



United States Department of Agriculture

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Departmental  
Management

November 6, 2019

Office of the  
Assistant Secretary  
for Administration

**TO:** Matthew Lohr, Administrator  
Natural Resources Conversation Service

Office of Human  
Resources  
Management

**FROM:** Daniel M. Kline, Branch Chief *Daniel M. Kline*  
Labor Relations Division  
Office of Human Resources Management

1400 Independence  
Avenue, SW  
Washington, DC  
20250

**SUBJECT:** Agency Head Review (AHR) of the Collective Bargaining Agreement (CBA) between U.S. Department of Agriculture, Natural Resources Conversation Service (NRCS) and the American Federation of Government Employees (AFGE), Local 3839.

On behalf of the Secretary of Agriculture and in accordance with 5 U.S.C. § 7114(c), the Department has conducted an Agency Head Review of the subject CBA executed on October 28, 2019. After review, the Department finds the CBA to be consistent with current applicable law, rule and regulations. Therefore, the CBA shall have the effective date of this memorandum.

Enclosure

cc: Mary Pletcher, OHRM  
Kevin Norton, NRCS  
Melissa Drummond, NRCS  
James Gordon, NRCS  
Noreen Joice, NRCS  
Rance Monk, AFGE

**COLLECTIVE BARGAINING AGREEMENT**

**between**

**UNITED STATES DEPARTMENT OF  
AGRICULTURE (USDA), NATURAL RESOURCES  
CONSERVATION SERVICE (NRCS),  
FORT WORTH FEDERAL CENTER**



**and the**

**AMERICAN FEDERATION OF GOVERNMENT  
EMPLOYEES (AFGE), LOCAL 3839**



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## **PREAMBLE**

The accomplishment of the mission of Natural Resources Conservation Service, Fort Worth Federal Center (Agency) is paramount. In fulfilling its mission, the Agency is committed to continuing to treat all employees fairly and equitably. The Agency encourages the participation of the American Federation of Government Employees Local 3839 (Union), as exclusive representative of bargaining unit employees, in the formulation and implementation of personnel policies affecting members of the bargaining unit. The Parties recognize that it is in the best interest of all Parties, i.e., the Agency, the Union and the employees, to conduct themselves in a professional and businesslike manner, characterized by mutual courtesy, in their day-to-day working relationships in carrying out labor/management activities.

This agreement is made pursuant to the policy set forth by the Civil Service Reform Act of 1978 regarding federal labor-management relations. The following articles of this basic agreement, together with any and all supplemental agreements which may be agreed to at later dates, constitute a total agreement by and between the Agency and the Union.

## DEFINITIONS

- A. **ADVERSE ACTION:** A personnel action which affects an employee through: removal, suspension; reduction-in-grade or pay; or furlough without pay for 30 days or less. Such actions may be appealable to the Merit System Protection Board or through the negotiated grievance procedure (depending on scope) at the employee's choice, but not both ([5 U.S.C. Chapter 71 § 7121 \(d\)](#)). It does not include removal of a probationary employee; a suspension or removal for national security reasons; a reduction in grade or a removal for unacceptable performance; or an action by the Special Counsel of the Merit System Protection Board (MSPB).
- B. **AGENCY:** United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) – Fort Worth, TX, also known as "Management"
- C. **AMENDMENTS:** Modifications to the basic Agreement to delete or change portions, sections, or articles of the Agreement.
- D. **AUTHORITY:** The Federal Service Labor Relations Authority (FLRA) as established by the [Civil Service Reform Act of 1978](#), Labor Management Statute 5 U.S.C. Chapter 71

- E. COLLECTIVE BARGAINING: The performance of the mutual obligation of the Agency Representative and Exclusive Representative of the employees to meet at reasonable times and consult and bargain in good faith to reach an 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 obligation referred to in this paragraph does not compel either party to agree to a proposal or to make concession.
- F. CONDITIONS OF EMPLOYMENT: Means 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, relating to political activities prohibited under subchapter III of chapter 73 of [5 U.S.C. § 7103](#); relating to the classification of any position; or to the extent such matters are specifically provided for by Federal statute.
- G. CONFIDENTIAL EMPLOYEE: An employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.
- H. CREDIT HOURS: Those hours within a Flexible Work Schedule that an employee elects to work in excess of his or her basic work requirement so as to vary the length of their workweek or workday.
- I. DAYS: Actual workdays, unless otherwise noted.
- J. DE MINIMIS: Trivial or minor changes to conditions of employment.

- K. **DISCIPLINARY ACTIONS:** Management-initiated actions designed to correct employee behavior. Disciplinary Actions may include written reprimands and suspensions of fourteen (14) days or less. Disciplinary Actions are less severe than Adverse Actions and are grievable through the negotiated grievance procedure.
- L. **EMPLOYEES:** Employees of the Bargaining Unit as described in [Article 1 "Parties to the Agreement, Recognition, Definition of Bargaining Unit and Coverage of the Agreement."](#)
- M. **FORMAL DISCUSSION:** Under [5 U.S.C. Chapter 71, § 7114\(a\)\(2\)\(A\)](#), a discussion between an agency representative(s) and bargaining unit employee(s) concerning any grievance or any personnel policy or practice or other condition of employment which affects bargaining unit employees. The exclusive representative must be given the opportunity to be represented at these meetings.
- N. **FORMAL DISCIPLINE:** Official letter of reprimand that is maintained in an employee's electronic Official Personnel File not exceed two (2) years.
- O. **FURLOUGH:** A placing of an employee in a temporary non-duty, non-pay status because of lack of work or funds or other non-disciplinary reasons. Two types of furloughs are "save money" furloughs and "emergency/shutdown" furloughs.
- P. **GRIEVANCE:** A request for relief in a matter of concern or dissatisfaction:
1. by any employee concerning any matter relating to the conditions of employment of the employee;

2. by the Union concerning any matter relating to the conditions of employment of any employee; or,

3. by any employee, labor organization, or Agency concerning:

(a) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

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

Q. IMPASSE: The inability of the representatives of the Agency and the Union to arrive at a mutually agreeable decision, concerning negotiable matters, through the bargaining process.

R. INFORMAL DISCIPLINE: To correct inappropriate behavior or conduct; motivate employees to conform to acceptable standards of conduct, laws, rules, regulations, instructions, orders or requirements; and to preclude future infractions. Informal discipline includes the following:

1. Oral counseling: A discussion between the supervisor and employee to induce proper behavior and/or conduct.

2. Written counseling: A written document from the supervisor to the employee to induce proper behavior and/or conduct. There is no requirement for an oral counseling to occur before a written counseling is issued. Examples of written counseling include, but are not limited to: Letter of Warning, Letter of Instruction or email.
- S. MANAGEMENT OFFICIAL: An individual employed by the Agency in a position where the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the Agency.
- T. NEGOTIABILITY DISPUTE: A dispute over whether or not an issue is negotiable within the scope of bargaining established in [Title VII of the Civil Service Reform Act of 1978](#). Compelling disputes are resolved by the FLRA. Regulations of the Authority provide specific procedures for processing such disputes [5 U.S.C. Chapter 71, § 7117](#).
- U. NEGOTIATION: Bargaining of representatives of the Agency and Union over appropriate issues relating to terms of conditions of employment, personnel policies and practices, with a view toward arriving at a formal agreement.
- V. PROFESSIONAL EMPLOYEE: Professional work requires knowledge in a field of science or learning characteristically acquired through education or training equivalent to a bachelor's or higher degree with a major study in or pertinent to the specialized field, as distinguished from general education. The titles of professional positions usually reflect the field concerned; e.g., engineer or architect.

- W. REALIGNMENT: The movement of an employee and employee's position when an organization change (such as reorganization or transfer of function) occurs, the employee stays in the same agency, and here is no change in the employee's position, grade or pay.
- X. REASSIGNMENT: Section [5 C.F.R. 210.102\(b\)\(12\)](#) of the regulations defines reassignment as, a change of an employee, while serving continuously within the same agency, from one position to another without promotion or demotion.
- Y. SENIORITY: A ranking of bargaining unit employees based on each employee's service computation date for leave.
- Z. SUPERVISOR: An individual employed by an Agency having authority in the interest of the Agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.
- AA. SUPPLEMENTS: Additional articles negotiated during the term of the basic Agreement.
- BB.UNION: American Federation of Government Employees (AFGE), Local 3839.
- CC. UNION OFFICIAL: Duly elected or appointed officials of AFGE, Local 3839, who are employees of the Agency.

DD. UNION OFFICER: An elected official of the Union, e.g., President, Vice-President, Secretary, Treasurer, Chief Steward, Steward.

EE. UNION REPRESENTATIVE: Accredited National Representative of the American Federation of Government Employees.

FF. UNFAIR LABOR PRACTICE (ULP) CHARGE: A charge filed by Union or Agency with the appropriate Regional FLRA Office citing the subsections of [5 U.S.C. Chapter 71, § Section 7116](#) which have been violated, naming the party in violation, and specifically outlining the facts which form the basis for the charge. Filing must be done within six months of the incident(s)-giving rise to the charge. Taking this step starts the unfair labor practice procedure. A copy of the charge must be served to the Agency or Union alleged to have violated [Title VII of the Civil Service Reform Act of 1978](#).

GG. REDUCTION IN FORCE: In the Federal Government, layoffs are called reduction in force (RIF) actions. When an agency must abolish positions, the RIF regulations\* determine whether an employee keeps his or her present position, or whether the employee has a right to a different position.

- OPM implements the statutory requirements through regulations published in part 351 of title 5, Code of Federal Regulations ([5 C.F.R. part 351](#)). The law provides that the RIF regulations must give effect to four retention factors: Tenure of employment (i.e., type of appointment); Veterans' preference; Total creditable Federal civilian and uniformed service; and Performance ratings.

#### HH. TRANSFER OF FUNCTION:

1. When a function is transferred from one agency to another, each competing employee in the function shall be transferred to the receiving agency for employment in a position for which he is qualified before the receiving agency may make an appointment from another source to that position.
2. When one agency is replaced by another, each competing employee in the agency to be replaced shall be transferred to the replacing agency for employment in a position for which he is qualified before the replacing agency may make an appointment from another source to that position.

# **ARTICLE 1 – PARTIES TO THE AGREEMENT, RECOGNITION, DEFINITION OF BARGAINING UNIT, AND COVERAGE OF THE AGREEMENT**

## **1.1: PARTIES TO THE AGREEMENT:**

The Parties to this Agreement are the Fort Worth Federal Center of the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), hereinafter known as the "Agency or Management", and the American Federation of Government Employees (AFGE) 3839, hereinafter known as the "Union".

## **1.2: UNIT OF RECOGNITION:**

The unit of recognition covered by this Agreement (hereinafter referred to as the bargaining unit) is that unit certified by the Federal Labor Relations Authority in Case No. 6-RO-67 "Certification of Representative" dated May 22, 1980. (Appendix A) The Agency recognizes AFGE Local 3839, as the exclusive representative of all bargaining unit employees (hereinafter referred to as "employees").

## **1.3: BARGAINING UNIT:**

This Agreement applies to all members of that unit named in the, in Case No. 6-RO-67 "Certification of Representative" dated May 22, 1980. described therein as follows:

- **INCLUDED:** All nonprofessional employees employed at the Fort Worth Federal Center, USDA, NRCS, Fort Worth, TX
- **EXCLUDED:** Professional employees, management officials, supervisors, and employees described in [5 U.S.C. 7112 \(b\)\(2\), \(3\), \(4\), \(6\) and \(7\)](#).

**1.4: COVERAGE OF THE AGREEMENT:**

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

## **ARTICLE 2 – GOVERNING LAWS AND REGULATIONS**

### **2.1: 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. The Parties agree that this Agreement shall be consistent with applicable laws, rules, regulations, policies, procedures, practices, and Executive Orders, as amended.
  
- B. Provisions of this Agreement are valid to the extent that they do not conflict with the Constitution of the United States, any Federal Statute, or any government-wide rule, regulation, policy, procedure, practice, or Executive Order.
  
- C. The Agency will comply, and may require employees to comply, with Agency rules, regulations, policies, procedures, or practices, as amended, to the extent they do not conflict with this Agreement, or any supplement or amendment.
  
- D. The Parties do not waive any collective rights by agreeing to this section.

**2.2: PREVIOUS AGREEMENTS AND PAST PRACTICES:** Upon approval, this Agreement will supersede and cancel all previous formal and informal labor agreements, including any past practices, and will serve as the sole Agreement between the Parties.

## **ARTICLE 3 – UNION AND MANAGEMENT RIGHTS**

**3.1: 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 U.S.C. Chapter 71](#), this Agreement, and supplements thereto.

- Management and the Union shall conduct themselves in a professional and businesslike manner, characterized by a mutual courtesy in their day-to-day working relationship.

**3.2: RESTRAINT:** The Agency shall not restrain, interfere with or coerce any Union official or representative in the exercise of their rights under [5 U.S.C. Chapter 71, § 7102](#) 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.

### **3.3: 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 12, "Union Representation and Official Time"](#) of this Agreement. The Agency shall recognize representatives designated by the Union.

- C. The Union shall provide the Agency current listings of officers and stewards, identifying the Union office each holds.
- 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 the Remote Sensing Lab Leader or their designee as the Agency's representative at the premises where the visit is to occur. Once the Union provides the Agency 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.
- **Note:** Individual access of former or non-federal employees is contingent upon the individual following established protocols. Should such individuals become a security threat, as determined by management, they may be escorted from and no longer have access to government premises.

#### 3.4: 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 the Agency.
- B. The Union has the exclusive right to represent employees under [Article 9, "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 will be a party to all formal discussions and grievance/complaint proceedings involving conditions of employment in the bargaining unit.
- E. Any document produced and disseminated by the Union 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.

### 3.5: FORMAL DISCUSSIONS:

- A. Consistent with [5 U.S.C. Chapter 71, § 7114\(a\)\(2\)\(A\)](#), the Agency will 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. To that extent, please note the FLRA has found that the following meetings did not constitute formal discussions:

1. An oral reply to a proposed disciplinary/adverse action.
2. Routine, periodic counseling meetings between employees and their first-line supervisors, with no other management personnel present, regarding the employee's job performance.
3. A meeting between a new employee and his supervisor at the supervisor's desk to introduce co-workers.
4. A mandatory meeting to distribute information regarding a management survey concerning organizational and staffing requirements, conducted solely by first-level supervisor with no agenda.
5. A meeting by the first-line supervisor, to solicit volunteers for overtime assignments.
6. A meeting by the first-line supervisor with five (5) or six (6) unit employees to disseminate an official change in policy held in the supervisor's office.
7. A meeting to discuss changes in the work process; not scheduled in advance; held at the employees' desks.

C. The Agency will give the Union such opportunity to be present by delivering to its President or designee a written 24-hour advance notice of the formal discussion. At a minimum, the notice shall identify the expected:

1. date and time of the meeting;
2. facility and room in which the meeting shall be held;
3. employee(s) with whom the meeting is to be held;
4. agency representative(s) who will attend; and
5. 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.

D. The Agency will also approve, on request, reasonable official time for the Union's President or designee to attend the formal discussion.

**3.6: 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.

**3.7: NOTIFICATION OF CHANGES IN CONDITIONS OF EMPLOYMENT:** 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 U.S.C. Chapter 71](#), and applicable FLRA Case Law, it will give the other party notice as required by [Article 6, "Negotiations During the Term of the Agreement"](#) of this Agreement.

**3.8: NOTIFICATION TO EMPLOYEES OF EXCLUSIVE REPRESENTATION:** The Union will provide a general notice to employees of the exclusive recognition granted to the Union.

**3.9: COMMUNICATIONS WITH BARGAINING UNIT EMPLOYEES:** Consistent with [5 U.S.C. Chapter 71, § 7114\(a\)\(1\)](#) the Agency will not communicate directly with employees regarding conditions of employment in a manner which bypasses the Union. However, to gauge the efficiency and effectiveness of its operations, the Agency may question employees directly, by survey, poll or questionnaire, provided that it does not do so in a way that amounts to attempting to negotiate directly with them concerning matters that are properly bargainable with their exclusive representative.

**3.10: MANAGEMENT RIGHTS – GENERAL:** Subject to the obligation to bargain established by [5 U.S.C. Chapter 71, § 7106](#), 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.

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

1. At the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.
2. Procedures which management officials of the agency will observe in exercising any authority under this section; or

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

**3.11: OTHER AGREEMENTS:** The provisions of this article will apply to all supplemental, implementing, or subsidiary agreements between the Agency and the Union.

**3.12: 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 – DUES WITHHOLDING / REVOCATION**

**4.1: GENERAL:** The Agency will permit any employee who is a member of the Union and included within the bargaining unit for which the Union has exclusive recognition to make a voluntary allotment for the payment of dues to the Union.

**4.2: 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" or the successor form if the SF-1187 is replaced. The SF-1187 can be obtained from either the Union 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 Human Resources using the current Agency submission procedures.

**4.3: DUES REVOCATION:** Per [5 USC § 7115\(a\)](#), employees may not revoke their dues withholding for at least one year after the first deduction. Thereafter, employees may revoke their dues withholding at one-year intervals consistent with this Article.

**4.4: PROCESS:** To cancel the dues allotment, the employee must complete a [SF-1188](#), "Cancellation of Payroll Deductions for Labor Organization Dues" or the successor form if the SF-1188 is replaced. The SF-1188 can be obtained from either the Union or OPM website. The employee must complete the form, sign it, and submit it to the Union. The Union will submit it to Human Resources using the current Agency submission procedures. Employees who are uncertain of their anniversary date can contact the Union.

## ARTICLE 5 – EMPLOYEE RIGHTS

### 5.1: 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 U.S.C. Chapter 71, § 7102](#), 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 U.S.C. Chapter 71, § 7102](#).

5.2: PERSONAL RIGHTS: There shall be no restraint, interference with or coercion against any bargaining unit member in the exercise of their rights under [5 U.S.C. Chapter 71, § 7102](#).

- A. The Agency and the Union shall annually inform bargaining unit employees of their rights under [5 U.S.C. Chapter 71, § 7114\(a\)\(2\)\(B\)](#), [Weingarten Notice](#), including but not limited to posting a notice on Fort Worth Federal Center official bulletin boards.
- B. 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.
- C. 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.
- D. 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 of 1978](#), the negotiated grievance procedure, or any other procedure available to redress complaints.

E. The Parties agree that, to the extent possible, instructions, directives and orders communicated to employees by the Agency 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. 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. The employee must obey first and grieve later. An employee who concludes that a supervisor's instruction, directive or order is not consistent, fair or reasonable has the right to pursue their dissatisfaction through the negotiated grievance procedure.

### 5.3: RIGHT TO UNION REPRESENTATION:

A. If an employee wishes to discuss a problem or potential grievance with a Union representative, the employee will have the right to contact the Union representative on duty time. If the employee needs to be away from assigned duties for more than fifteen (15) minutes, the employee must notify their immediate supervisor. If the employee believes such use will require more than thirty (30) minutes, the employee must request from their immediate supervisor approval for their use of duty time. If the supervisor denies the employee's request, the supervisor will submit in writing their reasons for the denial to the employee, Union, and the Agency.

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 12, "Union Representation and Official Time"](#) of this Agreement.

- C. The Union shall be given the opportunity to be present at any Agency examination of a bargaining unit employee 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. When an employee exercises this right and a representative of the Union is not immediately available, it will be delayed for a reasonable period of time, not to exceed twenty-four (24) hours, to permit the presence of a Union representative.
  
- E. 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.

## **ARTICLE 6 – NEGOTIATIONS DURING THE TERM OF THE AGREEMENT**

6.1: 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 impact and implementation bargaining is limited to subjects not covered by this Agreement and only when legally required.

### 6.2: IMPACT AND IMPLEMENTATION BARGAINING PROCEDURES:

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 five (5) workdays 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:

c) The specific changes;

d) The general identity of the employees who will be impacted; and

e) Estimated date of implementation.

2. The Union may request to negotiate within ten (10) workdays of receipt of the proposed change and submit proposals with the request to negotiate. Those proposals must be germane to the subject submitted by the Agency.

3. Negotiations will begin no later than ten (10) workdays following the written proposals submitted by the Union.

4. Time limits described above may be extended by mutual agreement.

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. The Agency agrees not to set artificial deadlines for implementing changes in order to circumvent the normal timeframes.

C. The following Ground Rules apply for Impact and Implementation Bargaining:

1. Negotiations shall take place as soon as practicable during regular duty hours unless otherwise mutually agreed by the Parties.
2. The Agency will provide a site for negotiations.
3. The Union will be authorized the same number of Union representatives on official time as the Agency has representatives at the negotiating table.
4. Agreements reached will be written and signed by both Parties.
5. All written agreements will be assigned a control number as follows: a four -digit number representing the calendar year; followed by two additional digits representing the number of written agreements signed that year. For example, the first written agreement signed in calendar year 20XX will be numbered 20XX-01; the eleventh written agreement signed in calendar year 20XX will be numbered 20XX-11. This control number will be located in the upper right-hand corner of the document.
6. The written agreements reached under this Article will be subject to reopening upon expiration of this Agreement.

**6.3: IMPASSE PROCEDURES:** If agreement cannot be reached on the matters under negotiation, the following procedures apply.

- A. Either party may declare impasse. The Parties agree that each will use their best good-faith efforts to avoid impasse in negotiations.
  
- B. In the event either party declares an impasse in negotiations, the Federal Mediation and Conciliation Service (FMCS) will be immediately requested to provide services and assistance to resolve the dispute pursuant to [5 U.S.C. Chapter 71, § 7119](#).
  
- C. If the mediation services of the FMCS do not result in resolution of the impasse, either party may invoke the services of the Federal Service Impasse Panel (FSIP) pursuant to [5 U.S.C. Chapter 71, § 7119](#). Prior to taking such action, however, the party seeking to invoke the services of the FSIP will provide written notice to the opposing party of its intention to take such action.

## **ARTICLE 7 – EFFECTIVE DATE, DURATION AND DISTRIBUTION OF AGREEMENT**

7.1: GENERAL: Each Party shall have its own original copy of this Agreement.

7.2: EFFECTIVE DATE: This Agreement shall become effective on the earlier of the following two dates: (1) the 31st 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. Chapter 71, §7114\(c\)\(2\)](#); or (2) the day it is approved after review by the Agency Head.

7.3: DURATION OF AGREEMENT:

- A. This Agreement shall renew itself automatically on the 3rd 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 one-hundred and five (105) days and not less than sixty (60) days before the expiration date. Following receipt of such written notice, the Parties shall begin negotiations on ground rules within thirty (30) calendar days.
- B. At any time after one (1) year from the effective date until six (6) months before the expiration date, each Party may submit a written notice to the other Party of its intent to re-open articles for re-negotiation on an annual basis. For such negotiations, the Parties shall follow the procedures as set forth in [Article 6, "Negotiations During the Term of the Agreement"](#) of this Agreement.

- C. Upon expiration of this Agreement, the Agency expressly reserves the right to immediately terminate any and all permissively negotiated contract provision, amendment, or supplemental agreement by providing written notice to the union.

#### 7.4: PRINTING AND DISTRIBUTION:

- A. Within thirty (30) days of the effective date of this Agreement, the Agency will post the Agreement on applicable sites, such as the NRCS and Intranet (Human Resources/Labor Relations Section). The Agency will notify bargaining unit employees of the posting via email.
  
- B. The Agency agrees to reproduce and distribute this agreement in the following manner:
  - 1. Provide a copy to all newly hired bargaining unit employees at the time the employee's in-processing, and
  
  - 2. The Agency will provide one-hundred (100) copies to the Union, any updates will cause a new distribution to occur.

## ARTICLE 8 – DISCIPLINARY AND ADVERSE ACTIONS

**8.1: GENERAL:** The Agency shall conduct disciplinary and adverse actions in accordance with applicable laws, rules, regulations, policies, procedures, and practices, as amended. All bargaining unit employees will be notified of their Weingarten Rights before any type of investigatory interviews will occur.

**8.2: CAUSE:** Disciplinary and adverse actions against all employees must be for just cause, fair, equitable, and consistent with applicable laws and regulations.

- A. **DISCIPLINARY ACTIONS:** Management-initiated actions designed to correct employee behavior. Disciplinary Actions may include written reprimands and suspensions of fourteen (14) days or less. Disciplinary Actions are less severe than Adverse Actions and are grievable through the negotiated grievance procedure to arbitration.
  
- B. **ADVERSE ACTION:** A personnel action which affects an employee through: removal, suspension; reduction-in-grade or pay; or furlough without pay for thirty (30) days or less. Such actions may be appealable to the Merit System Protection Board or through the negotiated grievance procedure (depending on scope) at the employee's choice, but not both ([5 U.S.C. Chapter 71 § 7121 \(d\)](#)). It does not include removal of a probationary employee; a suspension or removal for national security reasons; a reduction-in-grade or a removal for unacceptable performance; or an action by the Special Counsel of the Merit System Protection Board (MSPB).

**8.3: REPRESENTATION:** A bargaining unit employee receiving a notice of proposed disciplinary or adverse action is entitled to self-representation, to Union representation, or to other appropriate representation. When the employee chooses to be represented by the Union, the Representative will be entitled to advance notice and to be present at any meeting between the employee and Agency to discuss the disciplinary or adverse action taken against the employee.

**8.4: ADVICE OF RIGHT TO REPRESENTATION:** The proposed disciplinary or adverse action letter will advise the employee of their right of representation by the Union.

## **ARTICLE 9 – GRIEVANCE PROCEDURE**

**9.1: COMMON GOALS:** It is the intent of the Agency and Union to have open discussions about disagreements in the workplace, to treat such matters seriously, and to cooperate in the spirit of mutual problem-solving to resolve disputes. Since grievances often arise from misunderstandings that can be settled promptly and satisfactorily on an informal basis, the Agency and Union will encourage the potential grievant to discuss the complaint with the responsible management or Union officials at the lowest level before filing a written grievance. The Union, if requested by the employee, has the right to participate either in person or via telephone in the discussions with management officials. However, informal efforts may not lead to resolution.

- 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.

**9.2: SCOPE:** This grievance procedure may apply to applicable matters of concern or dissatisfaction by bargaining unit employees, the Union or the Agency regarding the interpretation, application or violation of law, regulation, or this Agreement.

**9.3: EXCLUSIVITY:** 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.

**9.4: EXCLUSIONS:** Based on statutory prohibition, case law, and the lack of harm, the following matters are not grievable and are specifically excluded from the coverage of this Article:

- A. Claimed violations relating to prohibited political activities;
- B. Retirement, life insurance, or health insurance issues;
- C. Suspension or removal for National Security reasons;
- D. Appointment, certification, or examination issues;
- E. The classification of any position which does not result in the reduction-in-grade or pay of the employee;
- F. Proposed adverse / disciplinary actions;
- G. Proposed removal or reduction-in-grade;
- H. Actions taken as the result of a reduction-in-force (RIF);
- I. Issues involving a non-bargaining unit position;
- J. Issues over which the Agency has or had no obligation to bargain;

- K. Issues which may be subject to the jurisdiction of the Equal Employment Opportunity (EEO) Commission;
- L. Issues regarding non-selection for promotion, temporary promotion, detail, or re-assignment;
- M. Progress reviews, counseling sessions, or notices of an Opportunity To Improve (OTI) / performance improvement plan (PIP)/ Demonstration Opportunity (DO);
- N. Actions which terminate any employee serving under a probationary, temporary, part-time, or term appointment;
- O. Position descriptions or performance work plan elements and / or standards;
- P. Issues involving salary offset or garnishment;
- Q. Issues involving Veteran's preference;
- R. Issues involving oral warning, cautions, or admonishments.
  - Absent these exclusions, other alleged violations of contractual, conduct, or performance issues may be grievable.

9.5: GRIEVABILITY: Any time before the beginning of the Step One grievance meeting as defined in "9.8 Grievance Procedures", the Agency may declare an issue not grievable.

- A. Within ten (10) workdays of declaring an issue not grievable, the Agency shall present the reason for its decision, in writing, to the Union.
- B. Within ten (10) workdays of receiving the not grievable decision, the Union must accept the Agency decision or invoke arbitration. Failure to timely invoke arbitration is an acknowledgement of acceptance.
- C. If the Union invokes arbitration, the Parties shall suspend further action on the grievance until an Arbitrator decides the grievability issue.
- D. If the Arbitrator decides in favor of the Union, the Parties shall continue the grievance from the point in the process at which the Parties suspended the grievance.
- E. If the Arbitrator decides in favor of the Agency, the grievance process is ended, with prejudice.

**9.6: REPRESENTATION:** Employee(s) utilizing this grievance procedure will have the right to be represented and/or advised by the Union. In addition, an employee and or group of employees have the right to present or process a grievance under this procedure on their own behalf. In such cases, the Union will be afforded the opportunity to participate, on official time during any and all formal discussions/meetings, between the Agency and the grievant(s) relating to the grievance filed.

**9.7: TIME LIMITS:** The Parties agree that an identifiable action with a determinative date will serve as the initial filing date of a grievance. In no instance will a "continuing violation" theory be used to extend a grievance filing deadline. The Parties agree, that any grievance resulting in back pay to the aggrieved party, will limit the timeframes for back pay to one year of an individual employee's rights, but six (6) months for violations involving an entire class of employees.

- A. Time limits for the remainder of the grievance procedures in this Article may be extended by mutual consent of the Parties.
- B. The Parties agree to respond to the grievance within the time frames allowed. However, if the Parties are unable to respond within the time frames, the reason for the delay will be stated in writing, and a mutually agreed upon extension of the time limits will be granted.
- C. When information is requested from a Party which is needed to process a grievance or determine if a grievance exists, the party will supply a response within ten (10) workdays and the time limits will be extended equal to the amount of time required to receive the information.

D. Failure by the grievant to meet time limits or to request and receive an extension of time, shall automatically cancel the grievance.

E. Failure of the party against which a grievance was filed to comply with time limits will allow the grieving party to advance the grievance as provided below.

**9.8: GRIEVANCE PROCEDURES:** The following procedures are established for the resolution of grievances:

#### STEP 1

Any grievance must be submitted in writing by the concerned employee or union representative with the appropriate first line supervisor in an attempt to resolve the matter. Grievances must be presented within twenty (20) calendar days from the date the employee knew of the events giving rise to the grievance. The union representative must be present if the employee so desires. However, if an employee(s) presents a grievance directly to the Agency for adjustment consistent with the terms of the agreement, the local may have an observer present. The Agency will respond in writing within twenty (20) calendar days from the date of the meeting.

## STEP 2

If the grievance is not resolved at Step 1, the union representative and/or the employee (grievant) may, within ten (10) calendar days, of the step 1 decision, forward the grievance to the second line supervisor, for further consideration. The designee will review the grievance, consult with the first line supervisor and the union representative and give the employee and union representative a written answer within thirty (30) calendar days after receipt of the grievance.

- A. If the grievance is not satisfactorily resolved at Step 2, the Union or Agency may refer the matter to Alternative Dispute Resolution (ADR) or Arbitration. All time limits in this article may be extended by mutual consent.
  
- B. The grievance must contain, but is not limited to, the following information:
  - 1. The name of the grievant;
  
  - 2. Specific nature of the grievance;
  
  - 3. The law, rule, regulation, policy, procedure, or contract article, the Agency allegedly violated;
  
  - 4. A copy of documents related to the grievance;
  
  - 5. Lists dates and times of any prior attempt to resolve the issue, if applicable;

6. Details of the violation (who, what, when, where, why, and how);
7. The specific relief / remedy requested; and
8. The name of the grievant's Union's representative.

**9.9: ALTERNATIVE DISPUTE RESOLUTION:** If both Parties agree, the matter may be referred to an Alternative Dispute Resolution procedure, as outlined in [Article 10, "Alternative Dispute Resolution"](#) of this Agreement for possible resolution. The terms and timeframes for alternative resolution will be jointly determined at the time the matter is referred.

## **ARTICLE 10 – ALTERNATIVE DISPUTE RESOLUTION**

**10.1: GENERAL:** The Agency shall conduct Alternative Dispute Resolution in accordance with federal laws, rules, policies, procedures, and practices, including Departmental Regulation - [DR 4710-001, "Alternative Dispute Resolution"](#), as amended, and this Agreement.

- Alternative Dispute Resolution (ADR) is used to promote principles and practices that will contribute to improved working relationships and is designed to work towards preventing and resolving workplace and program conflicts within USDA. It is intended to resolve disputes quickly and informally.

**10.2: POLICY:** Bargaining unit employees/Union may opt to use the ADR process for employee grievances at any stage of the grievance process prior to arbitration. The Union/Agency may opt to use the ADR process after the decision is issued for Union/Agency grievances or if no decision is issued. The ADR program may only be utilized once per bargaining unit employee grievance. This process does not take away statutory rights.

- A. ADR is voluntary, and participation is open to all aggrieved Parties (employees, Union, and Agency), who agree in writing to participate. Since the ADR is voluntary the employee may terminate participation at any time.
- B. ADR is confidential. The Parties will be advised that the contents of the mediation discussion are confidential. All notes will be destroyed at the close of mediation. Each party will have a copy of the ADR Agreement. The original agreement will be maintained at the National Civil Rights office.

C. All agreements signed by Parties are binding.

D. Any issue may be considered for mediation.

10.3: PAYMENT: The cost of mediation will be paid by the party electing the use of mediation.

## **ARTICLE 11 – ARBITRATION**

11.1: RIGHT TO ARBITRATION AND SCOPE: Any grievance under the terms of this Agreement that is not resolved may be subject to binding arbitration. Only the Union or the Agency may invoke arbitration. Any issue not raised by a Party before or at the time a final grievance is presented is waived and may not be raised in arbitration.

- Authority of the Arbitrator: The jurisdiction and authority of the arbitrator shall be confined to the issues presented in the grievance. The arbitrator shall not have the authority to add to, subtract from, or modify any of the terms of this Agreement or any supplemental agreement between the Parties. The arbitrator shall resolve any grievability or arbitrability disputes consistent with this Agreement. The arbitrator shall not have the authority to extend timelines for filing or arbitrating grievances. All timelines will be strictly adhered to unless they are extended by mutual consent of the Parties.
- A. Either the Union or the Agency may invoke arbitration by serving a notice on the other; The Union will notify the Remote Sensing Lab Leader or their designee, the Agency will notify the Union President within twenty (20) workdays following receipt of the final decision under [Article 9, "Grievance Procedure"](#). The notice will identify the grievance and the specific relief requested and will be signed and dated by an authorized representative on behalf of the party submitting the matter to arbitration. If either party fails to invoke arbitration within the time specified, the right to seek arbitration will be waived. If arbitration is invoked and the arbitrator is selected but not scheduled within thirty (30) calendar days, the grievance is dropped, except when the invoking party has made a good faith effort to schedule the arbitration.

- B. The invoking party will request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7) impartial persons qualified to act as arbitrator. The request to FMCS will include a brief statement of the issue(s) involved in the dispute. If the Parties cannot agree to a joint statement, each party may separately submit a statement. If the Parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate submission and the arbitrator shall determine the issues to be heard. Any cost for the list will be shared equally by the Agency and the union.
  
- C. Within seven (7) days of receipt of the list, the invoking party will contact the other party to choose an arbitrator. If they cannot mutually agree on one name from the list, the invoking party will strike one name first and then each party will alternately strike one name from the list until only one name remains. The remaining name on the list shall be the duly selected arbitrator. The invoking party shall immediately notify FMCS of the selection. If either party fails to participate in the striking process within thirty (30) days of receipt of the list, the other party will make the arbitral selection. In the event neither party complies with the aforementioned provision, the grievance is rendered moot.
  
- D. By mutual consent, arbitration may be conducted as oral proceedings with no verbatim transcript and no filing of briefs.
  
- E. Arbitration hearings will be held at the location of the grievant or as mutually agreed to by the Parties.

- F. The Parties will exchange lists of witnesses to be called, along with a listing of facts and/or evidence that may be stipulated to by both Parties, at least fifteen (15) days prior to the opening of the hearing. If the Parties cannot agree to a slate of witnesses, it shall be the sole discretion of the arbitrator to determine who may testify. Witnesses will be allowed a reasonable amount of official time to prepare their testimony and gather required facts/records, etc.
  
- G. The grievant, to the extent necessary to prepare and participate in the hearing shall be considered in a duty status.
  
- H. The arbitrator shall be requested to render and serve their written decision within thirty (30) days after the conclusion of the hearing.
  
- I. The fees and expenses of the arbitrator shall be borne as follows:
  - 1. The losing party shall bear fifty (50%) of the cost of arbitration.
  
  - 2. The prevailing party shall bear fifty (50%) of the cost of arbitration.
  
- J. The arbitrator's award shall be binding on the Parties. However, either party may file exception to the award with the FLRA under regulations prescribed by the Authority.
  
- K. If the arbitrator fails to render a decision on arbitrability issues prior to the hearing, the arbitrator shall hear arguments regarding both the arbitrability and the merits of the cases at the same hearing.

- L. If the Parties agree that a transcript is necessary, the Parties shall share the cost of the transcript. If there is a disagreement about the need for a transcript, the Union President and the designated Agency management official shall attempt to resolve the disagreement. If no agreement is reached, each party is solely responsible for paying for its own transcript.

## **ARTICLE 12 – OFFICIAL TIME/TAXPAYER FUNDED UNION TIME (TFUT)**

12.1: GENERAL: Official time will be determined on a case by case basis for representational activities pursuant to the terms and conditions of this Agreement. The Agency will recognize union officials to be designated by the Union. Employees shall use official time (aka: Taxpayer-Funded Union Time or TFUT) in a manner consistent with the requirements of an effective and efficient government as provided by this Article.

- A. The Union will provide the Agency with electronic lists of all designated union representatives within 30 days of the effective date of this Agreement. The Union will provide an updated list when there is a change to a designated union representative within ten (10) business days. Each list will include the name, union position, and telephone number of each designated union representative.
  
- B. Only those employees identified on the list provided by the Union will be authorized to use taxpayer-funded union time.

### DEFINITIONS:

For the purpose of this Article:

- A. **AGENCY BUSINESS:** Work performed by Federal employees, including detailees or assignees, on behalf of the Agency, but does not include work performed on taxpayer-funded union time.

- B. DISCOUNTED USE OF GOVERNMENT PROPERTY: Charging less to use government property than the value of the use of such property, as determined by the General Services Administration, where applicable, or otherwise by the generally prevailing commercial cost of using such property.
  
- C. PAID TIME: Time for which an employee is paid by the Federal Government, including both duty time, in which the employee performs Agency business, and taxpayer-funded union time. It does not include time spent on paid or unpaid leave, or an employee's off-duty hours.
  
- D. TAXPAYER-FUNDED UNION TIME: Official time granted to an employee to perform non-Agency business during duty hours pursuant to [section 7131 of title 5, United States Code](#).

EXCLUSIONS:

- A. Absent advance approval from management, union time is not appropriate for use by a union representative for work performed at home, including under an authorized telework agreement, or outside the time the union representative would otherwise be in duty status. Absent advance approval from management, approved union time can only be used in an Agency facility or a third-party litigation facility.

- B. Work schedules will not be altered so that Union officials are in duty status for the sole purpose of using union time. In unforeseen or exceptional circumstances, at the sole discretion of the Agency, work schedules may be altered.
  
- C. Union representatives are not authorized to earn premium or differential pay, overtime or compensatory time (to include travel compensatory time) for their performance of union representational duties. In unforeseen or exceptional circumstances, at the sole discretion of the Agency, premium or differential pay, overtime or compensatory time (to include travel compensatory time) may be approved.
  
- D. In accordance with [5 USC 7131 \(b\)](#), the use of union time is prohibited for internal union business.
  
- E. Union time is not permissible for formal Worker's Compensation or formal EEO Complaint Cases.
  
- F. Lobbying or political activities are not appropriate activities for which union time may be used. The Agency will not pay for union time or any associated expenses for any lobbying or political activities.
  
- G. No employee, when acting on behalf of the Union on official time/TFUT, may be permitted the free or discounted use of government property or any other Agency resources if such free or discounted use is not generally available for non-Agency business by employees when acting on behalf of non-Federal organizations.

- H. No employee shall be reimbursed for expenses incurred performing non-Agency business, unless required by law or regulation.
- I. Employees may use taxpayer-funded union time to prepare or pursue grievances (including arbitration of grievances) under procedures negotiated pursuant to [section 7121 of title 5, United States Code](#), as authorized by law or regulation, such as:
1. a bargaining unit employee using taxpayer-funded union time to prepare for, confer with an exclusive representative regarding, or present a grievance brought on the employee's own behalf; or to appear as a witness in any grievance proceeding; or
  2. an employee using taxpayer-funded union time to challenge an adverse personnel action taken against the employee in retaliation for engaging in federally protected whistleblower activity, including for engaging in activity protected under [section 2302\(b\)\(8\) of title 5, United States Code](#), under [section 78u-6\(h\)\(1\) of title 15, United States Code](#), under [section 3730\(h\) of title 31, United States Code](#), or under any other similar whistleblower law.

#### 12.2: REASONABLE AND EFFICIENT USE OF OFFICIAL TIME/TFUT:

- A. Consistent with [5 U.S.C. 71](#) and this Agreement, union representatives will be granted union time, subject to availability as described below, for the following representational activities:

1. Term Negotiations—to prepare for and negotiate a collective bargaining agreement, in accordance with [5 U.S.C. 7131\(a\)](#).
  2. Mid-Term Negotiations—to prepare for and bargain over issues raised during the life of a term agreement, in accordance with [5 U.S.C. 7131\(a\)](#).
  3. Dispute Resolution—to appear in proceedings before the Federal Labor Relations Authority during such time as an employee would otherwise be in a duty status, in accordance with [5 U.S.C. 7131\(c\)](#).
  4. General Labor-Management Relations—to perform miscellaneous representational activities authorized under [5 U.S.C. 7131\(d\)](#), shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.
- B. Union representatives may be authorized union time hours and Leave Without Pay for Union Activities (LWOPUA), on a fiscal year basis, not to exceed twenty-five (25) percent of their established annual tour of duty in the performance of union representational activities as described in Section A. above. LWOPUA will be recorded in the comments section of the Agency's timekeeping system. The denial of union time and LWOPUA for union representational activities cannot be grieved or disputed in any forum. If the request is denied, the reason will be submitted in writing within one (1) business day.

- C. Prior to a representative entering a work area or performing representational activities, the representative must obtain the consent of the immediate supervisor in charge of the work area. The representative shall provide the supervisor with the name of the employee, the general purpose of the visit, and how long the employee is expected to be away from duty.
  
- D. The union agrees that official time will be used efficiently.

12.3: REQUESTING TO USE OF OFFICIAL TIME/TFUT:

- A. Employees may not use taxpayer-funded union time without advance written authorization, except where obtaining prior approval is deemed unreasonable by management.
  
- B. Any requesting employee shall submit his/her request using the Agency's email system.
  
- C. The requesting employee shall specify:
  - 1. The approximate amount of time to be used, and
  
  - 2. Sufficient detail identifying the tasks the employee will undertake as to permit the authorizing official to assess whether it is reasonable and necessary to grant such amount of time to accomplish such tasks.

D. The employee will immediately inform the supervisor when he/she returns to work after completion of the representational activity using the method determined by the supervisor. For any use of official time in excess of previously authorized hours or for purposes for which such time was not previously authorized, the requesting employee shall submit a separate updated request.

#### 12.4: PROVISIONS FOR UNION TIME:

- A. A request for union time must be made at least one workday in advance, except where obtaining prior approval is deemed unreasonable by management, in order to allow management to be able to consider and plan for agency mission requirements. Sufficient information must be included with each request to use union time to allow the approving official to determine if the time requested and activity described meet the criteria outlined in this Article.
- B. If the agency official denies a request for official time, either in whole or part, the agency official must prepare a written statement noting the reasons for the denial and provide the employee or representative with a copy of that statement within one (1) business day.
- C. Approval from an authorized supervisor/management official must be obtained by an employee prior to their engaging in union time as a representative. Any employee who uses union time without advance supervisory/management approval will be considered absent without leave and subject to appropriate disciplinary action.
- D. An employee serving as a Union Representative is responsible for accurately recording union time on their time and attendance for pay purposes.

## 12.5: REQUESTING OFFICIAL TIME FOR TRAINING:

- A. Union officers and stewards may be excused from duty, workload permitting, to attend training which is designed to advise representatives on matters within the scope of [5 USC](#), and which is of mutual benefit to the Agency and Union.

Union officers and stewards requesting to attend such training shall present to the supervisor a written description of the course demonstrating which portion of the training is mutually beneficial, (10) working days in advance. The request will contain a detailed copy of the training agenda and statement relating to the mutual concern of the Agency and Union.

- B. The Parties agree that training under this section is generally of mutual benefit when it covers areas such as contract administration and information related to federal personnel/labor relations laws, regulations, and procedures. Training is not mutually beneficial when it deals with matters related to internal Union business.
- C. Official time for this purpose will not exceed a total of one-hundred and sixty (160) hours for any calendar year. Official time used will be documented on time sheets accordingly.
- D. The denial of training requests within the scope of [5 USC](#) cannot be grieved under the parties' negotiated grievance procedures.
- E. If the request is denied, the reason will be submitted in writing within one (1) business day.

## **ARTICLE 13 – TRAVEL**

### **13.1: GOVERNMENT TRAVEL:**

- A. Travel shall be in accordance with all applicable federal travel regulations, laws, rules, policies, procedures, and practices, as amended.
- B. All travel must be approved in advance by the employee's supervisor.
- C. If available, a Government-owned vehicle should be used in lieu of a personally owned vehicle.
- D. A Government travel credit card may be provided to employees through appropriate policy and procedure. Failure to comply with regulations, terms and conditions of the card, or to timely make payments on the amount due, can subject the cardholder to disciplinary action and suspension or cancelation of the Government travel credit card.

### **13.2: UNION TRAVEL:**

- A. Normally the Agency will not pay the travel expenses and per diem allowances for NRCS, Fort Worth, Texas, Union representatives performing representational activities (negotiations, grievance meetings, arbitration hearings, etc.) If the Agency receives a request, it will consider the convenience of the Agency, primary interest of the Government, and budget constraints when making a decision.

B. In the rare case the Agency pays for any travel expenses for Union representational activities, no internal Union business will be conducted during the trip regardless of the length of discussion or activity.

## **ARTICLE 14 – HOURS OF WORK AND WORK SCHEDULES**

**14.1: GENERAL:** The Agency shall conduct a policy of hours of work and work schedules in accordance with applicable laws, rules, regulations, policies, procedures, and practices as amended. All NRCS supervisors will establish a regularly scheduled workweek in writing for each full-time employee. An employee's work schedule is established to accomplish the mission of the NRCS and the Fort Worth Federal Center. An employee's regularly scheduled workweek should correspond with the actual work requirements that are known at the time the tour is determined.

### **14.2: HOURS OF WORK AND CORE HOURS:**

Working Hours: 6:00 A.M. - 6:00 P.M.

Core Hours: 9:00 A.M. – 2:30 P.M.

Office Hours: 8:00 A.M. - 4:30 P.M., Monday - Friday

Lunch Period: 11:00 A.M. and 2:00 P.M. the work schedule chosen will also designate the lunch period (see [Article 15, "Lunch and Break Periods"](#) of this Agreement).

**14.3: TRADITIONAL BASIC 40-HOUR WORK REQUIREMENT:** The basic 40-hour workweek is scheduled on five (5) days, Monday through Friday when possible, and the two (2) days outside the basic workweek are consecutive.

- The working hours in each day in the basic workweek are the same; the basic non-overtime workday may not exceed eight (8) hours; breaks in working hours of more than one (1) hour may not be regularly scheduled in a basic workday; the occurrence of holidays may not affect the designation of the basic workweek; and employees cannot earn credit hours.

#### 14.4: FLEXITOUR SCHEDULE:

- A. Employees are responsible for choosing a biweekly schedule within the working hours of 6:00 A.M. to 6:00 P.M. by submitting it in writing for supervisory approval.
- B. The basic work requirement for full-time employees consists of an eight (8)-hour day, five (5)-days a week, Monday through Friday, forty (40)-hours a week, and eighty (80)-hours in the biweekly pay period. Employees must have an established tour of duty.
- C. The basic work requirement for part-time employees is the number of hours the employee must work each day, the number of hours the employee must work in the administrative workweek, and the number of hours the employee must work in a biweekly pay period.
- D. Employees, with the approval of their respective supervisor, may select a starting time each day. They may be allowed to vary their starting and ending times up to thirty (30) minutes; with prior permission of their immediate supervisor except in exigent circumstances. When an employee varies their starting time, the employee must make up this time at the end of the day or take approved leave. Employees must complete their scheduled number of hours by 6:00 P.M.

- E. Employees must be present during the core hours of 9:00 A.M. and 2:30 P.M., Monday through Friday (unless their tour of duty has been changed on a temporary basis) or must be approved for leave during the portion of the core hours they are absent.
  
- F. Employees may be eligible to earn credit hours up to two (2) hours per day between the hours of 6:00 A.M. and 6:00 P.M., with supervisory concurrence.
  
- G. An employee may be permitted to earn credit hours for work that begins before 6:00 A.M. or after 6:00 P.M. with prior approval from the second line supervisor. Credit hours during these periods of time should only be approved on a case-by-case basis for special projects.
  
- H. Employees may be able adjust their starting and ending time to enable them to travel within an eight (8)-hour day and earn credit hours while working at the temporary duty site, with supervisory permission. Credit hours can only be earned between the hours of 6:00 A.M. and 6:00 P.M. Monday through Friday.

14.5: 5-4/9 BI-WEEKLY SCHEDULE:

- A. A fixed work schedule Monday through Friday, that has a basic biweekly work requirement of nine (9)-hour days during eight (8) days of the biweekly pay period and eight (8) hours on a 9th day to complete the eighty (80)-hour biweekly work requirement. The eight (8)-hour day can be any pre-scheduled workday in the pay period and must cover the core hours.

- B. Employees select a starting time each day that does not vary. The working hours in each day in the basic workweek are the same, except for the 9th day. A non-workday must be scheduled in the same pay period as the nine workdays.
- C. A non-workday must be scheduled in the same pay period as the nine workdays; non-overtime work is performed during the schedule that does not exceed the daily work requirement or eighty (80) hours in the biweekly pay period. Employees are not eligible to earn credit hours.

#### 14.6: 4-10 HOUR WORKWEEK SCHEDULE:

- A type of work schedule that consists of a ten (10) hour daily work requirement four (4) days per week, a forty (40) hour weekly work requirement, and an eighty (80) hour biweekly work requirement. The 4-10 hour workweek alternative work schedule may be used on a case-by-case basis when it is more advantageous to the Agency than the other work schedules.

- A. Four-day workweeks;
- B. A fixed, nonflexible work schedule, which means that it does not vary from day-to-day. The arrival and departure times are according to a set, written schedule requested by the employee and approved in advance;
- C. The basic work requirement shall consist of a ten (10) hour daily work requirement, a forty (40) hour weekly work requirement, and an eighty (80) hour biweekly work requirement;

- D. The occurrence of holidays may not affect the designation of the basic workweek;
- E. A selected non-workday is scheduled to happen on the same day each week. This day cannot be changed without requesting a new tour of duty request and can only be changed quarterly;
- F. Employees are not eligible to flex;
- G. Employees are not eligible to earn credit hours;
- H. This schedule can only be approved by the appropriate Remote Sensing Lab Leader, National Center Director, Branch Chief or Section Chief.

**14.7: CHANGE IN WORK SCHEDULE:** Employees may request a change in their established tour of duty up to four (4) times per year. All requests for changes in tour of duty are subject to supervisory approval.

- Changes from one tour of duty to another must be made before the beginning of the pay period. No tour changes are allowed after the pay period has begun, unless there is an emergency or a special situation. Tour changes based on holidays or "in lieu of" holidays are not permitted.

#### 14.8: TRAVEL AND TRAINING:

If necessary, the Agency may change an employee's schedule when the employee is traveling, attending training, or participating in jury duty. Employees who are in training status, whether on the job training or classroom training, will need to adjust their normal schedules to be able to participate fully in the training.

- A. When an employee travels away from the permanent duty station, the employee may remain on their work schedule, provided the employee's Regular Day Off (RDO) does not occur during the period of travel.
  
- B. An Employee may remain on their work schedule while in a training status provided their RDO does not occur during the period of training.

14.9: RESOLVING CONFLICTS: When employees have work schedule conflicts related to office coverage, the first attempt to resolve conflicts will be among themselves. If they are not able to resolve the conflicts, then the supervisor(s) will make the final decision.

14.10: PREMIUM PAY AND CREDIT HOURS: Premium pay and credit hours will be compensated in accordance with the applicable laws, rules, regulations, policies, and practices as amended.

#### A. OVERTIME:

1. Overtime pay is pay for hours of work officially ordered and approved in advance in excess of the employee's basic work requirement.

2. The Agency will give an employee as much advance notice as practicable in making overtime assignments. In certain situations, operational needs may prevent advance notice.
3. Overtime will be distributed consistent with workload requirements and resource availability. The Agency may order or approve overtime by special projects or work assignments according to expertise of the employee. Overtime will be distributed as equitably as possible.
4. When there are more than sufficient qualified candidates expressing an interest in working overtime, the Agency will fill its needs from the candidates based on seniority using the leave service computation date.
5. If the Agency is unable to fill its needs through qualified candidates, it may assign the work to the qualified employees based on reverse seniority using the leave service computation date.
6. The Agency will give reasonable consideration to an employee's request to be released from overtime due to personal hardship.

**B. COMPENSATORY TIME IN LIEU OF OVERTIME:**

1. Compensatory time earned by the employee is accrued for an equal amount of time spent in overtime work.

2. Non-exempt (Fair Labor Standards Act) employees will be allowed to earn and use compensatory time rather than paid overtime, provided that compensatory time must be at the request of the employee and cannot be mandatory.
3. If the employee desires to work compensatory time instead of overtime, then the employee must request to work compensatory time in the remarks section of the employee's timesheet in the Agency's automated time and attendance system before the Agency approves the overtime work assignment.
4. Once the Agency approves the overtime, the supervisor/designee must approve the compensatory time before the employee works the additional hours.
5. Employees must use such compensatory time before using any credit hours or annual leave (except use or lose annual leave). The compensatory time must be used by the end of the twenty-sixth (26<sup>th</sup>) pay period following the pay period in which the compensatory time was earned. If the employee does not use the compensatory time by its expiration date, the Agency shall pay the employee the remaining time at the overtime rate of pay applicable at the time the employee worked the compensatory time.

#### C. COMPENSATORY TIME FOR TRAVEL:

1. The employee will submit the request for compensatory time for travel through the Agency's automated time and attendance system. The employee will include in the remarks section that date and time of departure and return, the purpose of travel, the location of departure and destination, waiting times, and unusual delays.
2. An employee may not receive payment under any circumstances for any unused compensatory time for travel. Compensatory time for travel not used within twenty-six (26) pay periods after it was earned will be forfeited.

#### D. CREDIT HOURS:

1. Credit hours are hours that an employee elects to work, with supervisory approval, in excess of the employee's basic work requirement under a flexible work schedule. Employees may work up to two (2) credit hours per day between the flexitour time band of 6:00 A.M. and 6:00 P.M.
2. Credit hours may be earned by employees on a flexible work schedule, (flexitour). Employees on the traditional work schedule (8 hours, 5 days a week) or fixed compressed work schedules (5-4/9, 4-10) may not earn credit hours;
3. Employees may earn and use credit hours in fifteen (15) minute increments;

4. Employees must earn credit hours before using the credit hours;
5. Maximum carryover of credit hours from one pay period to the next is twenty-four (24) hours;
6. Supervisors have the authority to determine the method for granting prior approval (e.g., verbal, written) of credit hours.
7. Supervisors must approve the use of credit hours before employees use them.
8. Employees may not substitute credit hours for annually scheduled use or lose leave.
9. Supervisors and employees may apply time worked in excess of the maximum twenty-four (24) hours as compensatory time or overtime if the supervisor approves in advance.
10. Part-time employees may accumulate not more than one-fourth (1/4) of the hours in such employee's biweekly basic work requirement for carry over from one biweekly pay period to a subsequent pay period.

11. An employee receives pay for a maximum of twenty-four (24) unused credit hours at his or her current rate of basic pay when Federal employment ends, when the employee transfers to another Government agency, or when the employee otherwise is no longer subject to an agency's flexible work schedule program. The premium pay limitations in [5 USC 5547](#) do not apply to payment for credit hours even though they apply to payments for unused compensatory time off.

## **ARTICLE 15 – LUNCH AND BREAK PERIODS**

**15.1: GENERAL:** The Agency shall conduct lunch and break periods in accordance with applicable laws, rules, regulations, policies, procedures, and practices as amended.

**15.2: LUNCH:** The lunch-time period must be for a minimum of thirty (30) minutes and a maximum of one (1) hour, (employees do not get paid for their lunch period). Established lunch periods must be on a regular and recurring basis.

- A. Employees shall have the option of scheduling thirty (30) minutes, forty-five (45) minutes, or sixty (60) minutes for lunch. Employees on a Flexitour work schedule may expand their lunch period within the established lunch band, with supervisory approval.
- B. Employees with a fixed work schedule, i.e., Compressed Work Schedule, or Traditional, are not eligible for a flexible lunch schedule.
- C. Any exigent circumstance that requires a change to the employees established lunch schedule which exceed the normally scheduled lunch period requires supervisory notification as soon as possible. The employee must have sufficient leave to cover the request or the employee may request to extend their work day not to exceed 6:00 PM.
- D. The Agency recognizes the lunch period band shall be from 11:00 A.M. until 2:00 P.M. each workday.

- E. Absent prior supervisory approval, employees may not leave before 11:00 A.M. and must return from lunch by 2:00 P.M.
- F. Employees must take a lunch break if they work six (6) or more hours.
- G. If you have the rare extended day where you work twelve (12) or more hours, employees must take a non-paid dinner break.
- H. The employee may request annual leave, compensatory time, credit hours, or leave without pay (LWOP), or the Agency may charge the employee with being absent without official leave (AWOL) for any misuse or unauthorized extension of an employee's lunch period.

**15.3: BREAKS:** The Parties recognize that breaks are paid duty time.

- A. The Agency shall recognize one (1) fifteen-minute (15) break during each four (4) full hours worked. In a typical work day, one (1) break will be taken before lunch and one (1) break will be taken after lunch. Employees may smoke before work, after work, while on their official breaks or during their schedule lunch periods only. In no case shall an employee use their break to extend their lunch period, or for purposes of arriving late or leaving early.
- B. An employee's break may not exceed fifteen (15) minutes in duration, nor may an employee divide their fifteen (15) minute breaks into breaks of smaller increments.

- C. In exigent circumstance, a supervisor may ask an employee to interrupt their break to address an immediate need after which the employee continues their break.
  
- D. The employee may request annual leave, compensatory time, credit hours, or leave without pay (LWOP), or the Agency may charge the employee with being absent without official leave (AWOL) for any misuse of an employee's break period.

## **ARTICLE 16 – LEAVE**

16.1: GENERAL: The Agency shall administer leave in accordance with applicable laws, rules, regulations, policies, procedures, practices, as amended.

The Agency and Union have a common interest to create a Family Friendly Workplace which enables the Agency to meet their mission needs while allowing employees flexibility to meet both work and family needs.

16.2: SCHEDULING LEAVE AROUND HOLIDAYS: Employees will work together to schedule leave around holidays so there is adequate office coverage. If there are disputes, the employees' supervisors will make the final decision.

### 16.3: OTHER LEAVE:

#### A. Using Leave for Funerals

- Consistent with the needs of the Agency, earned annual leave, credit hours, leave without pay, or compensatory time will be approved for an employee to attend a funeral. Sick Leave may be used to attend the funeral of a family member.

## B. Military Leave

1. Any full-time permanent employee who is a member of the National Guard or other reserve unit of the Armed Forces, shall be entitled to accrue one-hundred twenty (120) hours of regular military leave in a fiscal year for active duty, inactive-duty training, or engaging in field or coast defense training ([5 USC 6323 \(a\)](#)). Employees who are entitled to regular military leave but who do not use the entire one-hundred twenty (120) hours may carry over the unused portion from one fiscal year to the next for a maximum cumulative total of one-hundred twenty (120) hours. Upon request, additional leave will be granted pursuant to [Title 5 USC Section 6323](#).
2. Military leave will be prorated for part-time employees and employees on uncommon tours of duty based proportionally on the total number of hours in the employee's regularly scheduled biweekly pay period.
3. Approval of the military leave provided in the foregoing shall be based on the copy of the orders directing the employee to duty and a copy of the certification of completion of such duty, or other administratively acceptable documentation indicating the duration of the military service.

### C. Court Leave

1. A full time or part time leave earning employee is entitled to court leave to the extent necessary to serve on a jury or to participate in judicial proceedings in a nonofficial capacity as a witness on behalf of a state or local government. Court leave will be granted from the report date stated in the summons through the date discharged from court. Court leave will not be granted when the employee is excused from jury duty for a day or a substantial part of a day. If the Employee is discharged before completing their basic work requirement, the Employee may return to work, or request to use accrued leave or compensatory time, or request Leave Without Pay. If the employee fails to return to duty or request leave, Absence Without Leave may be charged.
2. The employee must notify the Agency at least two weeks in advance or upon receipt of the summons from the court. Court leave must be requested on a Leave Request with a copy of the jury duty or court summons submitted with the request. Upon return to duty, the employee must present to the Agency a jury duty certificate signed by an officer of the court, if the court leave was granted for jury duty.

### D. Holiday Leave

The Agency will authorize designated federal holidays for the purposes of pay and leave in accordance with applicable statute or Executive Order. If administrative leave will be given in conjunction with a holiday, management will inform the employees as early as possible.

#### E. Observance of a Religious Holiday

In accordance with law and government wide rules and regulations, employees wishing to attend or participate in the observance of a religious holiday (e.g., Good Friday, Yom Kippur) normally will be permitted to be absent on annual leave so long as the employee requests such leave at least three (3) workdays in advance and their absence will not cause a workload problem.

#### F. Personal Religious Beliefs

1. An employee whose personal religious beliefs require the absence from work during certain periods of the workday or workweek may be granted time off for such religious observances, in accordance with law and government wide rules and regulations, provided their absence will not cause a workload problem.
2. To the extent that modifications in work schedules do not interfere with the efficient accomplishment of the Agency's mission, the Agency shall grant compensatory time off to an employee requesting such time off and shall in each instance afford the employee the opportunity to work compensatory time in order to repay the compensatory time off.

3. For the purpose stated in this Article, the employee may work such compensatory time before or after the grant of compensatory time off. The employee may earn such compensatory time off no more than one pay period prior to the pay period that includes the date of its use. A grant of advanced compensatory time off for religious observances shall be repaid by the appropriate amount of compensatory time work within two pay periods of its use or no later than the end of the leave year, whichever comes first. Time not repaid will be charged to the employee's annual leave account at the end of the second pay period by amending the time and attendance records as appropriate. If sufficient annual leave is not available, time not repaid within two pay periods of its use will be changed to leave without pay by amending the time and attendance records as appropriate. Compensatory time worked shall be credited and repaid on an hour for hour basis using full hours only.
4. An employee requesting compensatory time for religious observances for more than three [calendar] days must submit the request at least two pay periods in advance.
5. If no productive overtime is available to be worked by the employee at such time as they can earn or repay the compensatory time off, alternative times shall be arranged by their supervisor for the performance of the compensatory time work in accordance with law and government wide rules and regulations.
6. The premium pay provisions for overtime work do not apply to compensatory time work performed under this Article.

7. There is no relationship between overtime worked for this purpose and regular overtime worked under [Title 5 and the Fair Labor Standards Act](#).

#### G. Bone Marrow and Organ Donation Leave

1. Pursuant to [5 USC 6327](#), employees may be granted up to seven workdays in a calendar year to serve as a bone marrow donor. Employees may use up to 30 [calendar] 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. Other leave may be granted in conjunction with the excused absence.
2. Employees must notify their supervisor as soon as possible after the donor procedure has been scheduled by specifying "Other" on the Leave Request with the remarks section annotated "bone marrow donation" or "organ donation." The employee must provide medical documentation on a form supplied by the Agency.

## H. Blood Donations

1. The Parties encourage employees to donate blood on-site when given the opportunity. As a general rule, and subject to the Agency's right to assign work, no leave will be charged to donate blood and recuperate on-site. The flexibility provided for in [Article 14, "Hours of Work"](#), typically gives employees choosing to donate off-site ample opportunity to do so. However, the Agency may, at its discretion grant up to four (4) hours of administrative leave for emergency donations, travel and recuperation.
2. Requests for administrative leave to donate blood off-site must be made in advance on a Leave Request. If a request for emergency off-site donation is made, the Agency may require administratively acceptable evidence of the donation. If the employee is not accepted for donating blood, administrative leave may only be granted for the time necessary to travel to and from the donation site, and the time necessary to determine suitability for donation. Employees will not be granted administrative leave if they are compensated for their "donation."

## I. Voting

1. The Parties encourage employees to vote in federal, state and local elections. The flexibility provided for in [Article 14, "Hours of Work"](#), typically gives employees ample opportunity to do so. However, the Agency may, at its discretion grant up to three hours of administrative leave to vote in those instances where employees would be otherwise unable to do so.

2. Requests for administrative leave to vote must be made in advance on a Leave Request.

#### J. Preventative Health Screenings

Employees with fewer than eighty (80) hours of accrued sick leave may request up to four (4) hours of excused absence each year, without loss of pay or charge to leave, for participation in preventive health screenings for issues such as prostate, cervical, colorectal and breast cancers, mammography, pap smears, sickle cell, blood lead levels, and cholesterol checks. To support the request for the excused absence under this provision, the supervisor may require either a medical certificate or other administratively acceptable evidence. Requests for an excused absence must be made in advance on a Leave Request.

#### K. Disabled Veteran Leave

1. Eligibility: In order to demonstrate eligibility for disabled veteran leave, an employee must submit documentation from Veterans Benefits Administration (VBA) certifying the service-connected disability rating and its effective date to the Agency. The Agency cannot credit disabled veteran leave until the employee provides the necessary certifying documentation. Additionally, the employee must be:

- a) A veteran with a service-connected disability rating of thirty (30) percent or more from the VBA of the Department of Veterans Affairs; and
  - b) Hired on or after November 5, 2016.
2. Entitlement: An eligible employee is entitled to up to one-hundred four (104) hours of disabled veteran leave for the purposes of undergoing medical treatment for their service-connected disability. The entitlement begins on the later of:
- a) The employee's first day of employment or;
  - b) The effective date the VBA certifies the service-connected disability.
3. The entitlement runs continuously for twelve (12) months. The employee must use the leave, or it will be forfeited with no opportunity to carry over the leave into subsequent years. An employee may not receive a lump-sum payment for any unused or forfeited leave under any circumstance.

## **ARTICLE 17 – TELEWORK**

17.1: GENERAL: Telework will be administered in accordance with federal regulations, laws, rules, policies, procedures, and practices including USDA Department Regulation [DR - 4080-811-002](#), Telework Program, as amended, and this Agreement.

17.2: OFFICE COVERAGE: The teleworking employee will coordinate with their supervisor to ensure that there is adequate office coverage.

17.3: PROTECTING INFORMATION AND EQUIPMENT: Employees are responsible for safekeeping Government materials, documents, and equipment in accordance with Departmental Regulation - [DR 4080-811-002](#) along with other laws, rules, regulations, policies, procedures, and practices, as amended.

## **ARTICLE 18 – INCLEMENT WEATHER**

18.1: GENERAL: The Agency shall administer weather and safety leave in accordance with applicable laws, rules, regulations, policies, procedures, practices, as amended.

18.2: UNSCHEDULED LEAVE: Employees are reminded that they have the option to contact their supervisors and request unscheduled leave to remain at home or leave the office early if there is inclement weather and the office is open. Any reference here to the use of leave includes the use of annual leave, comp time/comp travel, credit hours, time off awards or any other type of paid time available to the employee.

If an employee arrives later than the delayed arrival time due to weather, they may flex their schedule, if possible, or use unscheduled leave to make up the difference.

18.3: TELEWORK: When current and forecasted hazardous weather and road conditions exist in the local commuting area, the Agency recommends employees with approved telework agreements be telework-ready and take their laptops and sufficient work home to provide themselves with the most options during inclement weather.

- A. An employee must have a telework agreement (regular or ad hoc) in place to be permitted to telework during inclement weather.
- B. If inclement weather is forecast, employees with pre-approved telework agreements and who are telework-ready can request approval for unscheduled telework to avoid potentially hazardous road conditions or heavy traffic.

- C. When there is a decision for a delayed arrival, early dismissal or office closure, employees already scheduled to telework that day are expected to work their normal tour of duty at their telework sites. This applies to regular or unscheduled telework. No hazardous weather administrative leave will be granted for pre-scheduled telework. All other employees working at the office/duty station will be granted administrative leave.
  
- D. If the employee's duty station is closed, the employee is teleworking, and their alternative/telework site is also impacted due to adverse weather and/or power communication outages, the employee can be granted hazardous weather administrative leave in an amount sufficient to complete their scheduled day.
  
- E. If an employee is working at the duty station when an early dismissal is decided, the employee may, after approval from with their supervisor, choose to leave earlier than the dismissal time and make up the time difference teleworking up to 6:00 P.M. A change of work schedule form is not required. If an employee cannot or chooses not to make up the time difference, they must take leave for the entire time off. For example, a two (2) hour early dismissal is in effect. The employee's normal tour of duty ends at 4:00 P.M. making the early dismissal time 2:00 P.M. The employee decides to leave at 12:00 P.M. They telework from 2:00 P.M. - 4:00 P.M. to make up the difference and record 4:00 P.M. - 6:00 P.M. as "Weather and Safety Leave" on their Time & Attendance.

18.4: LEAVE SITUATIONS: An employee with pre-approved leave prior to the inclement weather will remain on leave during delayed arrival, early dismissal or office closure situations. They will not be credited for the hazardous weather time.

- A. If an employee is working at the duty station prior to an early dismissal decision or when an early dismissal is decided, the employee may request unscheduled leave to depart earlier than the dismissal time using unscheduled leave. The employee will be charged leave for the entire time and not be credited with the hazardous weather administrative leave.
- B. If an employee planned to use sick leave on a day of a late arrival, early dismissal or office closure decision and the legal basis for that sick leave has been eliminated, the sick leave must be cancelled. For example, an employee is scheduled to use sick leave for a medical appointment and that medical appointment is cancelled. The employee may not remain on sick leave.
- C. If an employee is not telework-ready during times of inclement weather, the office is open, and the employee chooses not to come to the office, the employee must contact their supervisor and request unscheduled leave.
- D. Use Code 66 – “Weather and Safety Leave” or other required code in the automated time and attendance system (currently WebTA) to document the administrative leave for delayed arrival, office closure or early dismissal.

## **ARTICLE 19 – PERFORMANCE MANAGEMENT**

19.1: GENERAL: The Agency agrees to administer Performance Management in accordance with federal laws, rules, policies, procedures, and practices, as amended, and this Agreement.

19.2: PERFORMANCE APPRAISALS: An employee may file a grievance regarding their performance appraisal and will follow procedures set forth in [Article 9, "Grievance Procedure"](#) of this Agreement.

### A. Procedures for developing elements and Performance Standards

1. The Performance standards will be established in accordance with Agency guidelines. The Union agrees that the Agency has the right to establish elements in the performance standards.
2. The Agency agrees to encourage employee participation in establishing performance criteria.
3. There shall be no secret studies bearing on performance standards.

### B. Procedures for applying the Performance Appraisal System

1. Performance plans will be established in accordance with Agency guidelines.

2. During the Performance Appraisal period, the supervisor will discuss with each employee his/her work performance.
  
3. Supervisors will discuss directly with each employee the annual performance evaluation that he/she makes of the employee at the time it is made. Other discussion during the Performance Appraisal may take place when necessary.
  
4. During the Performance Appraisal discussion, the supervisor will explain based upon need, or upon request, how the employee may improve performance. The supervisor will upon request, give as specific as possible of examples of how an employee might improve performance.

## **ARTICLE 20 – POSITION DESCRIPTIONS AND CLASSIFICATION**

**20.1: GENERAL:** The Agency agrees to maintain position classification in accordance with all applicable regulations, laws, rules, policies, procedures, and practices, as amended. The Agency will provide a copy of the position description (hard copy or electronic) to the employee. Position Descriptions (PD) are located in each employee's [electronic Official Personnel File \(eOPF\)](#).

**20.2: INACCURACIES:** If an employee believes that their position description is inaccurate, they should advise the supervisor of the concern and provide the supervisor with sufficient information in writing to allow the supervisor to look into the matter. If the supervisor believes the classification should be reevaluated, which may include a desk audit, as a result of duties that have significantly and naturally evolved since the position was last classified or the position was initially classified, the matter will be elevated to Human Resources who will provide a response to the employee and supervisor.

**20.3: DISPUTES:** If an employee believes that their position is incorrectly classified as to title, pay plan, series and/or grade and the supervisor disagrees, they have two options to pursue a classification appeal with:

- A. USDA Office of Human Resources Management (Department) or,
- B. Office of Personnel Management (OPM).

## **ARTICLE 21 – EMPLOYEE AWARDS AND RECOGNITION**

21.1: GENERAL: The Agency agrees to administer Employee Awards and Recognition in accordance with applicable laws, rules, regulations, policies, procedures, and practices as amended. Within the limits set by policy, budgetary and other legitimate management considerations, the Agency will follow Departmental Regulation - [DR 4040-451-1, "USDA Employee Awards and Recognition Program"](#).

- The Agency may use an appropriate Awards and Recognition 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.

## **ARTICLE 22 – MERIT PROMOTION**

**22.1: GENERAL:** All actions under Merit Promotion will be taken in accordance federal regulations, laws, rules, policies, procedures, and practices as amended, and this Agreement.

- A. All vacancies in the bargaining unit which are to be filled competitively under Merit Promotion will be announced through the current automated system (presently [USAJobs](#)).
- B. The Agency has the right to fill a position from any appropriate source, including but not limited to reassignments or transfers external to NRCS, Fort Worth Federal Center.
- C. The Agency has the sole discretion to decide whether to re-advertise any vacancy for which a selection was not made.
- D. Agency will provide the Union an e-mail alerting them of new hires, transfers, or reassignments of bargaining unit employees that are external to NRCS, Fort Worth Federal Center. The email will be sent as soon as practicable prior to the bargaining unit employee's start date.

## **ARTICLE 23 – REDUCTION-IN-FORCE AND TRANSFER OF FUNCTION**

**23.1: GENERAL:** The Agency shall conduct Reduction-in-Force (RIF) and/or Transfer-of-Function (TOF) in accordance with applicable laws, rules, regulations, policies, procedures, and practices, including [5 C.F.R. 351](#) as amended. Office of Personnel Management (OPM), Department and Agency regulations covering RIF and/or TOF procedures for employees in the bargaining unit will be utilized by the Agency and the Union in carrying out their labor-management responsibilities throughout the RIF and/or TOF process.

**23.2: NOTIFICATION:** Prior to the implementation of any decision concerning a RIF and/or TOF, the Agency will notify the Union of the impending RIF and/or TOF action, providing twenty (20) calendar days for the Union to review the Agency's proposal, and make a written response.

- Following notification of a RIF and/or TOF, the Agency shall furnish to the Union, any relevant and available documents or information concerning RIF and/or TOF, subject to any Privacy Act limitations. The Parties acknowledge that such documents and information include, but are not limited to, all those which are a matter of required official record, but do not include internal management communications.

**23.3: OUTPLACEMENT SERVICES:** The Agency in accordance with regulations, will utilize all relevant outplacement programs such as Career Transition Assistance Program (CTAP) and Interagency Career Transition Assistance Program (ICTAP).

## **ARTICLE 24 – FURLONGHS**

24.1: GENERAL: The Agency shall implement furloughs in accordance with the applicable governing law (i.e., statutes, rules and/or regulations, and directives and guidelines issued by the Office of Management & Budget and the Office of Personnel Management) current at the time of the furlough.

- This Article addresses: (1) the policy and procedures for implementing (a) “shutdown furloughs”, sometimes called “emergency furloughs”, but herein called “emergency/shutdown furloughs” and (b) “save money” furloughs; and (2) the adverse effects of such furloughs. By agreeing to this Article, the Union does not waive any individual employee’s rights.

### 24.2: POLICY AND PROCEDURES:

- A. Circumstances beyond the control of the Agency may compel the Agency to furlough employees.
- B. The Agency has complete authority and responsibility with respect to all decisions about furloughing employees, including but not limited to, the specific employees furloughed, the days, dates, and times of the furlough, and the duration of the furlough.
- C. Upon receiving official notice of a potential furlough, the Agency shall notify the Union as soon as possible, of the following:
  1. The expected beginning date of the furlough, and if possible,

2. The employees that will be impacted, and the expected duration of the furlough.
- D. For every furlough, the Agency will compile a list of excepted employees (i.e., those employees not subject to the furlough). When that list is finalized and approved, the Agency will provide the Union with a copy before the Agency provides that information to the excepted employees. The Agency shall also provide the Union a copy of any new list of excepted employees if, thereafter, it re-designates employees as excepted and/or recalls them to work.
- E. During a furlough, and unless contrary to law, leave status will be handled as follows:
1. Annual leave, sick leave, court leave, military leave, credit hours, and compensatory time shall be suspended during the term of the furlough.
  2. Employees on approved leave without pay (LWOP) shall remain on LWOP for the approved duration of the leave.
  3. Employees on Continuation of Pay (COP) status under the workers compensation program shall be permitted to remain on COP status.
  4. Employees on LWOP under the Family Medical Leave Act (FMLA) during the furlough will continue to be charged LWOP. However, employees on FMLA but in a pay status must be placed on furlough instead, and the furlough time will not reduce the twelve (12) week entitlement.
- F. Based on the length of the furlough, the Agency shall adjust Performance Plan Standards if and as appropriate.

- G. The Agency shall not use furloughs as punishment or discipline in lieu of other means of addressing behavior, conduct, or performance.
- H. The running of any time period within which the Agency or Union may or must act pursuant to the terms of the Collective Bargaining Agreement shall be suspended for the duration of any total suspension of normal Agency business operations.
- I. Employees may accept outside employment while on furlough, provided that such outside employment does not pose a conflict of interest with their official USDA, NRCS duties. Employees wishing to engage in outside employment should refer to the USDA Office of Ethics website at [www.ethics.usda.gov](http://www.ethics.usda.gov).
- J. The Agency shall keep employees apprised of developments affecting the furlough by means of the OPM website and other publicly accessible media.

**24.3: EMERGENCY/SHUTDOWN FURLOUGHS:** As soon as an emergency/shutdown furlough is announced, the Agency shall to the best of its ability provide all non-excepted employees with all relevant and necessary instructions and information as soon as it is available to the Agency.

- A. Unless the Agency directs them to do otherwise, all non-excepted employees shall report to work at the beginning of the first regularly scheduled business day during the emergency/shutdown furlough for the lesser of either:
1. A period of four (4) hours, or
  2. As long as is required for them to complete the tasks necessary in order to implement the suspension of normal Agency business operations in an orderly manner.
- B. During the period of an emergency/shutdown furlough, an employee shall be regarded as in furlough status during the employee's normal Tour of Duty and Work Schedule, including Compressed Work Schedules, Alternative Work Schedules, Part-Time Work Schedules and associated Off Days. To the best of the Agency's ability, the Agency will refer to furlough periods in terms of hours rather than days.
- C. During the period when the Agency's normal business operations are suspended, any excepted employee shall work only as necessary during that employee's normal Tour of Duty and Work Schedule, including Compressed Work Schedule, Alternative Work Schedules, Part-Time Work Schedule and associated Off Days, as their supervisor may require, providing the supervisor gives the employee reasonable notice of those hours in advance. The excepted employee has the ability to earn credit hours, overtime, etc. as required and approved by their supervisor.
- D. If the furlough ends during a period for which an employee previously scheduled approved leave, the employee may take that leave until their previously scheduled return to duty date.

E. Employees will be paid for furlough time only as authorized by Congress (e.g., [“Government Employee Fair Treatment Act of 2019”](#), amending [31 U.S.C. 1341](#)).

## **ARTICLE 25 – REASSIGNMENTS**

**25.1: GENERAL:** The Agency shall reassign employees in accordance with applicable laws, rules, regulations, policies, procedures, and practices, as amended. The Agency will provide the Union notice of any employee reassignments at the time the employee is notified.

- A. Whenever any employee submits a written request for a voluntary reassignment, the Agency will consider the request in light of the needs of the Agency. The Agency will not pay relocation expenses that result from employee initiated voluntary reassignments.
- B. Whenever a reassignment results from the Agency solicitation of volunteer(s) (i.e. statement of interest), the Agency will not pay relocation expenses.
- C. Whenever the reassignment is a directed reassignment (is not voluntary and is within the commuting area (49 miles or less)) relocation expenses will not be paid.
- D. Whenever the reassignment is a directed reassignment (is not voluntary and is outside the commuting area (50 miles or more)) relocation expenses required by regulation will be paid.
- E. With respect to the seating assignment(s) for the recently reassigned employee(s) they will be placed in the vacant cubicle(s) within their respective work area based on reverse seniority.

F. With respect to the seating assignment(s) in the office(s) losing employees, the Agency agrees to consider any requests received to move within the office. The Agency shall base its approvals for requests to move on business needs and seniority.

## **ARTICLE 26 – CONTRACTING OUT BARGAINING UNIT WORK**

**26.1: NOTIFICATION TO THE UNION:** When the Agency anticipates contracting out work presently being performed by bargaining unit employees and that doing so would result in a reduction-in-force or in the demotion of any bargaining unit employee, it will notify the Union at least sixty (60) days in advance or as soon as practicable. The notice will identify in general terms the employees who may be affected. Time frames hereby established may be extended by mutual consent. Following such notice, upon request from the Union, the Agency will meet with the Union to discuss the information contained in the notice.

**26.2: MANAGEMENT DECISIONS:** Any Agency decision to possibly contract out work presently being performed by bargaining unit employees will be made in accordance with current rules, regulations, policies, and procedure as amended.

**26.3: STATEMENT OF WORK:** The Agency 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) workdays to comment regarding the Statement of Work. Time frames hereby established may be extended by mutual consent.

**26.4: IMPACT AND IMPLEMENTATION:** The Agency 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) days to resolve any differences and reach agreement. Time frames hereby established may be extended by mutual consent, but the Parties want to meet to expedite the process.

**26.5: ACCESS TO REGULATIONS:** The Agency agrees to provide the Union access to all regulations maintained on-site that are relevant to contracting out.

**26.6: 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 Agency will proceed in accordance with [Article 23, "Reduction-in-Force and Transfer of Function"](#) of this Agreement.

**26.7: 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: giving consideration for vacant positions for which they are qualified within NRCS, Fort Worth, TX. in accordance with Agency policies and procedures; and submitting their names to the Career Transition Assistance Plan (CTAP) and the Interagency Career Transition Assistance Plan (ICTAP) programs, as applicable.

## **ARTICLE 27 – EQUAL EMPLOYMENT OPPORTUNITY**

**27.1: GENERAL:** Equal Employment Opportunity (EEO) will be applied in accordance with federal regulations, laws, rules, policies, procedures, and practices, as amended, and this Agreement.

**27.2: COMPLAINTS:** An employee must file an EEO complaint using the Agency EEO complaint procedure. EEO complaints are excluded from the negotiated grievance procedure (see [Article 9, "Grievance Procedure"](#), of this Agreement).

**27.3: DUTY STATUS:** Union Representatives participating in discussions of informal EEO complaints under this article will be on official time as outlined in [Article 12, "Union Representation and Official Time"](#), of this Agreement.

**27.4: CIVIL RIGHTS ADVISORY COMMITTEE (CRAC):** In accordance with Agency guidelines, the Union will have one representative on the local CRAC from nominees submitted by the Union. Union representation will be on official time.

## **ARTICLE 28 – HEALTH AND SAFETY**

**28.1: GENERAL:** The Agency shall promote health and safety in the workplace and for employees in accordance with applicable laws, rules, regulations, policies, procedures, and practices as amended.

- The Agency and the Union have a common interest in promoting safe working habits and safe conditions. The Agency has an obligation to provide safe working conditions. It is recognized that each employee has the primary responsibility for their own safety and as such, is further responsible for promptly bringing to the attention of their supervisor any unsafe working conditions. The Agency will investigate and if warranted, promptly take appropriate action to correct the unsafe condition. The Agency will acquire, maintain, and require the use of approved personal protective and safety equipment, necessary to provide protection of employees from hazardous conditions encountered during the performance of official duties. The Union agrees to assist the Agency in publicizing the benefits and encouraging the use of protective devices and equipment by employees.

**28.2: FIRST AID:** Where full health facilities are not available on the premise, the Agency agrees to provide first aid kits(s) and designate a position in each office to maintain the kit(s).

**28.3: GOVERNMENT VEHICLES:** An employee will not be required to operate a Government motor vehicle known to be unsafe as determined by the Agency.

- The Agency will authorize the ordering of the following safety equipment for each GSA vehicle:
  1. First aid kit and flashlight.
  2. Chains or approved traction devices, and
  3. De-icer and/or scraper.
  4. Blankets and flares.
  
- In addition, if individual employees, based upon their travel patterns, feel other devices or items are necessary they may request such items through normal supply channels.

**28.4: INJURY REPORTING:** All on-the-job injuries, whether or not such injuries at the time are considered to be disabling, will be reported immediately to the supervisor and Human Resources.

**28.5: PERSONAL SAFETY:** An employee may decline to perform his or her assigned task because of a reasonable belief that, under the circumstances, the task poses an imminent risk of bodily harm or a life-threatening situation coupled with a reasonable belief that there is insufficient time to obtain guidance. The employee will promptly bring to the attention of their supervisor any unsafe working condition. The Agency will investigate, and if warranted, promptly take action to correct the unsafe condition.

- Employees have the primary responsibility for their personal safety. The Agency agrees it will not assign and employees may decline to work where there is imminent risk of serious injury or a life-threatening situation.
- When work is required to be performed in areas where flammable or toxic vapors may exist all such areas shall be maintained so that vapor levels remain within acceptable safety parameters as determined by GSA safety standards.

**28.6: SAFETY AND HEALTH COMMITTEE:** The Agency agrees to continue the Safety and Health Committee already established in accordance with Agency guidelines. The union shall have one representative on the local Safety and Health Committee.

**28.7: HEALTHY WORKING CONDITIONS:** The Employer agrees to assure response to employee reports of unsafe or unhealthy working conditions.

- Lifting requirements will be in accordance with the position occupied. The lifting of excessive weight will not be required.

## **ARTICLE 29 – SMOKING POLICY**

29.1: GENERAL: The Agency shall administer a smoking policy in accordance with applicable laws, rules, regulations, policies, procedures, and practices including Departmental Regulation - [DR 4400-006, "USDA Smoking Policy"](#) as amended, and this Agreement.

This Article covers cigarettes, e-cigarettes (vaping), smokeless tobacco, pipe, cigars, or any other type of smoking instrument.

## **ARTICLE 30 - LABOR-MANAGEMENT COOPERATION**

- A. The Agency and Union recognize that the granting of official time may ultimately lead to improved labor-management relations. Such a relationship is in the interest of all Parties, including the public.
  
- B. The Parties, especially Union representatives and management are encouraged to meet as necessary to informally discuss and attempt resolution of matters of concern.

## SIGNATURES

This Collective Bargaining Agreement is hereby agreed to by both Parties. As agreed to, the CBA will become effecting either on the 31<sup>st</sup> of the signing month unless disapproved by Agency Head, or upon Agency Head Approval. Whichever comes first.

X 

Rance Monk  
President, AFGE Local 3839

10-28-19

X 

James Gordon  
Leader, CRSL, NRCS-FWFC

10-28-2019

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the Agency Head Review was served on this day, November 6, 2019, to the Collective Bargaining Agreement (CBA) between U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) and the American Federation of Government Employees (AFGE), Local 3839.

Matthew Lohr, Administrator, NRCS

[Matthew.Lohr@usda.gov](mailto:Matthew.Lohr@usda.gov)

via E-mail

Kevin Norton, Deputy Administrator, NRCS

[Kevin.Norton@usda.gov](mailto:Kevin.Norton@usda.gov)

via E-mail

Melissa Drummond, Director, Office of Human Resources, NRCS

[Melissa.Drummond@USDA.gov](mailto:Melissa.Drummond@USDA.gov)

via E-mail

James Gordon, Labor Relations Officer, NRCS

[James.Gordon@ftw.usda.gov](mailto:James.Gordon@ftw.usda.gov)

via E-mail

Noreen Joice, Section Chief, Employee & Labor Relations, FPAC – BC

[Noreen.Joice@USDA.gov](mailto:Noreen.Joice@USDA.gov)

via E-mail

Rance Monk, President, Local 3839, AFGE

[Rance.Monk@usda.gov](mailto:Rance.Monk@usda.gov)

via E-mail

*Curtis Kibler*

\_\_\_\_\_  
Curtis Kibler, Senior Labor Relations Specialist  
Employee and Labor Relations Division, OHRM  
Jamie L. Whitten Building, Room 24-W  
1400 Independence Avenue, SW, Mail Stop 9611  
Washington, DC 20250  
Phone: (202) 205-3202