive and act on the request.
- C. Conflicts between employees' annual leave requests shall be resolved based on seniority as defined in the "Definitions" that precede Article 1 of this Agreement.
- D. When the Agency has approved an employee's request for annual leave in conjunction with scheduled days off at the beginning and/or end of the leave period, the Agency shall not change that employee's days off except where necessary to meet valid operational needs.
- E. The Agency recognizes the needs of employees to plan vacation and personal time off. However, previously approved annual leave may be cancelled if necessary to meet valid operational needs.
- F. Carryover (restored) leave shall be addressed in accordance with applicable government-wide regulation and law. Annual leave in excess of 240 hours shall be forfeited. Annual leave in excess of 240 hours may only be restored due to an exigency of the public business or sickness of the employee AND **only** if the annual leave was scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year. Annual leave that was scheduled after that date shall be forfeited if not used by the final day of the leave year. Annual leave that was not scheduled in advance may be restored only under very limited conditions such as

administrative error, or prolonged sickness of the employee. Supervisory approval is required. It is the responsibility of the employee to utilize their annual leave and adhere to the 240 hour limit on carryover.

- G. All employees shall be excused or receive appropriate pay for all holidays prescribed by Federal law, and any that may be added by Federal law, or that may be designated by Executive Order.
- H. If the Agency denies an employee's request for annual leave, the Agency shall provide the employee with a written statement of the reason for denial. If the employee wishes, he/she may resubmit a request for alternate dates of annual leave and initiate action to reschedule annual leave that was denied. The times at which such rescheduled leave is used must be approved by the supervisor.
- I. The Agency shall allow the maximum number of employees to use leave consistent with coverage requirements.
- J. The Agency shall track vacation schedules on the respective office SharePoint calendars. All approved annual leave shall be conspicuously posted on the calendar and remain posted and up-to-date for the leave year. Each employee shall also maintain his/her individual Outlook calendar and make it available to his/her supervisor.

### **Section 3 - Excused Absence**

Supervisors may excuse, without charge to leave, the tardiness/absences of employees who are not on a Flexible Work Schedule when the tardiness/absences are brief, infrequent, and for good cause.

### **Section 4 - Sick Leave**

- A. It is the responsibility of the employee who is incapacitated for duty to notify the immediate supervisor or designee (or to have a responsible person give the notice on behalf of the employee) at the work site as soon as possible but no later than one (1) hour after the employee is scheduled to report for duty unless mitigating circumstances exist. The Agency shall assure a designated number is established for the supervisor or designee to receive such notifications: the employee's obligation is to successfully contact the supervisor or designee (e.g., complete one phone call or communicate with the supervisor/designee by any other acceptable means) to either the established number, or to an alternate number the employee was notified to use. In the event that the supervisor or designee is not available, employees may use voice mail to notify the supervisor or designee of the type of leave requested.
- B. An employee who expects to be absent more than one workday shall inform the supervisor or designee of the expected date of return to duty and notify the supervisor

of any change. In the case of extended illness, employees shall not be required to call in and report daily.

- C. An employee is entitled to use sick leave which shall be granted for appropriate absences, e.g., when the employee:
1. Seeks medical, dental or optical examination or treatment;
  2. Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
  3. Is caring for a family member who is incapacitated by a medical or mental condition, or is attending to a family member who is receiving medical, dental, or optical examination or treatment, or is providing care for a family member with a serious health condition. NOTE: no more than 104 hours of sick leave may be used per leave year for this purpose, and the request must be coded as Family Friendly Sick Leave (FFSL) in WebTA.
  4. Making arrangements necessitated by the death of a family member or attending the funeral of a family member (this includes use of sick leave to make arrangements for and attend a funeral or memorial service, necessary travel, pre-funeral and after funeral/burial gatherings or ceremonies, memorial services, and reading of the will).
  5. Has been exposed to a contagious disease and, as determined by the health authorities having jurisdiction or by a health care provider, his/her presence on duty would jeopardize the health of others.
  6. Adoption-related purposes including appointments with adoption agencies, social workers, and attorneys, court proceedings, required travel, and any other activities necessary to allow the adoption to proceed.
- D. The Agency should make an effort to accommodate employees who request in advance, a change in his/her daily Tour of Duty to meet medical, optical or dental appointments (see Article 4, "Hours of Work", section 4, "Voluntary Schedule Adjustments").
- E. If an employee has insufficient sick leave accrued, the employee may request that the supervisor approve Leave Without Pay (LWOP) or other available leave for an absence for which sick leave would otherwise be appropriate.
- F. Employees shall not be required to reveal the specific nature of the illness as a condition for approval of sick leave unless there is reasonable suspicion of either leave usage abuse or fraudulent use of sick leave.

## Section 5 - Documentation for Sick Leave

- A. Where an employee requests sick leave, or annual leave, or LWOP in lieu of sick leave, the employee must make an appropriate request and may be required to furnish evidence of the need for sick leave upon return to duty. An employee may support the request for sick leave by submitting administratively acceptable:
1. Employee self-certification (will usually be sufficient for absences not exceeding three (3) workdays, and may be sufficient in instances where the illness was not treated by a health care provider if the statement indicates why a health care provider was not seen, e.g., remoteness of area, general condition of the illness, or other specific reasons. The supervisor may request clarification should the employee's written statement not be sufficient to support the request); or
  2. Medical certification from the employee's health care provider (for most absences exceeding three (3) workdays).
- B. An employee with a chronic medical condition that does not require medical treatment but does result in periodic absences from work shall not be required to furnish a health care provider certificate on a continuing basis if the employee is:
1. Is not on leave restriction; and
  2. Every six (6) months provides, if requested, an administratively acceptable medical certificate which clearly states the continuing need for periodic absences.
- C. In general, administratively acceptable medical certification of sick leave is a statement saying the employee was incapacitated for work and giving the date(s) of the incapacitation. Ordinarily, employees shall not be required to reveal the specific nature of the illness as a condition for approval of sick leave.
- D. Documents regarding employee absence for sick leave purposes are highly sensitive. The Agency shall ensure that they are maintained in a secure and confidential manner.
- E. Where there is substantial reason to believe that an employee is abusing sick leave entitlement, medical certificates may be required for any period of absence provided the employee has been formally notified in writing that the Agency has established such a requirement for him/her.
- F. If an employee has not used sick leave for three months after the notification in Paragraph E, the employee may request that the requirement be reviewed. If it is determined that a medical certificate is no longer warranted for sick leave of three consecutive workdays or less, the Agency shall notify the employee formally-in writing.

- G. The requirement for medical certification must be reviewed six (6) months after such requirement is imposed. If the requirement is not lifted, the employee may request a review of the certification requirement three (3) months after a previous review. If it is determined that a medical certificate is no longer warranted for sick leave of three (3) consecutive workdays or less, the employee shall be formally notified in writing.
- H. The Agency shall not base a determination that an employee has abused sick leave on: (1) frequency of leave use solely; or (2) amount of leave used solely; or (3) leave for which acceptable medical documentation has been provided.
- I. When the Agency determines that an employee's sick leave abuse has ceased, the Agency shall remove the restriction and notify the employee in writing of this action.
- J. If the restriction is to be continued beyond six months, the Agency shall send the employee written notice of the reasons.

### **Section 6 - Sick Out**

Employees may be required to furnish evidence of illness to support approval of sick leave for periods of less than three (3) consecutive workdays when the Agency has reasonable evidence that a "sick-out" has occurred. Under these circumstances, before the Agency requires the employees' evidence, the Union shall be provided with the reasonable evidence for the Agency's allegations that a "sick-out" has occurred.

### **Section 7 - Registration and Voting**

When the voting polls are not open at least three (3) hours before or after employees' regular hours of work, the Agency shall grant employees an amount of excused leave to vote, or to register to vote, that is sufficient to permit them to report to work three (3) hours after the polls open or leave work three (3) hours before the polls close, whichever requires the lesser amount of time, so long as the absence does not seriously interfere with valid operational needs. Where release of an employee at the beginning or end of the day would seriously interfere with valid operational needs, the supervisor, to the extent possible shall make other arrangements to allow the employee a reasonable amount of time during the workday to vote or register to vote.

### **Section 8 - Unavoidable Delay While on Official Business**

- A. If an employee who is away on official government business finds he/she is unable to return to his/her home station through no fault of his/her own, the employee shall notify his/her supervisor as soon as possible and obtain appropriate instructions. In such instances, the employee shall be paid overtime or approved compensatory time,

as appropriate, for any time beyond normal duty hours when he/she performed official duties. If the employee is unable to return to his/her duty station and must stay overnight at some other location, per diem expenses shall be paid when appropriate.

- B. Employees also shall be entitled to compensatory time for time spent in travel, in accordance with the Workforce Flexibility Act of 2004, as amended.

### **Section 9 - Employee Absences for Court or Court-Related Services**

- A. In accordance with applicable law and government-wide regulations, an employee summoned or subpoenaed in connection with a judicial proceeding by a court or other authority responsible for the conduct of that proceeding shall be authorized to attend the judicial proceeding without charge to leave or loss of USDA salary in the following instances:
  - 1. To serve on a jury;
  - 2. To appear as a witness on behalf of the Federal government, District of Columbia, state, or local government;
  - 3. To appear as a witness on behalf of a private party in an official and job-related capacity or to produce official records; or,
  - 4. To appear as a witness on behalf of a private party in an unofficial capacity and one of the parties to the proceeding is either the United States, District of Columbia, or a state, or local government.
- B. Even though no compensation is received for serving on jury duty in a federal court, employees may keep expense money received for mileage, parking, or required overnight stay. Money received for performing jury duty in state or local courts must be submitted to the Agency and may not be retained by the employee.
- C. The Agency shall not change an employee's days off and/or schedules in order to avoid granting absence for court or court-related services.
- D. An employee who is granted court leave and is excused or released by the court for any workday or substantial portion of a workday is expected to return to the employee's regular Agency duties except when:
  - 1. Only a small portion of the work day would be involved and thus no appreciable amount of Agency service would be rendered; or,
  - 2. The distance from the court to the place of duty is such that this would be an unreasonable requirement;

## **Section 10 - Leave Without Pay (LWOP)**

- A. The Agency shall give serious, bona fide consideration to requests for LWOP.
- B. LWOP may be requested in the same manner and for the same purposes as annual leave and sick leave. LWOP may be granted even though the employee has a sick or annual leave balance.
- C. Upon written request from the appropriate Union office, an employee may be granted LWOP to engage in Union activities on the national, district or local level or to work in programs sponsored by the Union or the American Federation of Labor - Congress of International Organizations (AFL-CIO). Such requests shall be referred to the appropriate Agency official. Such employees shall continue to accrue benefits in accordance with applicable OPM regulations. LWOP for this purpose is limited to one year.
- D. Employees granted LWOP for more than 30 calendar days shall be notified that they can usually expect to return to their former position. However, it may become necessary in the interest of the service to reassign them to other positions at the same grade and pay within the commuting area of the employee's current duty station during their absence or upon their return.
- E. Employees may request LWOP for educational purposes.
- F. LWOP is granted at the discretion of the Agency, except in the following cases:
  - 1. When a disabled veteran requests LWOP for medical treatment;
  - 2. When requested by a reservist or National Guard member for military duties in accordance with appropriate military orders and/or documentation. Employees may request such leave after their military leave has been exhausted (38 USC 4316(d));
  - 3. When requested by an employee who has suffered an incapacitating job-related injury or illness and is waiting adjudication of a claim for employee compensation by the OWCP; or,
  - 4. When an employee makes a request pursuant to the Family and Medical Leave Act (FMLA) and meets the criteria for that program.

## **Section 11 - Hazardous Weather/Emergency Conditions**

- A. The Agency and Union, at each facility shall jointly plan the procedures for hazardous weather/emergency conditions and shall annually communicate these procedures to employees.

- B. The designated Union official shall be informed by the appropriate Agency official, either by phone or text message, at the time the Agency declares that hazardous weather/emergency conditions exist.
- C. When hazardous conditions (e.g. extreme weather conditions, serious interruptions in public transportation, earthquake, and disasters such as flood, fire or other natural phenomena) arise, the Agency shall determine whether all or part of the facility should be closed or whether the facility should be open as usual. If the Agency decides to close all or part of the facility during periods the facility would otherwise be open, the Agency shall notify employees whether liberal leave or authorized absence will be authorized. Employees who are non-teleworkers who are prevented from reporting to work due to the closure of all or part of a facility should be granted authorized absence in accordance with OPM guidance and/or government-wide regulations.
- D. In the event a government entity or body determines that the roadways in an area are closed to traffic, employees who are non-teleworkers would need to travel through those areas shall be granted authorized absence during the period of time the restriction is in place and any reasonable travel time required to report to work.
- E. Facilities under emergency conditions should provide meals and accommodations for employees who are required to remain on duty.
- F. Whenever employees are unable to leave the facility at the end of their tour of duty, and the employee is assigned work, the employee shall be paid in accordance with established policy for the payment of premium rates.
- G. In accordance with government-wide regulations, the Agency shall fully implement the provisions of any approved program designed to provide inter-agency leave donation for employees affected by natural disasters.

## **Section 12 - Accommodation for Religious Observances**

- A. An employee whose personal religious beliefs require abstention from work during certain periods of time, may elect to engage in compensatory/credit hours work to compensate for time lost by meeting those religions requirements. Such requests require prior supervisory approval.
- B. To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of the Agency mission, the Agency shall in each instance, afford the employee the opportunity to work compensatory/credit time and shall in each instance grant compensatory or credit time off.
- C. For the purpose stated in Paragraph B of this section, the employee may work such compensatory time before the granting of compensatory time off. Compensatory overtime shall be credited in one-quarter hour increments.

- D. Appropriate records shall be kept by the employee and the supervisor of compensatory/credit time earned and used.

### **Section 13 - Military Leave**

- A. Military leave shall be granted consistent with government-wide rules and regulations.
- B. Full-time permanent and part-time permanent employees who are members of the National Guard or the Armed Forces Reserves are entitled to 15 calendar days of regular military leave in a fiscal year for active duty or active duty for training.
- C. The Agency shall not arbitrarily deny an employee's request for military leave.
- D. Employees who do not use the entire 15 days may carry over any unused military leave (not to exceed 15 days) to the next fiscal year. Military leave may never exceed 30 days in any one calendar year.
- E. In accordance with the Presidential Memorandum dated November 14, 2003, Federal civil servants returning from active duty in the support of the Overseas Contingency Operations (OCO) (formerly the Global War on Terrorism) shall be granted five (5) work days of excused absence, without charge to leave upon their return from each deployment.

### **Section 14 - Advanced Annual/Sick Leave**

- A. An employee may be advanced all annual leave that shall accrue up to the end of the leave year. However, advanced annual leave may not be granted to a temporary employee beyond the anticipated accrual as of the date set for the expiration of the employee's temporary appointment, nor to any employee if there is a likelihood that the employee will retire, be separated, or resign from the Agency before the date the employee will have earned the leave. Upon separation, employees must repay the balance of any remaining advanced annual leave; however, an employee may submit a written request that the Agency waive repayment.
- B. An employee may be advanced sick leave not to exceed 240 hours. However, advanced sick leave may not be granted to a temporary employee beyond the anticipated accrual by the date set for the expiration of the employee's temporary appointment, nor to any employee if there is a likelihood that the employee will retire, be separated, or resign from the Agency before the date the employee will have earned the leave. Upon separation, employees must repay the balance of any remaining advanced sick leave; however, an employee may submit a written request that the Agency waive repayment.

- C. Advanced sick leave may be combined with annual leave or LWOP when necessary to cover one continuous period of absence.
- D. Denials of requests for advance leave shall be conveyed to the employee promptly and shall contain an explanation of the reasons for the denial.
- E. Advanced leave, both sick and annual, may be approved in accordance with the employee's type of appointment. The employee shall not be required to utilize any annual leave prior to utilizing the advanced sick leave.
- F. It is agreed that advance leave, including both sick and annual, shall be fairly and equitably administered.

### **Section 15 - Voluntary Leave Transfer Program (VLTP)**

- A. As authorized by 5 CFR 630, Subpart I and consistent with this Agreement, employees are entitled to donate leave to an approved VLTP recipient. An employee must apply and be approved under the VLTP as a recipient before such employee may receive donated leave.
- B. The VLTP allows an employee to transfer annual leave to an approved leave recipient. The amount transferred may not exceed one-half of the amount of annual leave the employee will accrue during the leave year.
- C. Annual leave may not be transferred to an employee's immediate supervisor.
- D. The Agency shall assist employees in preparing, or shall prepare, the employee's solicitation memorandum which is directed to employees whom the employee designates. The Agency shall advise employees of how and where to receive such assistance.
- E. When an employee receives donated leave, it may be used only for the medical emergency for which it was donated.
- F. If an employee has "use-or-lose" annual leave at the end of the leave year and would like to donate it, the employee should contact an appropriate Agency official.
- G. Each bargaining unit employee shall be advised of the VLTP and the Agency's POC for each phase of the program.
- H. The Agency is in the best position to determine whether donated annual leave is needed by its employees in disaster situations and can quickly facilitate the transfer of donated annual leave. The Agency is responsible for:
  - 1. Determining whether, and how much, donated annual leave is needed by affected employees; and

2. Approving leave donors and/or leave recipients within the Agency; and, facilitating the distribution of donated annual leave.
- I. Forms for donating and receiving annual leave under the VLTP can be accessed on OPM's web site at <http://www.opm.gov>.

### **Section 16 - Family and Medical Leave Act (FMLA)**

- A. Employees are entitled to maternity and paternity leave under the Family Medical Leave Act (FMLA) and this Agreement. Bargaining unit employees are entitled to twelve (12) weeks of leave (annual, sick, advanced annual, advanced sick, LWOP or any combination thereof) during any twelve (12) month period for the following reasons:
  1. Birth of a son or daughter and the care of such son or daughter; and
  2. Placement of a son or daughter for adoption or foster care.
- B. Supervisors are encouraged to approve additional leave as circumstances warrant.
- C. Other family medical leave under FMLA and this Agreement: bargaining unit employees are entitled to twelve (12) weeks of leave (annual, sick, advanced annual, advanced sick, LWOP or any combination thereof) during any twelve (12) month period for one or more of the following reasons:
  1. The care of a family member of the employee with a serious health condition. Family member is defined as:
    - a. Spouse, same sex spouse, and parents of spouse;
    - b. Children, including adopted children;
    - c. Parents; and
  2. A serious health condition of the employee that makes the employee unable to perform the functions of the position of such employee.
- D. Substitution of Paid Leave - The employee may elect to substitute annual leave, sick leave, compensatory time off, or credit hours for unpaid FMLA leave for any part of the applicable period consistent with governing laws and regulations. Employees may also combine annual leave, compensatory time, sick leave or credit hours with unpaid Family and Medical Leave for any period of approved leave. An employee may not substitute paid time off for unpaid FMLA leave retroactively.
- E. Notice of Leave - The employee shall make an appropriate request for use of unpaid Family and Medical Leave.

- F. When the need for unpaid FMLA leave is foreseeable and the employee fails to give 30 days-notice with no reasonable excuse for the delay of notification, the Agency may delay the taking of unpaid Family and Medical Leave until at least 30 days after the date the employee provides notice of his/her need for FMLA leave. The time frame may be waived for good cause.
- G. If the need for leave is not foreseeable, the employee shall provide notice within a reasonable period of time appropriate to the circumstances involved. If necessary, notice may be given by an employee's personal representative (e.g., a family member or other responsible party). If the need for leave is not foreseeable and the employee is unable, due to circumstances beyond his/her control, to provide notice of his/her need for leave, the leave may not be delayed or denied.
- H. When requesting leave for a serious health condition, an employee shall provide written medical certification to the Agency in a timely manner. The written medical certification shall include:
1. The date the serious health condition commenced;
  2. The probable duration of the serious health condition;
  3. The appropriate medical facts within the knowledge of the health care provider regarding the serious health condition including a statement as to the incapacitation, examination, or treatment that may be required; and,
  4. A statement that the employee is unable to perform the functions of his/her position.
- I. The Agency shall not require any personal or confidential information in the written medical certification other than that required by Paragraph H 1, H 2, H 3 and H 4 of this section.
- J. If the Agency doubts the validity of the original certification, the Agency may require, at the Agency's expense, that the employee obtain the opinion of a second health care provider designated or approved jointly by the Agency and the employee concerning the information certified under Paragraphs H-1, H-2, H-3, and H-4 of this section.
- K. If the opinion of the second health care provider differs from the original certification, the Agency may require, at the Agency's expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the Agency and the employee concerning the information certified under Paragraph H-1, H-2, H-3 and H-4 above. The opinion of the third health care provider shall be binding on the Agency and the employee.
- L. "Health Care Provider" is defined as any of the following individuals:
1. A licensed Doctor of Medicine or Doctor of Osteopathy or a physician;

2. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) who are authorized to practice by state law;
  3. Nurse practitioners and nurse midwives who are authorized to practice by state law or Christian Science practitioners listed with the First Church of Christ Scientist, in Boston, Massachusetts;
  4. Any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under federal or state law to provide the service in question;
  5. An individual who meets one of the criteria above (i.e., 1, 2, 3, or 4) and practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his/her practice as defined under such law;
  6. A Native American, including an Eskimo, Aleut, or Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders and who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, or Native Hawaiians, consistent with Public Law 95-314, August 11, 1978 (92 Stat. 469), as amended by Public Law 103-344, October 6, 1994 (108 Stat. 3125).
- M. To remain entitled to leave under FMLA, an employee or the employee's spouse, son, daughter, or parent must comply with any requirement from the Agency that he/she submit to examination (not treatment) to obtain a second or third medical certification from a health care provider other than the individual's health care provider.
- N. If the employee is unable to provide the requested medical certification before leave begins or before the Agency questions the validity of the original certification provided by the employee and the medical treatment requires the leave to begin, the Agency shall grant provisional leave pending final written medical certification.
- O. As required by this section, an employee must provide a written medical certification signed by the health care provider no later than fifteen (15) calendar days after the date the Agency requests such medical certification. If it is not practicable to provide the requested medical certification not later than fifteen (15) calendar days after the date requested by the Agency and the employee has made a diligent, good faith effort, the employee shall provide the medical certification no later than 30 calendar days after the date the Agency requests such medical certification.
- P. If, after the leave has commenced, the employee fails to provide the requested medical certification, the Agency may charge the employee as AWOL, unless:

1. The reason for not providing the medical certification was beyond the control of the employee; or
  2. The employee made a good faith effort to provide the certification.
- Q. Prior to being placed on AWOL, an employee shall be provided written advance notice of at least ten (10) working days and given the reasons why AWOL is being charged. During this period, the employee may comply with the Agency's request for certification, and the AWOL charges shall be rescinded; or allow the employee to request that the provisional leave be charged to leave without pay or charged to the employee's annual and/or sick leave account, as appropriate.
- R. Medical Recertification may be required by the Agency while an employee is using leave under FMLA. Subsequent medical recertification shall be at the Agency's expense from the health care provider only if the circumstances described in the original certification change significantly or if the Agency receives bona fide information that casts doubt upon the continuing validity of the medical certification. Such requests for medical recertification shall not occur more frequently than every six (6) weeks.
- S. An employee eligible under the Agency's FMLA Leave Program may request to participate in the telework program consistent with Telework provisions in this Agreement and by requesting a Reasonable Accommodation.
- T. Protection of Employment and Benefits: upon return from Family and Medical Leave, the employee shall be restored to the same position as occupied before the leave or to an equivalent position in the same commuting area with equivalent benefits, pay, status, and other terms and conditions of employment.
- U. The Agency shall inform its employees of their entitlements and responsibilities under FMLA, including the requirements and obligations of employees upon request from the employee.
- V. An employee who meets the criteria for leave and has complied with the requirements under this section may not be denied leave, consistent with all applicable rules governing annual or sick leave, as appropriate.

### **Section 17 - Blood, Bone Marrow and Organ Donor Leave**

- A. Donor leave shall be granted consistent with government-wide rules and regulations.
- B. Employees who make free blood donations may be granted up to four (4) hours of excused absence for rest and recuperation. The excused period shall be exclusive of the time required for actual blood donation. If the circumstance warrants, supervisors may require medical evidence of blood donations. Employees who receive pay for donating blood and who wish to take time off from duty shall be charged annual leave or LWOP.

- C. Upon request, subject to certification by a health care provider, leave-approving officials shall approve excused absence for employees who serve as living donors for bone marrow, organ, and tissue donation and transplantation. The use of excused absence may cover time off for activities such as donor screening, the actual medical procedure, and recovery time. Leave-approving officials shall approve: An employee may use up to seven (7) days of paid leave each calendar year to serve as a bone-marrow donor. An employee also may use up to 30 days of paid leave each calendar year to serve as an organ donor. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave and includes:
1. Up to seven (7) workdays per donation of absence without charge to leave or loss of pay per calendar year by employees participating as living bone marrow donors; or
  2. Up to 30 workdays of absence without charge to leave or loss of pay per calendar year for employees participating as living organ and tissue donors.
- D. The length of absence from work can vary depending on the medical procedure involved in the donation. Therefore, for longer periods of incapacitation, leave-approving officials shall approve annual and/or sick leave or LWOP in combination with the maximum amounts of excused absence specified as above in this section.

### **Section 18 - Leave for Bereavement**

- A. Upon request, subject to any documentation requirements, leave-approving officials shall approve up to five (5) days of annual leave, sick leave, and/or LWOP for employees to mourn the death of the following family members:
1. Spouse and same sex spouse;
  2. Children, including adopted and step-children;
  3. Parents, including stepparents;
  4. Siblings, including step-brother/sister; or
  5. Any individual related by affinity, i.e., whose association with the employee is the equivalent to one of the family relationships identified above.
- B. Upon request, subject to any documentation requirements, leave approving officials shall approve one (1) day of annual leave, sick leave, and/or LWOP for employees to mourn the death of a grandparent or parent of their spouse.
- C. The supervisor has discretion to require documentation (e.g., obituary, death certificate) prior to final approval of bereavement leave. However, this documentation shall normally be required only in unusual circumstances.

## **Section 19 - Funeral Leave**

- A. Funeral leave is granted to allow an employee to make arrangements for, or to attend, the funeral or memorial service for an immediate relative who died as the result of a wound, disease, or injury incurred while serving as a member of the armed forces in a combat zone. The Agency shall grant employees such funeral leave as is needed and requested, not to exceed three (3) workdays of excused absence, without loss of or reduction in pay. The three (3) workdays need not be consecutive but if not, the employee shall furnish the approving authority satisfactory reasons justifying a grant of funeral leave for nonconsecutive workdays.
  
- B. The Agency may grant funeral leave only from a prescribed tour of duty, including regularly scheduled overtime, from a period during which, except for absence on funeral leave, the employee would have worked.

## **Article 33**

### **Temporary, Probationary, Part-time, and Permanent Employees**

#### **Section 1 - Temporary Employees**

- A. Temporary employees who serve in excess of 90 consecutive days will be covered by the provisions of this Agreement in accordance with Article 1, section 3 (B).
- B. Temporary employees may be separated at any time upon notice in writing from the Agency. When the Employer determines that a temporary employee is to be separated, it will make a reasonable effort to give the employee notice two (2) weeks in advance.

#### **Section 2 - Probationary Employees**

- A. Probationary employees will be entitled to ongoing counseling about their conduct and performance and their standing through completion of their probationary period.
- B. Probationary employees have the right to Union representation in accordance with applicable laws, rules, regulations and this agreement.
- C. The Employer will give probationary employees notice of termination two (2) weeks in advance, whenever reasonably possible, or such notice as the remaining probationary period permits.

#### **Section 3 - Part-time Employees**

- A. If a full-time employee wishes to convert to part-time, he/she shall make a request to his/her supervisor. The Employer will consider the employee's request and circumstances in light of the needs of the Agency.
- B. Employees who accept or convert to part-time positions have no guarantee that they will subsequently be converted to full-time employment, but the Employer agrees to consider the employee's request based on the employee's circumstances and the needs of the organization. The Employer will advise the employee of the effects of changing to part-time employment.
- C. Requests for changes to part-time and full-time employment will be made in writing.

## **Article 34**

### **Workers' Compensation Program**

#### **Section 1 - Workers' Compensation Program**

When an employee suffers illness or injury that the employee believes is job-related and reports it to his or her supervisor, the Employer will make available to the employee, on request, information and counseling or directions for obtaining information and counseling, about their rights and responsibilities under the Workers' Compensation Program including utilization of the online filing procedure.

#### **Section 2 - Employee Options**

- A. An employee with a job-related injury/illness (including conditions aggravated by job-related factors) may request to be placed on sick or annual leave instead of leave without pay, pending approval or disapproval of his/her compensation claim.
- B. Employees shall have the option of buying back the leave used and having it reinstated to their account if their claim for compensation is approved.

## **Article 35**

### **Official and “unofficial” Personnel Records and Files**

#### **Section 1 - Collection and Storage**

- A. The Agency shall not collect, maintain, or retain any official personnel file (“OPF”) or other record except in accordance with law, government-wide regulation, and this Agreement. All personnel records are confidential, shall be viewed or disseminated only by officials and employees with a legitimate administrative need to know, and shall be kept secure. Any such record that is electronic shall be retained in the file on the website designated for the electronic OPF (“eOPF”).
- B. If a supervisor decides to keep and/or maintain an “unofficial” file on an employee: (1) the Agency shall notify the employee; and (2) the employee shall have the right, at any time, to ask to examine the contents of the file and make copies of documents therein in the presence of an Agency representative. After the Agency receives an employee’s request to review a file, the Agency shall respond to the request within three (3) working days and schedule a time for examining the file that is convenient for both that employee and the Agency representative. An employee who has any concerns about the contents of the supervisor’s file may raise those concerns at any time by addressing his/her supervisor about them.

#### **Section 2 - Unfavorable Material**

- A. Before the Agency places any material that is unfavorable to an employee in that employee’s individual eOPF, a representative of the Agency shall notify the employee in accordance with law, government wide rules, regulations, and the provisions of this Agreement.
- B. The Agency shall remove information in the supervisor’s “unofficial” file that may be unfavorable to an employee when that information is no longer potentially relevant to any Agency action against the employee.

#### **Section 3 - Performance Information**

- A. The employee’s supervisor may retain copies of the employee’s annual performance rating of record for up to four (4) years in a supervisor’s “unofficial” file. If the employee has indicated an intent to grieve or appeal an appraisal or any other performance related material, the Agency shall preserve such records as may be relevant until the grievance or appeal is finally resolved.
- B. If there is information in the file relevant to a subject to be discussed at a meeting concerning the employee’s performance which the employee is scheduled to attend, the

employee may request that information and the Agency shall disclose that information to the employee at least five (5) work days before the meeting.

#### **Section 4 - Access, Copying, and Printing**

- A. Individual employees shall have access to their own eOPFs according to procedures and conditions established on a uniform basis nation-wide for all employees of USDA Rural Development. Employees shall have full access to their eOPFs at any time and may print any desired eOPF documents as often as they like.
- B. Aggrieved employees may authorize the Agency to disclose information contained in a supervisor's "unofficial" file to their designated representative by submitting to the Agency a written statement to that effect.
- C. When the Agency investigates the conduct of an employee and/or proposes an action, the Agency shall permit the employee to examine the contents of the file and make copies of documents therein. This provision shall not alter or diminish any other Agency obligation to provide/disclose information/evidence.

## **Article 36**

### **Alternative Dispute Resolution**

#### **Section 1 - Commitment**

The Employer and the Union believe the use of Alternative Dispute Resolution (“ADR”) problem-solving methods to resolve disputes is effective, timely, efficient, and fosters a good labor-management relationship when appropriately applied, and they pledge themselves to exploring the possible use of such methods whenever reasonably possible.

#### **Section 2 - Definitions and Intentions**

- A. ADR is a collection of informal processes and techniques by which parties may seek early resolution of disputes in a manner other than formal litigation.
- B. Any ADR process must be acceptable to both Union and Management.
- C. A resolution achieved by ADR shall not establish a precedent unless the parties specifically agree to the fact and manner in which it establishes or established a precedent.

#### **Section 3 - Selecting Process to be Applied**

- A. When the parties agree that an issue is appropriate to be addressed by an ADR process, they shall seek to agree on a process from among those identified by OPM (see OPM.gov) or by the Labor Management Forum, or shall develop a mutually acceptable process that is compliant with applicable law. If the parties are not able to agree on an acceptable ADR process, the issue shall be deemed not appropriate for ADR under this Agreement.
- B. When the parties agree to use an ADR process, all applicable time frames are considered held in abeyance, except for statutory or regulatory time frames the parties do not control or are unable to waive.

## Article 37 Employee Attire

### Section 1 - Preamble

Because the dress and attire of an employee reflect directly on both the employer and the employee, the dress/attire of an employee of a government agency is not an arena exclusively reserved for individual self-expression but must always be consistent with the agency's mission of serving the public, be conducive to safety and business-like operations, be agreeable to community standards, comply with any relevant and applicable governing directives, and project an image that is positive. At USDA Rural Development/Indiana, the appropriateness of dress/attire will vary according to the work environment. Thus, for example, dress/attire that is appropriate on the work site of a present or potential customer may be inappropriate for prolonged work in the office. However, in general, Mondays through Thursdays employee dress/attire should be at least "business casual".

### Section 2 - General "Business Casual" Expectations for Employees in the Office or in Customers' Office or Residential Structures

Employee dress/attire in the office shall be in good repair and not distract from or be inconsistent with the business purposes of the office or other environment. The following are a few examples of dress/attire that is, worn as outer dress, usually appropriate as "business casual" and under normal circumstances usually inappropriate as "business casual".

Usually Appropriate	Not Usually Appropriate
Casual dress pants, dresses and skirts (pressed or wash/wear)	Work and athletic wear (blue jeans, shorts, short dresses/skirts)
Opaque solid color or fine pattern long or short-sleeved shirts/blouses/tops covering torso from waist to neckline  Jacket or sweater worn over a shirt/blouse/top	Sweatshirts, sheer shirts/blouses/tops without an undergarment, shirts/blouses/tops with necklines revealing the torso or into the cleavage area, shortened shirts/blouses/tops that reveal the midriff  T-shirts or tank tops worn as outer garments
Garments bearing USDA/RD symbols or other workplace-appropriate logos	Any garments with unprofessional and/or workplace inappropriate logos and/or graphics
Business suit (jacket or sports coat w/ dress pants or skirt)	Exercise clothing, sweat suits, jump suits

Dress shoes, casual dress shoes	Athletic footwear, flip-flops, barefoot, sock foot
Ties/scarves	Bandanas

The above chart is not all-inclusive or exclusive. There may be time where clothing items that are normally inappropriate in the workplace would be acceptable. Employee dress for travel to and from work shall not be subject to this article providing the employee becomes compliant within a reasonable time.

Accommodations due to medical conditions may be made as appropriate.

**Section 3 - General “non-Business Casual” Expectations for Employees Away from the Office at Construction/Undeveloped Work Sites**

Employees shall wear clothing and footwear in good repair that is appropriate to, and does not distract from, achieving the business purpose for which the employee is present..

**Section 4 - Casual Fridays**

On Fridays, employee dress/attire more casual than that required Mondays through Thursdays shall generally be considered appropriate. Thus, on Fridays, employees may usually wear appropriate blue jeans, athletic/tennis shoes, sweatshirts and similar types of clothing. However, employees shall wear less casual business wear if the Agency directs employees to do so in advance or if employees have reason to expect visitors or work-related meetings,

**Section 5 - Dress/attire when visitors are expected**

Employees may be given prior notice and required to dress in a more formal manner than usual when official visitors in the workplace are expected.

**Section 6 - Dress/attire when representing the Agency away from the workplace**

Employees representing the Agency at a meeting or conference, making a formal presentation, or delivering formal training should dress in a more formal manner, as appropriate for the occasion.

## **Section 7 - Religious dress/attire**

The Agency shall respect the right of employees to wear dress/attire as required by the right to exercise their religion freely.

## **Section 8 - Complaints**

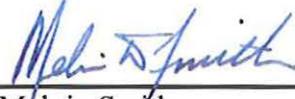
- A. Employees who are dissatisfied with the Agency's requiring or failing to require appropriate dress/attire of employees shall be free to bring the matter to the attention of a supervisor or Union representative and/or address the issue under the Negotiated Grievance Procedure found in this Agreement.
- B. If at any time a Supervisor/Manager believes an employee's dress/attire is inappropriate, that Supervisor/Manager may speak with the individual employee as to the issue directly without presenting it to the Labor-Management Forum first. In addition, the Supervisor/Manager may elect to present the generic issue of the appropriateness of such dress/attire to the Labor-Management Forum.

The undersigned representatives of the Agency, USDA Rural Development/Indiana, and the Union, American Federation of Government Employees and its agent, American Federation of Government Employees Local 622, hereby agree to this 2017-2020 Collective Bargaining Agreement.

June 4, 2017



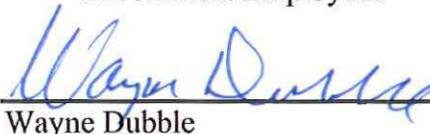
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Labor Relations Specialist  
Chief Negotiator  
USDA Rural Development/Indiana



Melvin Smith  
AFGE National Representative  
Chief Negotiator,  
Local 622, American Federation of  
Government Employees



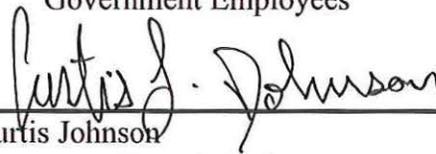
Sharon Zapata  
Administrative Programs Director  
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Wayne Dubble  
Local President  
Bargaining Team Member  
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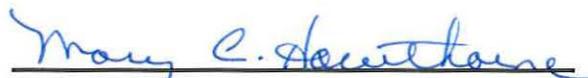
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