AGREEMENT

Between

Kansas City
Farm Service Agency

And

National Treasury Employees Union
Chapter 264

April 17, 2018

PREAMBLE

The parties to this Agreement affirm that the advancement of the public purposes to which the Farm Service Agency is dedicated will be aided by understanding and cooperation achieved through collective bargaining in those areas specified in the Civil Service Reform Act of 1978.

The accomplishment of the mission of the Farm Service Agency (FSA or Employer) is paramount. In fulfilling its mission, the Employer is committed to continuing to treat its employees fairly and equitably. The Employer and Union agree not to discriminate against any employee on the basis of their inclusion in a Protected Group (see "Introductory Note and Definitions"). The Employer encourages the participation of the National Treasury Employees Union, Chapter 264, 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 Employer, 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 and in carrying out labor/management activities.

INTRODUCTORY NOTE AND DEFINITIONS

Provisions in this Agreement which are preceded by the phrase "the Employer has determined" are management policies which have been unilaterally established and are included in this Agreement for informational purposes. It is understood that these provisions may be changed unilaterally by management during the life of the Agreement and a management decision to change such a provision is not subject to the negotiated grievance procedure/arbitration.

ADC: Application Development Center

AEP: Affirmative Employment Plan

AMC: Architecture and Management Center

AMD: Acquisition Management Division

AWOL: Absent Without Leave

CCAP: Child Care Assistance Program

CES: Certificate of Expected Separation

CFR: Code of Federal Regulations

CTAP: Career Transition Assistance Program

Days: Unless specified, "days" refers to calendar days.

EAP: Employee Assistance Program

EEO: Equal Employment Opportunity

EEOC: EEO Commission

Employee(s): Bargaining unit employee(s), or employee(s) in the unit of recognition identified in the most current applicable FLRA unit certification, and represented by Chapter 264, NTEU

Exempt employee(s): Governed by Title 5 of USC

Non-exempt employee(s): Governed by the FLSA and Title 5 USC

Employer: Kansas City, Missouri based units of the USDA, FSA, within the following

mission areas: Management Services Division (MSD), Kansas City Commodity Office (KCCO), Financial Services Center (FSC), Policy, Accounting Reporting and Loan Center (PARLC), Financial Systems and Program Delivery Center (FSPDC), Application Development Center (ADC), Architecture and Management Center (AMC), Operations and Testing Center (OTC), Acquisition Management Division (AMD), Kansas City Human Resources Office (KCHRO)

EPF: Employee Performance File

FFLA: Family Friendly Leave Act

FLRA: Federal Labor Relations Authority

FLSA: Fair Labor Standards Act

FMLA: Family and Medical Leave Act

FPM: Federal Personnel Manual

FSA: Farm Service Agency

FSC: Financial Services Center

FSPDC: Financial Systems and Program Delivery Center

GOV: Government-owned Vehicle

GSA: General Services Administration

HR: Human Resources

KCCO: Kansas City Commodity Office

KCHRO: Kansas City Human Resources Office

MSD: Management Services Division

MSPB: Merit System Protection Board

NTEU: National Treasury Employees Union

LWOP: Leave Without Pay

ODS: Official Duty Station

OPF: Official Personnel Folder or e-OPF

OPM: Office of Personnel Management

OTC: Operations and Testing Center

PARLC: Policy, Accounting, Reporting, and Loan Center

PIP: Performance Improvement Plan

POV: Privately-owned Vehicle

Protected Group: Individuals the Employer and Union agree not to discriminate against because of their Age, Color, Disability (Mental or Physical), Genetic Information, Marital or Family Status, National Origin, Parental Status, Political Beliefs, Race, Religion, Sex, Sexual Orientation, reprisal for previous Equal Employment Opportunity (EEO) activity, or other groups protected by law or regulation.

RIF: Reduction-in-force

TFI: Total Family Income

TOA: Time-off Award

Union: Chapter 264 of NTEU

USC: United States Code

USDA: United States Department of Agriculture

FORMS

AD-202: Travel

AD-615: Application for Advance of Funds

AD-1147: Public Transportation Benefit Program Application

FSA-322: Request for Outside Employment or Activity

KC-1567: Application for Advertised Vacancy

Leave Request: Request for an authorized absence completed by employees in WebTA.

OF-612: Optional Application For Federal Employment

SF-1164: Claim For Reimbursement For Expenditures On Official Business

NOTE: The Employer agrees to notify the Union of any proposed changes to the forms listed above.

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ARTICLE 1: PARTIES TO THE AGREEMENT, RECOGNITION, AND DEFINITION OF BARGAINING UNIT

Section A. Parties to the Agreement

1. The parties to this Agreement are the Kansas City, Missouri based units of the U.S. Department of Agriculture, Farm Service Agency (FSA), within the following mission areas:

   a. Management Services Division (MSD)
   b. Kansas City Commodity Office (KCCO)
   c. Financial Services Center (FSC)
   d. Policy, Accounting Reporting and Loan Center (PARLC)
   e. Financial Systems and Program Delivery Center (FSPDC)
   f. Application Development Center (ADC)
   g. Architecture and Management Center (AMC)
   h. Operations and Testing Center (OTC)
   i. Acquisition Management Division (AMD)
   j. Kansas City Human Resources Office (KCHRO)

   hereinafter known as the "Employer", and the National Treasury Employees Union (NTEU), hereinafter known as the "Union."

2. The list of mission areas above will be updated periodically by the parties to show organizational changes through the duration of this contract.

Section B. Unit of Recognition

1. 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. DE-AC-60014 as follows:

   > All professional and non-professional employees of the U.S. Department of Agriculture, Farm Service Agency, who are located in the Kansas City, metropolitan area, except those employees assigned to the FSA Deputy Administrator for Risk Management, management officials, supervisors, guards, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

2. The following employee classifications are examples of professional employees for purposes of this Agreement:

   Accountants, and
   Contracting Specialists

3. For purposes of this Agreement, confidential employees are those agreed to in the unit clarification memorandum dated April 28, 1993.

4. The Employer recognizes the National Treasury Employees Union, Chapter 264, as the exclusive representative of all bargaining unit employees (hereinafter referred to as "employees").

Section C. Coverage of the Agreement

This Agreement covers only those positions included in the bargaining unit. Where the term "employee" or "employees" is used, it means bargaining unit employees.

ARTICLE 2: EMPLOYEE RIGHTS

Section A. General

1. All employee personnel matters will be conducted without regard to an employee's inclusion in a Protected Group (see "Introductory Note and Definitions)", and with proper regard and protection of employee constitutional and/or civil rights.

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

Section B. Employee Rights

1. The good faith initiation of a grievance by an employee will not cause any reflection on their standing with the Employer or any reflection on their loyalty or desirability to the Employer.

2. Any employee may designate a Union representative for purpose of representing the employee to the Merit Systems Protection Board (MSPB), or the Equal Employment Opportunity Commission (EEOC).

3. Employees seeking remedial relief will be assured freedom from restraint, interference, coercion, discrimination, intimidation, or reprisal.

4. Employees covered by this Agreement may, without fear of penalty or reprisal, engage in the disclosure of information which the employee reasonably believes evidences a violation of law, rule, or regulation; or evidences mismanagement, a waste of funds, an abuse of authority; or a danger to health or safety; as long as the disclosure is in compliance with applicable laws and regulations.

5. An employee has the right to request records that are maintained about him or her and are filed, in a system of records that is personally identifiable, that are not legally prohibited from disclosure. The Employer should provide the employee a copy of any written document concerning employee performance or conduct at the time the document is generated, whether or not it is maintained in a system of records. The employee may make copies of such records. This does not pertain to memory joggers such as an annotation in a day planner.

6. The parties agree that voluntary participation in sanctioned activities (e.g. Combined Federal Campaign (CFC), blood drives, etc.) is commendable and encouraged. Employees should not be cajoled, coerced or otherwise unduly influenced to contribute to such causes. This does not preclude the Employer from giving publicity and general encouragement to employees to contribute or to celebrate successful drives.

If employee assistance is required to facilitate the conduct of a sanctioned activity, the Employer agrees to solicit and consider qualified volunteers. If there is more than one qualified volunteer, the Employer will consider:

a. prior participation in sanctioned events; i.e. first-time volunteers will be given first consideration; and

b. the order in which employees volunteered; i.e. first volunteer takes priority.

If no one volunteers, the work may be assigned. The Employer agrees to consider employee participation (time and effort) in sanctioned activities when evaluating the employee's performance of other assigned duties.

For the CFC, canvassers will distribute blue envelopes with the OPM 1654. In order to preserve the confidentiality of the employee's contribution, employees may fill out the form, place it in the blue envelope and return the sealed envelope to the canvasser. If on-line CFC contributions are made available to the Employer, the parties agree to participate in electronic contributions.

Section C. Employee Right to Representation (Investigations)

Employees have the right to have a Union representative present at any examination by the Employer in connection with an investigation by the Employer and/or any representative of the Employer if:

- the employee reasonably believes that the examination may result in disciplinary action against the employee; and,

- the employee requests representation. (reference 5 USC 7114 (a)(2)(B))

Section D. Representation

1. Employees will be informed of their right to representation by permanent placement of a notice of such rights on all official bulletin boards.

2. At the employee's option, a Union representative shall be permitted to be present at any meeting between the employee and the Employer regarding an adverse action.

3. Any discussions pursuant to Section C, with employees by representatives of the Employer, will be conducted in a private room.

Section E. Employee Union Activity

Each employee shall have the right to join or assist the Union, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under law, such right includes the right:

- to act for the Union in the capacity of a representative and the right, in that capacity, to present the views of the Union to heads of agencies and other officials of the Executive Branch of Government, the Congress, or other appropriate authorities; and,

- to engage in collective bargaining with respect to conditions of employment through representatives chosen by the Union.

Section F. Off-Duty Conduct

Employees shall have the right to direct and fully pursue their private lives, personal welfare, and personal beliefs without being harassed, coerced or discriminated against by other employees by word or action. The parties remind employees they are prohibited from knowingly making false accusations against other employees; from displaying discourteous conduct or disrespect to a coworker, another Federal employee, or a member of the public when acting in an official capacity.

Actions taken against an employee based on alleged off-duty misconduct will only be taken in accordance with the standards established by law, regulation, official Departmental standards of conduct, Office of Government Ethics guidelines, and standards established by MSPB case law.

Section G. Impact of Changes

The Employer agrees to try, when possible, to minimize the impact on an individual employee of the introduction of new equipment, processes, and workload changes.

Section H. Whistle-Blower Protection

Management recognizes the right of every bargaining unit employee to be free from reprisal for the lawful disclosure of information which the employee reasonably believes evidences a violation of any law, rule or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, unless the disclosure is specifically prohibited by law.

Employees are encouraged to access the U.S. Office of Special Council (OSC) web site which contains forms and information for filing a disclosure. The OSC receives and evaluates whistleblower disclosures. Employees may also access the USDA Office of Inspector General (USDA OIG) website.

ARTICLE 3: UNION RIGHTS

Section A. Union Rights

The Union retains all rights and obligations under 5 USC Chapter 71, except as modified by this Agreement. The Union is the exclusive representative of the employees and is entitled to act for, and to negotiate collective bargaining agreements.

Section B. Representation

The Union shall be given the opportunity to be represented at:

1. Any formal discussion between one or more representatives of the Employer and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment (Reference 5 USC 7114 (a)(2)(A)):

    a. The Union will be given reasonable notification of a formal meeting. Normally, such notice will be no less than 24 hours prior to the scheduled meeting. The Employer's notification will generally be an e-mail delivered to the Union's e-mail account. The notice will include an attention line to the applicable Vice President, the date, time, location, and topic to be discussed, as well as a written agenda, if one has been prepared. The Employer will provide access to the Union's e-mail account to all representatives identified by the Union. Identified representatives will be provided access to the Union's e-mail account at their respective workstations.

    b. At those meetings where the Union is represented, the Employer will acknowledge the attendance of the Union representative at the beginning of the meeting. The Employer will permit the Union representative to ask questions and to present a brief statement before the end of the meeting outlining the Union's position concerning the issues. The Union's statement will be limited to the Union's position on the issue(s) presented by the Employer at the meeting.

2. Any examination of an employee by a representative of the Employer in connection with an investigation if:

    a. the employee reasonably believes that the examination may result in disciplinary action against the employee, and

    b. the employee requests representation.

3. The union representative at an investigatory examination has the right to take an active role. This includes the freedom to assist and consult with the affected employee. However, there is no per se right, or prohibition against, engaging in private conferences outside the presence of an investigator during the exam. However, the Union representative may not disrupt the meeting and may not answer for the employee. Moreover, the union's involvement cannot interfere with the legitimate interests and prerogative of the agency in achieving the object of the examination, preserving the integrity of the investigation, and avoiding an adversarial contest.

   When a Union representative represents an employee during an investigation, they may:

   a. Clarify the questions;

   b. Clarify the answers, but not disrupt or answer on behalf of the employee;

   c. Assist the employee in providing favorable or extenuating facts;

   d. Identify other employees who have knowledge of relevant facts;

   e. Request a caucus; and,

   f. Advise the employee during the examination or caucus.

4. The Union has determined that it may refuse to represent any bargaining unit employee in any statutory appeal matter, including the following:

   a. adverse actions such as removals, demotions, etc.

   b. EEO complaints

   c. Unacceptable performance actions such as removals

   d. Workers compensation cases

   e. Allegations of prohibited personnel practices

   f. Proposed disciplinary actions

Section C. Changing Conditions of Employment

The Employer will notify the Union pursuant to Article 45 of this Agreement in advance of implementing changes of conditions of employment. Notwithstanding this Subsection, nothing shall affect the authority of the Employer to take whatever actions may be necessary to carry out its mission during emergencies.

Section D. Nondiscrimination

The Employer will not:

1. interfere with, restrain, or coerce any employee in the exercise by the employee of any right, or

2. discriminate against any designated Union representative in any area of employment in the exercise of their right to serve as representative for the purpose of negotiations, representation, or carrying out any other function proper under this Agreement or applicable law, rule, or regulation on behalf of employees or group of employees.

ARTICLE 4: MANAGEMENT RIGHTS AND RESPONSIBILITIES

Nothing contained in this Agreement shall affect the authority of the Employer:

1. to determine the mission, budget, organization, number of employees, and internal security practices of the Employer's office; and

2. in accordance with applicable laws:

    a. 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;

    b. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Employer's operations shall be conducted;

    c. with respect to filling positions, to make selections for appointments from:

        (1) among properly ranked and certified candidates for promotion; or

        (2) any other appropriate source;

    d. to take whatever actions may be necessary to carry out its mission during emergencies; and

    e. to determine the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or to determine the technology, methods, and means of performing work.

ARTICLE 5: DUES WITHHOLDING

Section A. General

This Article is subject to and governed by 5 USC 7115 and by regulations issued by the Office of Personnel Management (5 CFR 550.301 - 550.321), and will be modified as necessary by any future amendments to said rules, regulations and law.

Section B. Dues Allotment Eligibility

The Employer 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. Such deductions shall begin upon appropriate request by the Chapter or National Office of the Union, and shall be at no cost to the Union. This Article covers all eligible employees who:

1. are members in good standing of the NTEU;

2. have voluntarily completed Standard Form 1187 (SF-1187), Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues; and

3. receive compensation sufficient to cover the total amount of the allotment.

Section C. Dues Allotment Enrollment Process

1. The eligible employee shall obtain a SF-1187 from NTEU and shall file it with a NTEU representative who will forward it to the Employer's designated representative for certification of eligibility for dues withholding. The Employer will forward the SF-1187 to the National Finance Center of the USDA (NFC) within five (5) days and the NFC shall effect the dues deduction to begin on the first full pay period after receipt.

2. The employee shall be instructed by NTEU to complete Parts A and B of the SF-1187. No other number must appear in the block provided as "Identification Number" except the employee's Social Security Number.

Section D. NFC Dues Deductions, Transfers and Electronic Files

1. Deductions will be made each pay period by the NFC. Dues will be wire transferred to the bank account designated by the Union. Electronic files will be transmitted to the Administrative Controller, National Treasury Employees Union, 1750 H Street, NW, Washington, DC.

2. Each remittance shall be accompanied by an electronic file reflecting the following information: (1) names of employees in alphabetical order by last name, (2) employee's Social Security Number, (3) code number of Chapter to which employee belongs, and (4) amount withheld for each employee. The electronic file will also include the appropriate code for each employee who previously made an allotment but no deduction was made.

   The electronic file will be summarized to show the number of members for whom dues are withheld and the amount withheld.

Section E. Changing the Dues Allotment

Notification of a change in the amount of membership dues to be withheld shall be forwarded by the Union to the Employer's designee. The notification will be identified by labor organization and Chapter number. Only one such change may be made in any period of twelve consecutive months. The change in amount of dues will be effective at the beginning of the first full pay period after receipt of the certification by the NFC.

Section F. Terminating Dues Allotment

The NFC will terminate an allotment:

1. As of the beginning of the first full pay period following receipt of notice that exclusive recognition has been withdrawn;

2. At the end of the pay period during which the employee member is separated from the Employer;

3. At the end of the pay period during which the Personnel Office receives notice from NTEU that an employee member has ceased to be a member in good standing; and

4. As of the beginning of the first full pay period following receipt of a revocation notice submitted pursuant to this Article. Employees must use Standard Form-1188, Cancellation of Payroll Deductions for Labor organization Dues (SF-1188), to revoke his/her allotment. The employee must provide his/her Social Security number in the Employee I.D. Number block on the SF-1188. 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.

   a. Revocation notices for employees who have not had dues allotments in effect for one (1) year must be submitted to the Employer's designee during the one-month period before the first anniversary date of the initial SF-1187 and closing on the

first anniversary date. The revocation will become effective the first full pay period after the employee's first anniversary date. If the employee does not submit the SF-1188 during the one-month period, his/her allotment may not be revoked at that time. A revocation will not be accepted until the next open one-month period prior to the employee's anniversary date for dues withholding.

b. Revocation notices for employees who have had dues allotments in effect for more than one (1) year must be submitted to the Employer's designee during the one-month period before the anniversary date of the initial SF-1187 and closing on the anniversary date. The revocation will become effective the first full pay period after the employee's anniversary date. If the employee does not submit the SF-1188 during the one-month period, his/her allotment may not be revoked at that time. A revocation will not be accepted until the next open one-month period prior to the employee's anniversary date for dues withholding.

5. The Employer will send NTEU a copy of each written revocation of an authorization it receives.

ARTICLE 6: HOURS OF WORK

Section A. General

Authorized Absence: The period of time an employee is approved to be absent; e.g. leave (annual, sick, core time deviation, leave without pay, compensatory time, compensatory time for travel, administrative, military, court, bone-marrow or organ donation, preventative health screenings), credit hours, use of time off award, excused absence, or holidays.

Basic Work Requirement: The basic work requirement of a flexible work schedule is the number of hours, excluding overtime hours, an employee must work or otherwise account for by leave, credit hours, holiday hours, excused absence, compensatory time off, or time off as an award.

a. Biweekly: A full-time employee must work 80 hours/biweekly pay period.

b. Daily: Excluding overtime hours, the daily number of hours an employee is required to work (shown on an employee's Designation of Tour of Duty form KC-23-B), or to account for by a period of authorized absence in order to meet their biweekly basic work requirement.

Core Time: The designated time during which all employees must be present within the tour of duty limits. On scheduled workdays, all full-time employees must be present from 9:30 a.m. to 2:30 p.m. (core time) unless on authorized absence or scheduled lunch period.

Core time deviation (CTD): An authorized absence during core time that must be made up subsequently within the same pay period in lieu of leave usage.

Customer Service Band: The period of the day that all offices must have phone coverage and technical assistance available. The Customer Service Band under this Agreement is 8:00 a.m. to 4:30 p.m., Monday through Friday.

Lunch Band: 11:00 a.m. through 1:00 p.m. The Employer has the discretion to temporarily waive the limits of the normal lunch band in special or unique circumstances.

Scheduled Workday: Any one of the days of the week an employee shows as a scheduled work day on their Designation of Tour of Duty form KC-23-B.

Tour of Duty: The limits within which an employee must complete their basic work requirement as established by the Employer or this Agreement. On scheduled work days, the daily limits are normally 6:00 a.m. to 6:00 p.m., Monday through Friday.

Section B. Variable Week Schedule

1. Under the terms of this agreement, all employees will normally work a flexible work schedule called a "variable week schedule". Employees on a variable week schedule are allowed to work a flexible work schedule that permits a variance of starting times, length of workday, workweek, and time and length of their lunch period, while meeting their basic work requirement of 80 hours per biweekly pay period. Some employees will not be allowed to participate fully in this plan because of unique position requirements. The Employer is responsible for determining positions that restrict or prohibit variable week participation.

2. Core time deviation (CTD):

    a. Must be requested in advance. Submission of the Leave Request supporting CTD must be done in accordance with Section E of this Article;

    b. May only be approved in quarter-hour increments;

    c. May not be used if the employee's leave data in WebTA shows a balance for compensatory time;

    d. May not be used after September 1 if the employee has "use or lose" annual leave to use as shown in WebTA under Leave Year Projection for Use or Lose Leave; and

    e. If taken at the duty station, must be made up at the duty station.

    If the approved CTD is not made up by the end of the pay period in which it was taken, leave will be charged to the leave account indicated by the employee on the Leave Request. WebTA entries will be made in accordance with Section E of this Article.

3. Employees must work their daily basic work requirement, unless they are on an authorized absence, authorized to work overtime or compensatory time, directed to work overtime, or authorized credit hours. Full-time employees must begin work each day anytime they elect between 6:00 a.m. and 9:30 a.m. and complete their basic work requirement between 2:30 p.m. and 6:00 p.m. Eleven and ½ hours are the maximum number of work hours that an employee may request and five hours (core time) are the minimum. The daily basic work requirement, exclusive of overtime, must be completed during the scheduled workday. Unless restricted by the supervisor, it is assumed that all employees will be permitted to change their arrival time daily without prior supervisory approval. Employees are still responsible, however, for meeting work requirements (e.g., if an employee has a meeting scheduled for 8:00 a.m., they are expected to report to work by 8:00 a.m.) The workday must be completed in one shift, broken only by the established lunch period, authorized absence, or authorized breaks.

4. Lunch Periods

   a. Employees may not work more than six and ½ hours without a minimum 30-minute lunch break.

   b. The lunch period will begin no earlier than 11:00 a.m. and end not later than 1:00 p.m., except when approved leave precedes or follows the lunch period or the Employer has temporarily waived the limits of the normal lunch band.

   c. Employees may choose a 30-minute, 45-minute, or 60-minute lunch period. The selected lunch period will be fixed for a pay period and is established by submitting a completed KC-50, Lunch Break Record, to the Employer for approval.

   d. Changes to the established lunch period may only be made at the beginning of a pay period, for the entire pay period.

   e. Employees may flex their lunch period up (not to exceed 60 minutes) or down (not less than 30 minutes), in 15-minute increments, within the lunch band established in Section A, with advance supervisory approval, and adjust their departure time accordingly at the end of the day.

5. Breaks

   a. The Code of Federal Regulations permits the use of official time for rest periods. The Employer has determined that employees are permitted to take one 15-minute break for each four hours of scheduled work. Scheduled work includes an employee's daily basic work requirement, credit hours, and overtime. It excludes lunch and authorized absences.

   b. Breaks may be:

      (1) broken into two intervals that when combined do not exceed 15 minutes.

      (2) used for exercise, walking, visiting the ATM, visiting the cafeteria, smoking, etc.

      (3) taken in five minute increments by employees who perform repetitive movements; however, the total time taken cannot exceed 15 minutes.

   c. Breaks may not be:

      (1) aggregated,

(2) used to shorten or otherwise change an employee's daily basic work requirement,

(3) taken concurrently with other breaks, or

(4) utilized to extend an employee's lunch period.

d. Employees may not leave the premises on their breaks. Breaks are to be taken so that break time does not unduly interfere with an employee's work or service to the public.

e. This provision does not apply to brief personal necessity breaks taken by all employees (i.e. to use the restroom or get a drink of water, coffee, or other permissible beverage.)

6. In consideration of the workload, the Employer may notify the employee that a specific tour of duty will be required for the next or some subsequent workday(s).

7. Employees on a variable week schedule may earn credit hours in 15-minute increments. Credit for work voluntarily performed by an employee in excess of their daily basic work requirement on any workday in order to vary the length of a subsequent workday is credit hours. Such work is compensated by an equal amount of time off (e.g., one hour of work in excess of the employee's regularly scheduled daily basic work requirement is compensated by one hour off on a subsequent workday). Work performed for credit hours is differentiated from overtime work, which is ordered or directed by the Employer. Work performed for credit hours is not compensated as, nor is it subject to, the rules and regulations of overtime work.

a. Employees will be permitted to earn credit hours, subject to the following limitations:

(1) Employees shall obtain approval from their supervisor(s) to work longer than their regularly scheduled work hours and of the specific date(s) and time(s) they plan to perform such work. The working of credit hours is conditioned on the availability of appropriate work.

(2) Employees may earn up to two credit hours on any workday. Credit hours can be earned and used in 15-minute increments. Credit hours may not be earned before 6:00 a.m. or after 6:00 p.m.

(3) Credit hours must be earned as a continuous adjunct to the end of the daily basic work requirement. Except, employees may earn credit hours as a continuous adjunct to the beginning of their daily basic work requirement if:

(a) the Employer has directed them to begin work later than 6:00 a.m. For example, an employee directed to provide telephone coverage or to

attend onsite training from 8:00 to 4:30 may request approval to earn credit hours before the activity; i.e. between 6:00 and 8:00; or

(b) the employee requests and is approved to use such credit hours earned in this section (b) on the same day they are earned. An employee approved to work early credit hours **must** submit their request to use such hours **prior** to earning them.

Whenever credit hours are worked, there must not be any unpaid break between work and credit hours.

(4) All employees will sign in and sign out for the credit hour period worked.

(5) An employee cannot accumulate more than 24 credit hours at any time during a pay period, nor may they carry over more than 24 hours to the following pay period. An employee at the maximum number of credit hours allowed can earn additional credit hours only after utilizing an equal or greater number of credit hours.

b. Employees who have earned credit hours may request time off during their regularly scheduled work hours, subject to the following limitations:

(1) Use of credit hours is subject to advance supervisory approval, in the same manner as leave, and will be scheduled to avoid disruption to the work of the Employer and to minimize the number of employees in a work unit who are off on any given workday (e.g., Supervisors may take into account scheduled leave of other employees in the work unit, and variable week scheduled days off in considering an employee's request to use accumulated credit hours).

(2) Credit hours may be requested in combination with approved leave and/or compensatory time off. Credit hours may be requested in 15-minute increments. Credit hour use will be requested on a Leave Request.

(3) Credit hours may be requested in conjunction with lunch.

(4) An employee will not be permitted to take time off in anticipation of credit hours being earned; i.e., credit hours must be earned prior to time off.

c. Time worked to earn credit hours will not be subsequently converted to or compensated as overtime work.

d. Employees may change approved credit hours to leave without pay, annual leave, or sick leave subject to approval by the Employer. The employee’s request for substitution of leave without pay, annual leave, or sick leave for credit hours must be made within the first pay period in which the employee returns to duty.

8. Scheduling

a. Employees must submit a Designation of Tour of Duty form to initiate or change their variable week schedule to the supervisor by March 15, June 15, September 15, and December 15 of each year. When a supervisor cannot honor an employee's work schedule request, the supervisor will meet with the employee(s) involved and attempt to reach a mutually acceptable alternative schedule. If an acceptable compromise cannot be reached at this time, the supervisor will make the final determination concerning the work schedules by giving first priority to employees with seniority based on the service computation date for leave.

b. During the quarter, employees may request one change to their variable week schedule.

c. Employees promoted, detailed, or reassigned from one Branch or Division to another must initiate a new Designation of Tour of Duty form.

d. The Employer:

(1) In accordance with law and regulation, retains the right to suspend indefinitely or cancel in its entirety all or any part of the variable week schedule.

(2) May make changes to an employee's variable week schedule to assure adequate coverage or due to workload, training needs, attendance at meetings, an operational exigency, etc.

(3) May temporarily suspend the variable week schedule due to workload, training needs, attendance at meetings, travel, as part of a Performance Improvement Plan (PIP), an operational exigency, etc.

9. Holidays

Full-time employees working a variable week schedule are entitled to an "in-lieu-of holiday" when a holiday, mandated by Federal Statute or an excused absence by Executive Order, falls on the employee's scheduled nonworkday. The "in-lieu-of holiday" shall be the workday before the holiday regardless of the pay period it affects. Employees may not schedule or be paid for more than eight hours for any holiday under the variable week schedule. Schedules may need to be readjusted for any pay period impacted by a holiday. For example: If an employee's basic work requirement under the variable week schedule calls for the employee to work nine hours each Monday, and a holiday falls on Monday, the employee may only be paid eight hours for the holiday, and the employee must make up that lost one hour during the pay period or use one hour of leave for that lost hour.

10. Special Situations

    a. If interruptions to a variable week schedule are required, reasonable effort will be made to notify the employee at least two weeks in advance. All hours worked in excess of 80 hours are overtime. FLSA non-exempt employees directed to work overtime will have the option of recording the time worked as paid overtime, compensatory time or a combination of paid overtime and compensatory time.

    b. The maximum amount of sick and annual leave and excused absence an employee may charge for a day is the number of hours which an employee was scheduled to work on that day.

Section C. Standard Schedule

1. Employees may elect not to work a variable week schedule in order to work a "standard schedule." The fixed schedule for employees on a standard schedule is the customer service band as defined in Section A, and includes a thirty minute lunch period within the lunch band as defined in Section A. The Employer may require an employee(s) to work a standard schedule:

    a. If in accordance with law and regulation, all or any part of the variable week schedule is suspended indefinitely or canceled in its entirety.

    b. To satisfy employee training needs,

    c. For employee attendance at prolonged meetings or conferences,

    d. For employees in travel status as provided in Article 19,

    e. As part of a Performance Improvement Plan (PIP),

    f. If there has been a determination that an operational exigency exists,

    g. To satisfy unique position requirements.

2. Employees must not work more than their daily basic work requirement unless approved by the Employer.

Section D. Court or Military Leave

1. When taking court leave, an employee is considered to be on a standard eight hour workday, with a total of 80 hours to be worked and/or accounted for during the pay period. For military leave purposes, full-time employees are considered to be on a standard eight hour day/80-hour pay period and charged military leave to the extent to which it is earned.

2. If an employee receives notification after starting the workweek that they are scheduled for military or court leave during the second week of the pay period, the employee generally will go on a standard schedule for the duration of the court/military assignment. The number of hours in excess of 80 hours worked during that pay period will be recorded as overtime/compensatory time worked.

Section E. Signing In/Signing Out and Activity Reporting

Employees must sign in/out the automated Web Time and Attendance (WebTA) system and record work activities in the Activity Reporting System (ARS) provided by the Employer. Duty hours will be calculated on a "minute-to-minute" basis.

1. In WebTA and ARS, Employees:

    a. are required to have an eAuthentication (eAuth) account and password to access WebTA and ARS. New entrance on duty employees without an eAuth account will have their time and attendance input by the Employer.

    b. who are Warehouse Examiners in the field unable access WebTA and ARS, will provide their time and attendance, and activity reporting information to the Employer. The Employer will load the time and attendance, and activities in WebTA and ARS from the information provided by the Warehouse Examiner.

    c. encountering difficulties with WebTA and ARS should contact their timekeeper for assistance. Employee timekeepers encountering difficulties with WebTA and ARS should contact the Human Resources designee for assistance.

    d. who telework will be required to follow the same procedures for recording activities and time during telework days.

    e. in travel status are required to record time and activities in WebTA and ARS. Employees will have to record time and activities which have accounting codes necessary to transmit payroll. In cases where the traveling employee is unable to access WebTA and ARS, the employee will provide details via e-mail, fax, or telephone call to the Employer. The Employer will load the activities and time in WebTA and ARS from the details provided by the employee.

f. unable to comply will not be held responsible for non-compliance to record time or activities when the non-compliance is due to the Employer's equipment failure (e.g. server unavailability, network unavailability, etc.). In the event there is equipment failure employees will have to record time and activities which have accounting codes necessary to transmit payroll, whenever the system is next available for use.

g. will not be held responsible for entering time or activities when the inability to enter said information is due to the Employer's non-certification of the previous pay period record. The approving official will make every effort to certify employee time and activities not-later-than the first work day of the new pay period.

2. In WebTA, Employees:

a. will sign in (when starting work) and out (when stopping work), on the WebTA system, upon arrival and departure.

b. will request premium pay (credit, compensatory time, and overtime) in WebTA.

c. will request leave (annual, advanced annual leave, leave without pay, sick, advanced sick leave, Core Time Deviation (CTD), and to use earned credit, compensatory time or compensatory time for travel, or time off awards) in WebTA.

d. requesting CTD are required to:

(1) submit a Leave Request to utilize CTD. The employee must show the type of leave, date, total time that will be charged if the employee does not make up the CTD, and write "core time deviation" in remarks. The approving official may hold the leave request in a "pending" status or "approve" it upon submission.

(2) notify the approving official, once the CTD is repaid, the date and time the CTD was repaid.

(a) For leave requests held in pending status, the employee has the option to edit the original leave request down to the time not made up or delete the leave request if the entire CTD was made up.

(b) For approved leave requests, the approving official will "Revert" the leave request to pending and the employee then has the option to edit the original leave request down to the time not made up or delete the leave request if the entire CTD is made up.

(c) Must annotate their T&A Data sheet, in the remarks section, indicating the date and time CTD is utilized and the date and time the CTD is made up.

3. In ARS, Employees will:

   a. only be required to record activity in the Activities Reporting System (ARS). Employees will not be required to record activities in any other system (e.g. Access Data bases, WSRS, or any other automated or manual system). The only exception to this will be if an activity code does not exist in ARS. If an activity code does not exist in ARS, employees may be requested or required to record the specific activity in another manner for reporting and reimbursement purposes. The parties agree to work together, in conjunction with the appropriate Business Performance Management System personnel to ensure the applicable codes are established in ARS.

   b. enter activities for each scheduled work day. This does not mean employees must enter activities in ARS on a daily basis; but that activities are to be commensurate with hours worked. Employees may use whatever method best allows them to accurately record activities, such as tally sheets, hatch/hash/tick marks, notes etc. Employees may use as few or as many ARS codes as are necessary to reflect their actual work performed.

   c. record their work at the activity level by entering the amount of time spent on programs and tasks. Employees may add activities in which the employee participates to their Time and Attendance Summary. These activities will carry forward to the next pay period until changed or deleted by the employee. Employees will have the ability to record activities in as little as quarter hour increments.

   d. make every effort to input work activities not-later-than the last day of the pay period.

4. NTEU Representatives will:

   a. use only two codes in ARS for bank and official time; codes 37 and 38 respectively.

   b. request bank time in advance, using a mutually agreeable process, verbally or via e-mail. If the NTEU Representative and their first-line supervisor cannot agree on a process, the request will be via e-mail. The request will include the approximate time needed and a phone number where they can be reached during their requested time. Upon return to the work area, the Representative will provide notification of an accurate amount of bank time actually used.

c. request official time in advance, using a mutually agreeable process, verbally or via e-mail. If the NTEU Representative and their first-line supervisor cannot agree on a process, the request will be via e-mail. The request will include the approximate amount of time needed, phone number where they can be reached during their requested time and the name of the supervisor or management official with whom they are meeting. Upon return to the work area, the Representative will provide notification of an accurate amount of official time actually used.

ARTICLE 7A: OVERTIME AND COMPENSATORY TIME

Section A. General – Paid Overtime and Compensatory Time

1. Definition and Coverage. There are two types of overtime, paid overtime and compensatory time. Overtime pay is pay for hours of work officially ordered or approved in excess of an employee's basic work requirement. Overtime will be compensated in accordance with the applicable regulation. Exempt employees are governed by Title 5 of United States Code (USC) rules and regulations. Nonexempt employees are governed by the Fair Labor Standards Act (FLSA) and Title 5 USC 5541. For employees not on Variable Week Schedule (VWS) work in excess of eight hours a day or 40 hours a week is considered overtime. Overtime for employees on a VWS is governed by applicable rules and regulations. Overtime as provided in this Article may be earned in increments of 15 minutes. Employees cannot work overtime without appropriate advance supervisory approval.

2. The Employer orders or approves all overtime work. The Employer will give an employee as much advance notice as possible 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 Employer 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, first considering qualified volunteers.

4. The Employer will give reasonable consideration to an employee's request to be released from overtime due to personal hardship.

Section B. Federal Holidays

1. If the Employer requires the services of employees on a designated federal holiday, the Employer will seek to fill its needs first through qualified volunteers. Where there are more than sufficient qualified volunteers, the Employer will fill its needs from the volunteers with the earliest service computation dates used for leave.

2. If the Employer is unable to fill its needs through qualified volunteers, it may assign the work to the qualified employees with the latest service computation dates used for leave. Furthermore, assigned employees may be excused for personal hardship reasons.

3. To minimize the impact of assigning employees to work on designated federal holidays, the Employer will normally provide seven days notice to affected employees.

Section C. Compensatory Time.

1. Compensatory time earned by the employee is accrued for an equal amount of time spent in irregular or occasional overtime work. (Reference 5 U.S.C. Sec. 5543 (a) (1).)

2. FLSA (nonexempt) 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. Title 5 (exempt) employee's compensatory time is at the discretion of the Employer. Employees may only be directed to work compensatory time if their overtime pay is at a GS 10-10 (Title 5 U.S.C. 5543 (a) (2)).

4. Compensatory time must be used by the end of the 26th pay period following the pay period in which the compensatory time was earned. For example, if comp time is earned in pay period one in calendar year 2009, the comp time must be used by pay period one in calendar year 2010. If the employee transfers or separates from the Agency before using the compensatory time, the employee will be paid for the overtime work; payable at the overtime rate the compensatory time was earned.

5. Compensatory time normally will be used before annual leave. However, after October 1, annual leave, compensatory time, or travel compensatory time that will be forfeited first (or, in the case of compensatory time, paid), must be used first.

6. Compensatory time earned under this Article may be used in increments of 15 minutes.

7. Whether an employee may earn or work compensatory time shall not depend upon the employee's leave balance or the amount of compensatory time already accrued.

Section D. Miscellaneous

1. Training.

    a. Title 5 employees (FLSA exempt) will not be given overtime compensation while in training status except as provided for in 5 CFR 410.402 (b).

    b. Pursuant to 5 CFR 551.423, for training outside of regular working hours, FLSA employees (nonexempt):

        (1) will be allowed overtime compensation if:

            i. the employee is directed to participate in the training by the Employer; and

ii. the purpose of the training is to improve the employee's performance duties and responsibilities of his or her current position.

(2) will not be allowed overtime compensation for time spent in apprenticeship or other entry level training, or internships or other career related work study training, or training under the Veterans Readjustment Act 95 (5 CFR part 307) outside regular working hours, provided no productive work is performed during such periods, except as provided by 5 CFR 410.402(b) and paragraphs (f) and (g) of 5 CFR 551.401 (5 CFR 551.423).

2. Travel. For the purpose of determining entitlement to overtime, "official duty station" means an area within 50 miles of the duty station shown on an employee's most current Notification of Personnel Action. Employees will only be compensated for overtime for travel (5 CFR 550.112 (j)) away from the official duty station if the travel:

a. involves the performance of actual work while traveling

b is incident to travel that involves the performance of work while traveling

c. is carried out under such arduous and unusual conditions that the travel is inseparable from work

d. results from an event which could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of the employee to his or her official-duty station.

or, if an employee covered by the FLSA (5 CFR 551.422 (a)) is:

e. required to drive a vehicle or perform other work while traveling

f. required to travel as a passenger on a one-day assignment away from the official duty station

g. required to travel as a passenger on an overnight assignment away from the official duty station during hours on a nonworkdays that correspond to the employee's regular working hours.

3. Call back, Standby, and On-call Status. Call back overtime is a minimum of two hours for both Title 5 and FLSA employees (5 CFR 550.112 (h)). An employee on standby duty or in on-call status (5 CFR 550.112 (k) and (l)):

a. will be considered on duty for overtime compensation if they are restricted by official order to a designated post of duty and assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes. A finding that an employee's activities are substantially limited may not be based on

the fact that an employee is subject to restrictions necessary to ensure that the employee will be able to perform his or her duties and responsibilities, such as restrictions on alcohol consumption or use of certain medications.

b. will be considered off-duty, and will not be compensated for overtime if the employee is allowed to:

(1) leave a telephone number or carry an electronic device, for the purpose of being contacted, even though they must remain within a reasonable call-back radius

(2) make arrangements for another person to perform any work that may arise during the on-call period.

4. Other. The employee may claim and receive overtime or compensatory time in 15-minute increments when contacted at home for work related reasons by the Employer and not on duty.

ARTICLE 7B: COMPENSATORY TIME FOR TRAVEL

Section A. Compensatory Time for Travel (CTT)

CTT is time that is credited under the authority of 5 CFR 550, Subpart N. CTT will be earned and used in 15-minute increments. There is no maximum limit of CTT that may be accumulated. An employee may not receive payment under any circumstances for any unused CTT. CTT not used within 26 pay periods after it was earned will be forfeited.

Section B. Official Duty Station (ODS)

An employee's ODS is defined in Article 7, Section D.2. In the case of warehouse examiners stationed in the field, the ODS is their home.

Section C. Creditable Time

Creditable travel time is time spent by an employee in a travel status away from the employee's official duty station when such time is not otherwise compensable. Time that is creditable is time spent:

1. traveling between official duty station and temporary duty station. Time in a travel status includes the time an employee actually spends traveling between the official duty station and a temporary duty station, or between two temporary duty stations.

2. waiting. The usual waiting time for employees will be one hour for domestic flights and two hours for international flights. The parties recognize that there may be rare unique situations that were not anticipated that could result in employees receiving additional credit for waiting time.

3. traveling between home and a temporary duty station. If an employee is required to travel directly between his or her home and a temporary duty station outside the limits of the employee's official duty station, the travel time is creditable. However, the employee must deduct from such travel hours the time the employee would have spent in normal home-to-work or work-to-home commuting.

4. traveling to a transportation terminal (e.g., airport or train station) if the transportation terminal is outside the limits of the employee's official duty station. The travel time to or from the terminal outside regular working hours is creditable as time in travel status, but is subject to an offset for the time the employee would have spent in normal home-to-work or work-to-home commuting. The Kansas City International Airport is within the duty station limits of Kansas City, Missouri.

5. traveling between a worksite and a transportation terminal. The travel time outside regular working hours is creditable as time in a travel status, and no commuting time offset applies.

Section D. Time That Is Not Creditable

Time that is not creditable is time spent:

1. at a temporary duty station between arrival and departure,

2. during an extended (i.e., not usual) waiting time between actual periods of travel during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes,

3. traveling at a time, by a route or mode of transportation, for personal preference that results in more travel time than would be used if the employee took the mode of transportation offered by the Employer. In this case, the employee will be credited for the lesser of the actual travel time spent or the Employer's estimated time if travel would have been at the time, or via the route or mode of transportation the Employer selected.

4. traveling to a transportation terminal (e.g., airport or train station) within the limits of the employee's official duty station. Travel time outside regular working hours to or from the terminal is considered to be equivalent to commuting time.

Section E. Requesting Crediting of CTT

Employee will request the crediting of CTT within 30 days of returning to duty. Employees are encouraged to submit their request for crediting of CTT within 5 days of their return to duty. To request CTT, the employee will submit an e-mail or written memo to the immediate supervisor. The employee will include the date and time of departure and return, the purpose of travel, the location of departure and destination, waiting times, and unusual delays. The supervisor will inform the employee within seven days if the request is approved or denied. If the request is denied, the supervisor will provide a written explanation of the reason for the denial. The employee may request reconsideration of the denial, but if the supervisor denies the reconsideration request, the employee may file a grievance under Article 42.

Section F. Requesting Use of CTT

A request to use CTT must generally be submitted in advance. Requests and approval or disapproval will be documented on a Leave Request. If a request for CTT is disapproved, the

Employer will make a reasonable effort to schedule the leave at another time desired by the employee.

ARTICLE 8: ANNUAL LEAVE

Section A. Earning and Requesting Leave

Employees will earn annual leave in accordance with applicable laws and regulations.

1. Consistent with the needs of the Employer, annual leave requested in advance will be approved. Employees and managers are reminded that an employee has a right to take annual leave, subject to the right of the supervisor to schedule the time at which annual leave may be taken.

2. Requests and approval or disapproval will be documented on a Leave Request. If a request for annual leave is denied, the reason will be documented and provided to the employee upon request.

3. Employees will be notified in WebTA of the approval or denial of leave requests pursuant to the following guidelines. For requests submitted:

   - 35 days or more in advance; employees will be notified within a reasonable amount of time, but no later than 30 days prior to the date requested.
   - Ten to 34 days in advance; employees will be notified no later than 5 days prior to the date requested.
   - Less than ten days in advance; generally, employees will be notified no later than one business day prior to the date requested.

   When unscheduled annual leave is necessary, employees will request leave from their supervisor as soon as possible but no later than the beginning of core time, or prior to departing time if the employee is on duty. If the supervisor is unavailable, employee will request leave from the second level supervisor or their designee or leave a telephone number where the employee can be reached.

4. Where the Employer's needs do not permit approval of annual leave, the Employer will make a reasonable effort to schedule the leave at another time desired by the employee.

5. If employees cannot resolve leave scheduling conflicts among themselves, the employee having the earliest service computation date used for leave will be given priority consideration. The Employer will also consider the qualifications of employees to accomplish the workload when making this determination.

6. Special consideration will be made by the Employer for requests for:

   a. religious holidays,

   b. dependent care, and

c. personal emergencies outside the employee's control.

7. The employer will not approve the use of annual leave the employee has obligated in order to utilize Core Time Deviation (CTD).

Section B. Extended Annual Leave

1. Consistent with the needs of the Employer, the Employer will make every effort to approve requests for annual leave for at least two consecutive weeks or more provided the employee has accrued sufficient annual leave.

2. The Employer shall establish no arbitrary maximum on the amount of annual leave an employee may request.

Section C. Advanced Annual Leave

The Employer will consider requests for advanced annual leave consistent with this Article. Employees do not have an entitlement to advanced annual leave. Requests for advanced annual leave will be submitted to the supervisor.

1. Consistent with the needs of the Employer, employees may be advanced annual leave as follows:

   a. Permanent employees may be granted the leave they will accrue for the remainder of the leave year if they expect to remain in service through the leave year.

   b. Temporary and term employees may be granted the leave they will accrue during the current pay period.

2. Advanced annual leave must be requested in advance and accompanied by a letter or memo providing a rationale for the request.

3. Valid requests for annual leave by other employees may take precedence over requests for advanced annual leave. This Section will have no impact on any previously approved annual leave.

4. The Employer will not impose any arbitrary minimum or maximum on the amount of advanced annual leave.

5. Advanced annual leave cannot be utilized to secure approval of CTD.

6. Employees may use advanced annual leave in lieu of sick leave subject to advance approval. Such “in-lieu of” use of advanced annual leave is subject to the same requirements had sick leave been requested and approved.

Section D. Leave for Union Representatives

The Employer will make every effort to approve annual leave or leave without pay requests submitted by Union representatives for attendance at Union sponsored conventions or meetings.

Section E. Changing Leave

Employees may change approved annual leave to leave without pay, credit hours, or sick leave subject to approval by the Employer. The Employee's request to substitute leave without pay, credit hours, or sick leave for annual leave must be made within the first pay period in which the employee returns to duty. If medical documentation is required, it must be submitted consistent with the provisions of Article 9, Section H.

Section F. Denial/Withdrawal of Leave

Denial of annual leave will not be used in lieu of disciplinary or adverse actions.

The Employer retains the right to withdraw its approval of annual leave based on mission requirements. The Employer has determined it will exhaust all avenues to avoid taking a withdrawal action, particularly where it would cause the employee to forfeit monies; e.g. nonrefundable airline tickets.

Section G. Employee Responsibilities for Leave Balance

1. It is the employee's responsibility to request sufficient annual leave to avoid:

    a. Forfeiture at the end of the leave year.

    b. Using up accumulated annual leave at the end of the leave year.

2. An employee's annual and compensatory leave balances are normally of concern only to that employee and are not an appropriate matter for counseling by the supervisor.

3. An employee's annual, sick, credit hours and compensatory leave balance must be sufficient to cover any outstanding core time deviation balance if such leave is shown on an approved Leave Request.

Section H. Leave Increments

Annual leave provided under this Article will be charged in 15-minute increments.

ARTICLE 9: SICK LEAVE

Section A. Earning/Use of Sick Leave

Employees will earn sick leave in accordance with applicable laws and regulations. Sick leave is an employee benefit to be used by the employee in accordance with the specific procedures of this Article, for personal medical needs, care of a family member or bereavement, care of a family member with a serious health condition, adoption related purposes, and/or any other use allowed under applicable existing or future laws and/or regulations. The total amount of sick leave that may be used by part time employees or employees with uncommon tours of duty for the purposes set forth under this Article is governed by the applicable law and/or regulation.

Section B. Sick Leave For Personal Medical Needs

1. An employee may use sick leave when he or she (1) is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth; (2) receives medical, dental, or optical examination or treatment; or (3) would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.

   Note: Employees may request sick leave for attendance and participation in a recognized substance abuse treatment program or for treatment under the "safe harbor" provisions of this agreement; see Article 32B, Substance Abuse Program and Safe Harbor.

2. Employee Health Unit. This subsection applies only to employees who incur on-the-job injury or become ill while in duty status. Employees:

   a. may only leave the work site to attend an appropriate health unit where the employee has received the prior approval of the Employer and such a unit is locally available, except for an emergency.

   b. may be allowed to remain in the health unit for up to one hour without charge to leave.

   c. visiting the Health Unit for personal medical needs for more than one hour must request appropriate leave.

Section C. Sick Leave For Care of A Family Member

An employee is **also** entitled to use sick leave to care for a family member: having a physical or mental illness, injury, pregnancy, childbirth; undergoing medical, psychiatric, dental or optical examination or treatment; and, for purposes relating to the death of a family member, including making arrangements for or attending the funeral. (Reference 5 USC 6307 (d) (3))

1. "Family Member" means the following relatives of the employee:

    a. spouse, and parents thereof;

    b. children, including adopted children, and spouses thereof;

    c. parents, and spouses thereof;

    d. brothers and sisters, and spouses thereof;

    e. grandparents and grandchildren, and spouses thereof;

    f. domestic partner and parents thereof, including domestic partners of any individual in a, b, c, d, or e of this definition; and

    g. any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

2. Full-time employees are entitled to use up to 104 hours of sick leave (accrued or advanced) for general family care or bereavement each leave year. (See Section G. of this Article for advanced sick leave requirements.)

NOTE: The total sick leave used by full time employees under this section and Section D. cannot exceed 480 hours each leave year.

Section D. Sick Leave For Care of A Family Member With A Serious Health Condition

An employee is **also** entitled to use sick leave (accrued or advanced) to care for a family member with a serious health condition. The definition of a "serious health condition" is the definition stated in the Family and Medical Leave Act (see Article 12, Section B.1.) Full-time employees are entitled to use up to 480 hours of sick leave (minus any hours used pursuant to Section C) each leave year, to care for a family member with a serious health condition. (See Section G. of this Article for advanced sick leave requirements.)

Section E. Sick Leave For Adoption Purposes

The law provides for the use of sick leave (accrued or advanced) for purposes related to adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; any periods of time the adoptive parents are ordered or required by the adoption agency or by the court to take time off from work to care for the adopted child; and any other activities necessary to allow the adoption to proceed. The employee must provide a memorandum to the supervisor explaining what steps are being taken to start the adoption process. For adoption related use, the Leave Request must specify "Birth/Adoption/Foster Care". After the initial request, supervisors may request evidence for other adoption-related activities. (See Section G. of this Article for advanced sick leave requirements.)

Adoptive parents who voluntarily choose to be absent from work to bond with or care for an adopted child may not use sick leave for this purpose. Parents may use annual leave or leave without pay for these purposes.

Section F. Requesting/Approving Sick Leave

1. All requests for sick leave must be made on a Leave Request.

2. A Leave Request must be submitted to the first-line supervisor. Requests to approve sick leave already obligated to secure Core Time Deviation (CTD) will be denied.

3. When an employee knows in advance that sick leave will be required, the employee will request sick leave at the time the necessity for the leave is determined.

4. When the need for sick leave is unanticipated, and circumstances prevent the employee from reporting to work, the employee will notify the supervisor as soon as possible but no later than the beginning of core time. If the employee is not on a Variable Week Schedule, notification must be made no later than the beginning of the employee's normal tour of duty. If the supervisor or their designee is unavailable, the employee will leave a telephone number where they can be reached. If circumstances preclude compliance with the notification requirements provided above, the employee must provide such notification as soon as possible. A Leave Request must be completed as soon as the employee returns to duty.

5. The notification provided for above must include the reasons for the absence and the expected duration of the absence. When it appears that an absence will extend beyond the original date of anticipated return to duty, the employee must promptly notify the Employer of the new anticipated date of return. The Employer may require periodic telephone calls updating the condition of the employee.

6. For infrequent absences of short duration due to illness or injury, an employee's oral self-certification normally will be accepted as evidence of incapacitation.

Section G. Advanced Sick Leave

Requests for advanced sick leave must be submitted to the first-line supervisor. Unless otherwise specified in this Article, the Employer will not impose any arbitrary minimum or maximum on the amount of advanced leave, however, the total advanced sick leave cannot exceed 240 hours. Advanced sick leave will not be approved to secure approval of CTD. Generally, the Employer will approve advanced sick leave requests as follows.

1. When an employee's sick leave balance has been exhausted and the following requirements are met:

    a. Leave is properly applied for in accordance with this Article.

    b. The application is supported by a medical certificate as described in Section H of this Article; or, in the case of an adoption, a memorandum to the supervisor explaining what steps are being taken to start the adoption process. After the initial request, supervisors may request evidence for other adoption-related activities.

    c. Repayment can reasonably be expected through leave accruals.

2. In addition to paragraph G.1, under Sections B, C, D, and E of this Article:

    a. Up to a maximum of 240 hours of sick leave may be advanced to a permanent full time employee for a serious disability or ailment (Section B.), for care of a family member with a serious health condition (Section D), and/or for adoption purposes (Section E.)

    b. A total of 104 hours of sick leave (accrued or advanced) may be may be used for care of a family member (Section C) who does not have a serious health condition (Section D).

3. Employees holding limited appointments that end on a specified date (i.e., temporary, term appointments) may be advanced the amount of sick leave that will accrue during the complete pay periods in the current month.

4. There is no limit on the number of times an employee may request advanced sick leave. The Employer will consider each request for advanced sick leave on its individual merits and in accordance with the criteria described above.

5. All sick leave earned or that would normally accrue to an employee with a negative sick leave balance, thereby reducing the negative balance, is subject to the provisions of this Section G.

Section H. Medical Certification

For an absence in excess of three consecutive workdays, the Employer may, at its option, require the following:

1. A medical certificate. The medical certificate must:

    a. be on the form attached as Appendix "B" of this Agreement, and

    b. generally, not be older than three months. However, the Employer may require more frequent periodic updates to the medical certificate.

    Employees may not be required to furnish a medical certificate on a continuing basis if the employee or qualifying family member suffers from a chronic or permanent condition that does not necessarily require medical treatment although absence from work may be necessary and the employee has previously furnished an acceptable medical certificate. Periodic updates may be required pursuant to Section H.1.b. of this Article.

2. Other administratively acceptable evidence. Administratively acceptable evidence means:

    a. a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation and to the period of disability; or

    b. a signed statement from the employee stating the nature of the illness and explaining why the medical services of a practicing physician were not sought.

Upon requesting sick leave, the employee and the supervisor will discuss whether medical certification or other administratively acceptable evidence should be sought. The supervisor will then tell the employee which form of documentation will be required.

The medical certificate or administratively acceptable evidence must normally be submitted to the Employer within 15 calendar days from the employee's return to duty. In the case of an employee on an extended absence, the medical certificate(s) or administratively acceptable evidence must be submitted to the Employer within 15 calendar days of the Employer's request. If it is not practicable under the particular circumstances to provide the requested evidence or medical certification within 15 calendar days after the date requested by the agency despite the employee's diligent, good faith efforts, the employee must provide the evidence or medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the agency requests such documentation.

Section I. Sick Leave Restriction

Sick leave restriction is when the Employer requires the submission of a medical certificate, to support all of an employee's sick leave absences (or other leave used in lieu of sick leave) over a given period of time.

1. The Employer may place an employee on sick leave restriction if there are reasonable grounds to suspect the employee has used sick leave improperly.

2. The employee will be notified that, for a stated period not to exceed three months, all future requests for sick leave must be supported by the medical certificate attached as Appendix B of this Agreement. If the initial notification was verbal, such notification will be confirmed, in writing, within three workdays.

3. Employees already on sick leave restriction and not evidencing substantial improvement may be subject to sick leave restriction beyond three months.

Section J. Changing Leave

An approved absence which would otherwise be chargeable to sick leave may be charged to annual leave, credit hours, or leave without pay when requested by the employee and approved by the Employer in advance. However, substitution of annual leave, credit hours, or leave without pay for earned sick leave previously approved is permitted prior to the start of a new pay period.

Section K. Voluntary Leave Transfer Program

The Employer agrees to continue its Voluntary Leave Transfer Program in accordance with law, rule, and regulation.

Section L. Leave Increments

Sick leave will be charged in 15-minute increments.

Section M. Denial of Leave

Denial of sick leave will not be used in lieu of disciplinary or adverse actions.

ARTICLE 10: LEAVE SHARING PROGRAMS

This Article includes provisions applicable to the Leave Bank pilot program (Section A) and the Voluntary Leave Transfer Program (Section B).

Section A. Leave Bank Pilot

The parties agree to initiate the establishment of a six month pilot Leave Bank pilot program (LB) to be administered in accordance with applicable laws, rules, and regulations. A thirty-day open enrollment for the pilot program will begin within 120 days of the effective date of this agreement. Two-hundred hours must be pledged for contribution to the LB during the open enrollment before the pilot will begin.

At the conclusion of the pilot program, the parties agree to reopen Section A., Leave Bank Pilot, of this Article for negotiations.

1. Purpose and Definitions.

   a. The Employer will establish a LB to assist employees that are in need of additional leave as a result of a medical condition or emergencies. Employees may voluntarily contribute annual leave into a pooled fund of annual leave (the Bank.) The LB will operate in accordance with 5 C.F.R. § 630, Subpart J.

   b. The LB will enable enrolled employees who have medical conditions or medical emergencies to use annual leave contributed to the LB by colleagues.

   c. “Medical emergency” means a medical condition of an employee or a family member of such employee that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

   d. "Family Member" means the following relatives of the employee:

      a. spouse, and parents thereof;

      b. children, including adopted children, and spouses thereof;

      c. parents, and spouses thereof;

      d. brothers and sisters, and spouses thereof;

      e. grandparents and grandchildren, and spouses thereof;

f. domestic partner and parents thereof, including domestic partners of any individual in a, b, c, d, or e of this definition; and

g. any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

2. Coordinator. The Employer will designate a Leave Bank Coordinator (Coordinator). This individual will receive applications and enrollment forms and forward them to the Leave Bank Board (LBB) within three business days from date of receipt. The Coordinator will handle the day-to-day LB business and report the following to the LBB, on a quarterly basis:

a. the number of hours available in the leave bank,
b. the number of enrollees in the program,
c. the number of employees drawing from the Bank,
d. the amount of leave drawn from the Bank,
e. the number of applications provided,
f. the number of applications approved, and
g. the number of applications rejected.

3. Leave Bank Board.

a. The LB pilot program will be managed by a Leave Bank Board (LBB or Board). The Board will be comprised of three (3) members: the Coordinator, a management designee and a Union designee. Within sixty (60) days of the effective date of this Agreement, the Employer and the Union will designate representatives to serve on the Board. The parties will notify one another of their respective representatives. Subsequently, the Board will meet to prepare FAQs, establish written policies and procedures for administering the LB pilot program and otherwise implement the pilot program.

b. For the duration of the pilot program, the Board will meet once a month in order to consider applications, discuss the overall health of the LB, and consider any other related matters. Each application will be reviewed to evaluate the applicant's enrollment status, including the severity of the medical condition. Afterwards, the Board members will vote as to whether the application will be approved or rejected. Applications receiving at least two (2) votes will be deemed to have been approved. The applicant, or his or her designee, will be notified, in writing, by the Coordinator of the applications' approval or rejection within three business days after its consideration.

c. Quarterly reports will be provided by the Board to the Employer and the NTEU Chapter President and will include, at a minimum, the information received from the Coordinator.

4. LB Pilot Program Enrollment.

a. The Board will compose a memorandum that informs employees of the initial Open Season and their opportunity to pledge contributions of annual leave to the LB. The Employer will distribute the memorandum within 5 business days to all employees.

b. In order to enroll in the LB pilot program, an employee must complete an FFAS-1043, FFAS Leave Bank Program form and submit it to the Coordinator during the initial LB Open Season. The Coordinator will not process any application until 200 hours or more have been pledged to the Bank.

c. In order to enroll in the LB pilot program, the employee must contribute unused accrued annual leave hours equal to his or her annual leave accrual for one (1) pay period.

d. A new employee may enroll in the LB within the first sixty (60) days of being hired regardless of whether the initial Open Season is active.

e. An employee on leave during the entire initial Open Season may seek to enroll within 30 days after his or her return to duty.

5. Application

a. Once enrolled, employees may apply to receive leave from the LB by submitting the following to the Coordinator:

(1) FFAS-1046, FFAS Leave Bank Program – Recipient Application

(2) Supporting medical documentation; i.e. Appendix B of this agreement.

b. If an employee is not capable of applying, a personal representative or designee may make the written application on the employee's behalf.

c. Once an employee receives notice that his or her application has been approved by the Board, the leave recipient may only use annual leave withdrawn from the Bank for the purpose of medical emergency for which the leave recipient was approved.

6. Bank Balance. The amount of leave available in the Bank depends entirely upon the amount of annual leave contributed (received in donations).

7. Confidentiality. The parties recognize that the information shared by employees in the Recipient Application is sensitive. The Bank Coordinator and Board members will not release or disclose any privacy protected or personally identifiable information to anyone without the written consent of the applicant. If information is disclosed, the

party making such disclosure will be permanently barred from Bank administration and may be subject to disciplinary action.

Section B. Voluntary Leave Transfer Program

The Employer agrees to continue its Voluntary Leave Transfer Program in accordance with law, rule, and regulation.

ARTICLE 11: ADMINISTRATIVE LEAVE

Section A. Approving Authority

The Employer is responsible for determining office operating status, dismissal, unscheduled leave, and unscheduled telework policies. For this Article, administrative leave is an excused absence from duty administratively authorized without loss of pay and without charge to other types of leave. Administrative leave is not an entitlement. It is granted for specific reasons and the amount of leave may vary from situation to situation, employee to employee.

Employees may request appropriate leave for use in conjunction with administrative leave.

Section B. Weather/Emergency Situations

1. Employee Designations.

    a. Emergency Employees. The Employer has determined that it is responsible for identifying Emergency employees. Emergency employees are to report to, or remain at work in emergency situations to protect life, safety, health, or property. The Employer will provide written notification to all employees of their inclusion or removal from the list of emergency employees. Employees designated as emergency employees must make every effort to report for work, or remain at work in emergency situations. The Employer will provide the Union with a list of the names, positions, and work locations of all emergency employees once designated. Updates to the list will be provided annually.

    b. Essential employees. Essential employees perform operations that cannot be suspended or interrupted even though it may be necessary to generally excuse employees for all or part of a day. It may be necessary to require essential employees to remain on duty to maintain critical functions. This necessity will be determined on a case by case basis. The Employer will provide notification to all employees designated as essential employees on an as needed basis.

2. Authorizing Administrative Leave. The amount of administrative leave granted may vary from employee to employee depending on the circumstances. Under no circumstances will employees in travel status and unaffected by the emergency/inclement weather and employees in a non-pay status (LWOP or suspension) be “entitled” to administrative leave or “in-lieu-of” time off. If hazardous or inclement weather or other emergency situation warrants closure, delayed opening, or early dismissal, the Variable Week Schedule remains in effect.

3. Pre-workday Situations. For inclement weather or other emergency situations occurring ***before*** the regular workday, the Employer will place one of the following messages (or the equivalent) on the notification system as soon as practical (the

message will include the date and time that the message was placed on the notification system):

MESSAGE	MEANING
1. Beacon facilities are OPEN; employees are expected to report for work on time.	Employees are expected to report for work or begin teleworking on time.
2. Beacon facilities are OPEN with the option for UNSCHEDULED LEAVE or UNSCHEDULED TELEWORK	Non-teleworkers and unprepared teleworkers choosing not to report for work may take unscheduled leave for their entire scheduled workday. Core and Ad Hoc teleworkers, scheduled to telework, and telework-ready employees choosing unscheduled telework will be expected to complete a normal workday. Employees must notify their supervisors of their intent to utilize either unscheduled telework or unscheduled leave. Emergency employees are expected to report for work on time.
3. Beacon facilities are OPEN with a ## HOUR(S) DELAYED ARRIVAL and have the option for UNSCHEDULED LEAVE or UNSCHEDULED TELEWORK	Employees should plan their commutes so that they arrive at the Beacon facility no more than ## hours later than they would normally arrive. Such employees will be granted excused absence (administrative leave) for up to the designated number of hours past their normal arrival times. Employees who arrive at the Beacon facility more than ## hours later than their normal arrival time will be charged appropriate leave as chosen by the employee for the additional period of absence from work. Core and Ad Hoc teleworkers scheduled to telework, and telework-ready employees choosing unscheduled telework will be expected to complete a normal workday. Employees may choose to take unscheduled leave for their entire scheduled workday. Employees must notify their supervisors of their intent to utilize either unscheduled telework or unscheduled leave. Emergency employees are expected to report for work on time.
4. Beacon facilities are CLOSED.	Beacon offices are closed. Core and Ad Hoc teleworkers, scheduled to telework, and telework-ready employees will be expected to complete a normal workday, unless the alternative worksite is affected by the same emergency and it prevents the employee from working. Emergency employees are expected to report for work on time.

a. If the opening of the office is on a DELAYED ARRIVAL, UNSCHEDULED LEAVE, or UNSCHEDULED TELEWORK policy, an employee's pattern of arrival on a VWS determines their normal arrival time. Upon arrival, employees are required to complete the remainder of their tour of duty or request leave. The normal arrival time will be determined by the Employer as follows:

(1) Constant Pattern. The majority of employees tend to arrive within five to ten minutes of the same time each day. Once a pattern has been established, it should be used as a reference point.

(2) Predominant Pattern. If an employee maintains a schedule in which one particular arrival time predominates, this time should be used as a reference point.

(3) Variable Pattern. Where there is such variation in an employee's arrival time that there is not a discernable pattern, the mathematical average of the employee's arrival time for the previous ten workdays should be computed and the resulting time used as a reference point.

b. If the office is open on a DELAYED ARRIVAL, UNSCHEDULED LEAVE, or UNSCHEDULED TELEWORK policy, employees must notify their supervisor prior to the beginning of core time if they choose to use unscheduled leave or unscheduled telework. The Employer will adopt an UNSCHEDULED LEAVE or UNSCHEDULED TELEWORK policy whenever the public media announces Phase Two of the Emergency Snow Ordinance.

c. If the office is closed, employees in pay status and unable to work will be granted administrative leave for that day. Core and Ad Hoc teleworkers, scheduled to telework, and telework-ready employees are expected to complete a normal workday or request unscheduled leave, unless the alternative worksite is affected by the same emergency and it prevents the employee from working.

d. The Employer will make reasonable efforts to accommodate disabled employees so that they will be timely notified of a decision to close their duty station.

e. Employees may call the USDA Notification System at (816) 823-5150 any workday they reasonably believe the opening of the office may be impacted by inclement weather or other emergencies. Hearing impaired employees using TDD may call (800) 877-8339 and give the TDD operator the (816) 823-5150 number. The operator will transmit the recorded message to the caller. On questionable days, the message will be updated by 5:30 a.m.

If the call to determine the status of the office is long distance, employees should use their government cellular phone or calling card to access the notification system. Employees without a cell phone or calling card may submit a SF-1164

with a copy of the bill showing the telephone charge for reimbursement. Two calls per questionable workday will be reimbursed.

f. If the USDA Notification System is inoperable or cannot be updated due to inclement weather or other emergencies, the Employer will initiate its telephone calling tree and make a reasonable attempt to notify all bargaining unit employees of the operational status.

Upon written request of the employee, the employee's telephone number will not be provided to other bargaining unit employees for use in the calling tree. In those situations, a management official will be responsible for calling the employee directly.

4. Workday Situations. When an early dismissal is warranted, due to inclement weather or other emergency situations occurring ***during*** the regular workday, the Employer will make one of the following announcements (or the equivalent):

MESSAGE	MEANING
1. The Beacon facilities are operating under an EARLY DISMISSAL policy. Employees are dismissed up to ## hours earlier than their scheduled departure time.	Employees are dismissed up to ## hours earlier than their scheduled departure time. Employees will be granted excused absence (administrative leave) for the designated number of hours. Employees who must leave work earlier than their official dismissal time must use approved leave from the time of their departure up to the designated early dismissal time. Core and Ad Hoc teleworkers, scheduled to telework, are expected to complete their normal workday. Onsite telework-ready employees may be directed/authorized by their supervisor to depart the ODS, prior to the announced early dismissal time, to commute to their alternative worksite to complete their basic work requirement. See Article 57. If a telework-ready employee is directed/authorized to depart the ODS to complete their basic work requirement, his/her normal commuting time will not count towards the fulfillment of the basic work requirement. However, excessive commuting time <u>caused by the emergency situation</u> will count towards the fulfillment of their basic work requirement. Note: Article 6, Tour of Duty, states in part, "On scheduled work days, the daily limits are normally 6:00 a.m. to 6:00 p.m., Monday through Friday". These situations are not "normal" and regular work can be accomplished after 6:00 p.m. to meet the employee's daily basic work requirement. Employees on pre-approved leave should be charged leave for the amount of leave that has been approved. Emergency employees are expected to remain at work.

MESSAGE	MEANING
2. The Beacon facilities are operating under an EARLY DISMISSAL policy. Employees are dismissed at ##:##.	Employees are dismissed at a specific time (##:##.) Employees will be granted excused absence (administrative leave) for up to the number of hours remaining until their normal departure time. Core and Ad Hoc teleworkers, scheduled to telework, are expected to complete their normal workday. Onsite telework-ready employees may be directed/authorized by their supervisor to depart the ODS, prior to the announced early dismissal time, to commute to their alternative worksite to complete their basic work requirement. See Article 57. If a telework-ready employee is directed/authorized to depart the ODS to complete their basic work requirement, his/her normal commuting time will not count towards their fulfillment of the basic work requirement. However, excessive commuting time caused by the emergency situation will count towards the fulfillment of their basic work requirement. Note: Article 6, Tour of Duty, states in part, "On scheduled work days, the daily limits are normally 6:00 a.m. to 6:00 p.m., Monday through Friday". These situations are not "normal" and regular work can be accomplished after 6:00 p.m. to meet the employee's daily basic work requirement. Employees who must leave work earlier than the official dismissal time must use approved leave from the time of their departure up to the designated early dismissal time. If the announced time is prior to core time, and an employee is not scheduled to be on leave, no leave will be charged.

Section C. Other Unscheduled Administrative Leave

The Employer may on occasion grant administrative leave as a gesture of appreciation to employees. The Employer will promptly announce the decision in an all-employee message. Usually, this occurs near a holiday and is at the discretion of the Employer. Leave of this nature is not an entitlement and the Employer has no obligation to grant "in-lieu-of" time off or to ensure that all employees receive the same number of minutes of administrative leave. Employees may use approved leave in conjunction with administrative leave provided they are on duty at the time the administrative leave is announced, or are scheduled to return to complete their basic work requirement.

Section D. Refusal of Leave

Refusal to allow administrative leave will not be used in lieu of disciplinary or adverse actions.

ARTICLE 12: FAMILY AND MEDICAL LEAVE

Section A. General

This article explains employee entitlements and Employer obligations under the Family and Medical Leave Act (FMLA.) FMLA leave is in addition to any other paid leave available to the employee.

Section B. Leave Entitlement

1. An employee, who has completed at least twelve (12) months of Federal service and is not employed on an intermittent basis or a temporary appointment with a time limitation of one year or less, has the right, as established by the Family and Medical Leave Act and implementing regulations (5 C.F.R., Part 630, Subpart L), to twelve (12) administrative workweeks of unpaid leave during any twelve (12) month period for the following purposes:

   a. the birth of a child of the employee and the care of such son or daughter within one year after birth;

   b. adoption, or foster care of a child within one year after placement;

   For these purposes (a and b) and pursuant to regulation, an employee may not use leave under the FMLA intermittently or on a reduced leave schedule unless the employee and the supervisor agree to do so.

   c. care of a spouse, son, daughter, parent (does not include "in-laws"), or legal ward who has a serious health condition; or

   d. a serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his or her position.

   For these purposes (c and d) and pursuant to regulation, leave under the FMLA may be taken intermittently or on a reduced leave schedule when medically necessary in accordance with applicable laws, rules and regulations.

   e. to care for a servicemember. An employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember, is also entitled to an *additional* 14 administrative workweeks (*combined total* of 26 administrative workweeks) to care for a covered servicemember.

2. A serious health condition is defined at 5 CFR 630.1202, as follows:

a. Serious health condition means an illness, injury, impairment, or physical or mental condition that involves--

(1) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

(2) Continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition exists. Continuing treatment by a health care provider may include one or more of the following--

(a) A period of incapacity of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves--

i. Treatment two or more times by a health care provider, by a health care provider under the direct supervision of the affected individual's health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or

ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider (e.g., a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition).

(b) Any period of incapacity due to pregnancy or childbirth, or for prenatal care, even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than three consecutive calendar days.

(c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that--

i. Requires periodic visits for treatment by a health care provider or by a health care provider under the direct supervision of the affected individual's health care provider,

ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and

iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). The condition is covered even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than three consecutive calendar days.

(d) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The affected individual must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g., Alzheimer's, severe stroke, or terminal stages of a disease).

(e) Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity or more than three consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy/radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease).

b. Serious health condition does not include routine physical, eye, or dental examinations; a regimen of continuing treatment that includes the taking of over-the-counter medications, bed-rest, exercise, and other similar activities that can be initiated without a visit to the health care provider; a condition for which cosmetic treatments are administered, unless inpatient hospital care is required or unless complications develop; or an absence because of an employee's use of an illegal substance, unless the employee is receiving treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease are not serious health conditions. Allergies, restorative dental or plastic surgery after an injury, removal of cancerous growth, or mental illness resulting from stress may be serious health conditions only if such conditions require inpatient care or continuing treatment by a health care provider.

3. Consistent with applicable laws, regulations, and this Agreement, an employee may elect to substitute paid time off, including annual leave, sick leave, compensatory time, credit hours, or time off awards for any or all LWOP to which the employee is entitled under the Family and Medical Leave Act.

4. In addition to the LWOP entitlement, an eligible employee may request other types of leave for which the employee meets legal and regulatory requirements. Such leave might include additional LWOP, annual leave, sick leave, advanced annual or sick

leave, earned compensatory time or credit hours, and leave made available under the Voluntary Leave Transfer Program (and/or the Voluntary Leave Bank Program, if applicable).

Section C. Requests and Approvals

1. When the need for LWOP is foreseeable, an employee must request leave on a Leave Request under the provisions of this Article at least 30 days in advance to allow the supervisor time to prepare for any staffing adjustments necessary to compensate for the employee's anticipated absence. However, the parties recognize that due to the unpredictable nature of these situations, adjustments in the requested leave may be necessary.

2. No arbitrary date requiring a pregnant employee to cease work or to prevent her from returning to work after childbirth will be established. Decisions in such cases will be made by the Employer, in accordance with applicable policies and regulations, after considering the employee's request and any required medical certification.

3. Requests for time off beyond 12 weeks will be considered on an individual basis, and may be approved in accordance with applicable policies, regulations, and this Agreement. The Employer must make a reasonable effort to approve such requests consistent with budgetary considerations, workload, and staffing requirements.

Section D. Medical Certification

1. Reasons for a Medical Certificate. The Employer may require medical certification, at the employee's expense, when an employee requests leave for medical reasons, including treatment and convalescence related to childbirth, and care for a spouse, son, daughter, parent, or legal ward with a serious health condition.

2. Scope of the Medical Certificate. If medical certification is required by the Employer, an Employee will support the FMLA request by submitting the Medical Certificate Appendix C. The information on the medical certification shall relate only to the serious health condition for which the current need for family and medical leave exists. The Employer may not require any personal or confidential information in the written medical certification other than that required by regulation (5 C.F.R. 630.1207.) If an employee submits a completed medical certification signed by the health care provider, the Employer may not request new information from the health care provider. However, a health care provider representing the Employer, including a health care provider employed by the Employer or under administrative oversight of the Employer, may contact the health care provider who completed the medical certification, with the employee’s permission, for purposes of clarifying the medical certification.

3. Second Opinions. If the Employer doubts the validity of the original certification provided, the Employer may require, at the Employer's expense, the employee to obtain the opinion of a second health care provider designated or approved by the Employer, concerning the information contained in the original certification. Any health care provider designated by or approved by the Employer shall not be employed by the Employer or be under the administrative oversight of the Employer except as provided in the regulations.

4. Conflicting Medical Certificates. If the opinion of the second health care provider differs from the original certification, the Employer may require, at the Employer's expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the Employer and the employee concerning the medical certification. The opinion of the third health care provider shall be binding on the Employer and the employee.

5. Time Constraints to Provide a Medical Certificate. An employee must provide the written medical certificate required by this section, signed by the health care provider, no later than 15 calendar days after the date the employer requests such medical certification. If it is not practicable under the particular circumstances to provide the requested medical certification no later than 15 calendar days after the date requested by the employer despite the employee's diligent, good faith efforts, the employee must provide the medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the Employer requests such medical certification. (Reference 5CFR 630.1207 (h).)

6. Privacy Expectation. The Employer will treat as confidential any medical information given by an employee in support of a request for leave under the FMLA. The Employer may only disclose such information in accordance with the Privacy Act, Health Insurance Portability and Accountability Act, and other applicable laws, rules and regulations.

Section E. Modification of Work Duties

If, after consulting a physician, an employee requests modification of work duties or temporary reassignment to preclude risks to the employee's or an unborn child's health, the Employer will make an effort to accommodate the request when supported by an administratively acceptable medical certificate justifying the recommended work limitations.

Section F. Protection of Employment and Benefits Upon Return to Duty

1. An eligible employee who takes family leave shall be entitled to return to the same or equivalent position, with equivalent benefits, pay, status, and other terms and conditions of employment, unless termination of employment is otherwise required by reduction-in-force, for cause, or for similar reasons unrelated to the use of family leave.

2. An employee who has given birth and does not plan to return to work shall submit her resignation at the expiration of her period of incapacitation.

Section G. Leave Increments

LWOP provided under this Article will be charged in 15-minute increments.

ARTICLE 13: LEAVE WITHOUT PAY

Section A. Granting Leave

The Employer will grant leave without pay (LWOP) in the following cases:

1. Disabled veterans who are entitled to leave without pay for medical treatment under Executive Order 5396, when the veteran presents an official statement, from a registered practicing physician or other health care professional recognized by the Employer, certifying that medical treatment is required. The disabled veteran must give advance notice of the period during which absence for treatment will occur.

2. Reservists and National Guardsmen are entitled to a leave of absence for required military training in accordance with law, rule or regulation. LWOP will be approved if the employee has exhausted or is not entitled to military leave.

3. Employees receiving injury compensation under 5 USC Chapter 81 unless permanently disabled.

4. Employees meeting requirements for leave without pay under the provisions of the Family and Medical Leave Act (Public Law 103-3, see Article 12).

Section B. Approval of Requests

1. LWOP for purposes other than those identified in Section A may be requested and approved in accordance with appropriate regulation. An employee may not demand LWOP as a matter of right, except in those cases defined in Section A of this Article.

2. A basic axiom in the granting of LWOP requires that there be reasonable expectation that the employee will return at the termination of the approved leave. In addition, at least one of the following benefits to the Agency should accrue: increased job ability; protection of an employee's health; retention of a desirable employee; or furtherance of a program of interest to the Employer.

3. An employee requesting extended LWOP will normally be required to exhaust all annual leave before such leave may be granted except as otherwise authorized, e.g., maternity leave. LWOP may be granted for a period of six months or less. The total shall not exceed two continuous years.

Section C. Medical Certification

The Employer may require medical certification and periodic recertification for any LWOP absences for medical purposes.

Section D. Approving Authority

The Employer has determined that Division Chiefs have the authority to approve requests for LWOP of 30 days or less. Requests for more than 30 days must be approved by the appropriate Director.

Section E. Leave Increments

Leave Without Pay will be charged in 15-minute increments.

ARTICLE 14: OTHER LEAVE PROVISIONS

Section A. Using Leave for Funerals

Consistent with the needs of the Employer, earned annual leave, credit hours, leave without pay, or compensatory time will be approved for an employee to attend a funeral. For use of sick leave to attend the funeral of a family member, see Article 9, Section C.

Section 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 120 hours of regular military leave in a fiscal year for active duty, inactive-duty training, or engaging in field or coast defense training (5USC 6323 (a)). Employees who are entitled to regular military leave but who do not use the entire 120 hours may carry over the unused portion from one fiscal year to the next for a maximum cumulative total of 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.

Section 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 Employer 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 Employer a jury duty certificate signed by an officer of the court, if the court leave was granted for jury duty.

Section D. Holiday Leave

The Employer 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.

Section E. Work on a Holiday

Article 7, Overtime and Compensatory Time, covers procedures to be followed when the Employer requires the services of employees on a designated federal holiday.

Section F. 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 workdays in advance and their absence will not cause a workload problem.

Section G. 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 Employer's mission, the Employer 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 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 the Employer 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.

Section H. 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 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 Employer.

Section I. Blood Donations

The parties encourage employees to donate blood on-site when given the opportunity. As a general rule, and subject to the Employer’s right to assign work, no leave will be charged to donate blood and recuperate on-site. The flexibility provided for in Article 6, Hours of Work, typically gives employees choosing to donate off-site ample opportunity to do so. However, the Employer may, at its discretion grant up to four hours of administrative leave for emergency donations, travel and recuperation.

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 Employer 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."

Section J. Voting

The parties encourage employees to vote in federal, state and local elections. The flexibility provided for in Article 6, Hours of Work, typically gives employees ample opportunity to do so. However, the Employer 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.

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

Section K. Preventative Health Screenings

Employees with fewer than 80 hours of accrued sick leave may request up to 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 (as defined in Article 9.) Requests for an excused absence must be made in advance on a Leave Request.

Section L. Using Leave for the Pregnancy, Childbirth, and Postpartum Activities

1. Consistent with the needs of the Employer, the Employer will make every effort to approve requests for leave for pregnancy, childbirth, and postpartum related activities in addition to any leave to which the employee may be entitled under the Family and Medical Leave Act (FMLA; see Article 12). Employees are encouraged to review all leave flexibilities available to them, by law or this Agreement, for pregnancy, childbirth, and postpartum activities. Employees may choose to invoke their applicable rights under the FMLA when requesting leave, but may not be required to do so. In addition to FMLA rights, consistent with the needs of the employer and this Agreement, pregnancy, childbirth and postpartum leave options include:

    a. Annual Leave (see Article 8).

        (1) An employee may request to use utilize accrued annual leave.

        (2) Employees may request advanced annual leave. Permanent employees may be advanced annual leave they will accrue for the remainder of the leave year if they expect to remain in service through the leave year. Temporary and term

employees may be granted the leave they will accrue during the current pay period.

b. Compensatory Time (see Article 7A). An employee may request to utilize earned compensatory time.

c. Credit Hours (see Article 6). An employee may request to utilize earned credit hours.

d. Leave Without Pay (see Article 13). Leave without pay may be requested in addition to any leave available under the Family and Medical Leave Act.

e. Sick Leave (see Article 9).

(1) Employees may use accrued sick leave when incapacitated for the performance of duties or for medical examination or treatment. In most cases, incapacitation following childbirth is 6-8 weeks for a normal pregnancy, unless complications arise.

(2) Advanced sick leave may be requested when an employee's sick leave balance has been exhausted.

f. Voluntary Leave Transfer Program (see Article 10).

2. Requesting Leave. The employee is responsible for notifying the Employer of her intent to request leave for pregnancy and childbirth, including the type of leave, approximate dates, and anticipated duration. Requests must be submitted in accordance with this Agreement.

3. Family and Medical Leave Act (FMLA; see Article 12). Employee entitlements and Employer obligations under the FMLA extend to the birth of a child of the employee and the care of such son or daughter within one year after birth. Employees have the right to twelve (12) administrative workweeks of unpaid leave during any twelve (12) month period. An employee may not use leave under the FMLA intermittently or on a reduced leave schedule unless the employee and the supervisor agree to do so.

4. Modification of Duties. If, after consulting a physician, an employee requests modification of work duties or temporary reassignment to preclude risks to the employee's or an unborn child's health, the Employer will make an effort to accommodate the request when supported by an administratively acceptable medical certificate justifying the recommended work limitations. (See Article 12)

Section M. Parental Leave

Parental leave is not a recognized leave category. It is an explanation of available leave options for new parents. Male and female employees are eligible for leave under this section.

1. Consistent with the needs of the Employer, the Employer will make every effort to approve leave requests for parental related activities in addition to any leave to which the employee may be entitled under the FMLA. (See Article 12)

   (a) Subject to supervisory approval, annual leave, advanced annual leave, leave without pay, compensatory time, credit hours, or time-off awards may be used for any purpose; including, childbirth related activities, bonding with a healthy newborn child, caring for well-children (siblings), etc.

   (b) Sick leave and advanced sick leave may not be used for bonding, caring for a healthy newborn or other well-children (siblings), etc.

   (c) Under the FMLA, LWOP or substitute paid leave (including annual leave, sick leave, compensatory time, credit hours or time off awards) may be used to care for an employee's newborn child or the mother of the newborn child while she is incapacitated for maternity reasons. (See Article 12)

2. An employee is entitled to request sick leave (see Article 9) for general family care purposes; e.g., to care for a child who has a routine illness, well-baby doctor visits, or if the baby has a serious health condition.

Section N. Leave Increments

Leave provided under this Article will be charged in 15 minute increments, except as stated in Section G.3 of this Article.

ARTICLE 15: POSITION CLASSIFICATION

Section A. Position Descriptions

1. The parties agree that position descriptions shall accurately reflect the principal duties and responsibilities of the position as assigned by the Employer.

2. Employees will be furnished a current, accurate copy of the position description of the position to which assigned at the approximate time of assignment.

3. Whenever a position description is amended, the Employer will provide a copy to the Union, when applicable, at the time of issuance.

4. In accordance with law and regulation, employees may grieve those classification decisions that result in reductions in grade or pay.

Section B. Classification Standards

1. Positions will be classified by comparing the duties, responsibilities, and supervisory relationships in the official position description with the appropriate classification and job grading standard.

2. Copies of draft Office of Personnel Management (OPM) classification standards for bargaining unit positions are available on the internet at OPM's website. In the event that the OPM website is unavailable, or the standard is not on the OPM website, the Employer will furnish the Union with copies of the classification standard.

3. Human Resources is available to provide information to employees regarding their concerns about the titles and series of their position. Employees who believe their positions should be reclassified may ask the Employer for an explanation as to why it would or would not be appropriate to do so under the relevant classification standards. If the employee chooses, they may file a classification appeal. The Employer agrees that work will not be reassigned for the sole purpose of avoiding reclassification during a classification appeal.

Section C. Notification of Changes

The Employer agrees to inform the Union as soon as possible when significant changes will be made in the duties and responsibilities of positions held by employees due to reorganization or when changes in position classification standards result in classification changes.

Section D. Grade Determining Duties

1. The Employer will assure that duties assigned to the employee that are grade determining will normally be included in the position description.

2. The phrase "other duties as assigned" normally relates to tasks of an incidental, infrequent, or emergency nature that are impractical to include in the position description. The Employer may assign or change duties and responsibilities necessary to accomplish work appropriate to the employee's position.

ARTICLE 16: PERSONNEL RECORDS AND ACCESS TO INFORMATION

Section A. Personnel Records

1. It is agreed that Official Personnel Folders (OPFs) and other systematic records will be maintained in accordance with applicable laws and regulations, including the Privacy Act of 1974. The Employer will purge records in accordance with that standard.

2. Each employee and/or a representative, designated in writing, shall upon written request, be granted access to any record(s) in a system of records (i.e., files retrievable by name or identifying number or symbol) pertaining to the employee with the exception of records restricted by law or government-wide regulations. Such access will take place in the presence of the individuals having official custody of the records. The employee's identification card must be shown prior to reviewing requested records. The designated representative will show the designation in writing.

3. Access to the records shall normally be granted within three days of the request if such records are maintained on the premises in which the employee is located and are immediately available. If the records are not available, the Employer will initiate prompt action to obtain the records.

4. Employees should retain copies of personnel documents routinely furnished to them. However, in the event the employee fails to do so, one copy of such documents will be furnished free of charge to the employee and/or representative, designated in writing, upon request.

Section B. Supervisor Working Files

1. Working files, if maintained by supervisors, shall be limited to dated documents and records of immediate concern to the supervisor and the employee. Such files are subject to the Privacy Act.

2. Material will not be maintained in an employee's working file indefinitely. Working files should be reviewed at least once a year for disposal of noncurrent material. In the event material in the employee's working file is used as backup for a proposed adverse or performance-based action or is the subject of a grievance or appeal, that material shall be placed in the appropriate official file and retained for the time required by Privacy Act regulations.

Section C. Records of Complaints

Records of complaints or charges determined not to be justified as the result of an appeal or grievance shall not be used for any purpose whatsoever, except for those authorized by the

Office of Personnel Management (OPM) as a required record or necessary to document employee entitlement to back pay or other benefits.

Section D. Amending Records

1. Pursuant to OPM rules and regulations, employees will be afforded the opportunity to put on record any statement or request an amendment to or correction of any information contained in their OPF.

2. Material of any nature that might reflect adversely upon the employee will not be placed in their OPF without the employee receiving a copy.

Section E. Information Requests Submitted by the Union

1. Upon receipt of an Information Request from the Union, pursuant to 5 USC 7114 (b)(4), the Employer agrees to furnish, to the extent not prohibited by law, data that:

   a. is normally maintained by the Employer in the regular course of business;

   b. is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

   c. does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining.

2. Within 5 workdays of receipt, the Employer will send the NTEU Requestor written confirmation of receipt of the 5 USC 7114 (b)(4) request, identify who is handling the request and give an estimated date on which the request will be fulfilled.

3. The Agency will attempt to respond to Union requests for data pursuant to 5 USC 7114 (b) (4) within a reasonable amount of time; normally, within 20 workdays of receipt.

4. If the Employer is unable to fulfill the information request within 3 workdays of the estimated fulfillment date, the Employer will send the NTEU requestor a revised estimated fulfillment date.

5. By mutual agreement, the parties may extend contract time frames, including time to hold a grievance meeting, disciplinary meeting or oral reply hearing, or take action related to mid-contract negotiations, in order to give the Union the opportunity to review the requested data.

ARTICLE 17: TRAINING

Section A. Availability

The parties agree that the training and development of employees is a matter of significant importance towards fulfilling the mission of FSA. In conjunction with this goal, the Employer will, within budgetary and workload limitations, make available to all employees the training the Employer deems necessary.

The Employer, subject to its obligation to bargain over changes in conditions of employment, may use a full range of options to meet mission-related organizational and employee development needs, such as classroom training, on-the-job training, technology-based training, satellite training, employees' self-development activities, coaching, mentoring, career development counseling, details, rotational assignments, cross training, and developmental activities at retreats and conferences. The Employer agrees to assist employees in planning and following a plan of self-development.

Section B. Individual Development Plan (IDP)

1. IDPs will be used to identify training deemed to be necessary by the Employer for the performance of the duties the employee currently performs or will be performing.

2. Employees will complete their IDP in accordance with current policy and procedure.

3. The employee and supervisor must meet to discuss the IDP. The employee will have the opportunity to explain why they requested training.

4. If, at any stage of the IDP review process, requested training is not approved, upon request the employee will be advised of the reason for disapproval.

5. Copies of the approved IDP Report for employees will be provided to the Union no later than 60 days after the end of input deadline as specified in the annual notice. The IDP report will be provided by Office/Center, Division and Branch/Group.

Section C. Employee's Official Personnel Folder

It is the employee's obligation to forward accurate records of completed outside training to Human Resources for inclusion in their AgLearn history or Official Personnel Folder (OPF) as appropriate.

Section D. Suitable Training

The Employer agrees to maintain information and furnish guidance about suitable and available training resources. The Union agrees to encourage employees to take advantage of suitable self-development opportunities.

Section E. Tuition Assistance/Student Loan Repayment

1. Tuition Assistance. An eligible employee (career-conditional employee who has completed one year of current, continuous federal service) who initiates a request for tuition assistance and obtains prior approval from the Employer will have tuition costs (tuition is defined as the cost of the course per credit hour) paid at educational institutions during their nonwork hours, provided that:

    a. The course will enable the employee to increase ability in presently assigned duties or duties the employee will be performing (i.e., the course is job-related).

    b. The employee agrees in writing to stay with the Employer three times the actual length of the course.

    c. An employee who fails to complete a course or receives a grade of less than C must reimburse the Employer unless the Employer grants a waiver.

    d. Funds are available to pay for such training without deferring or canceling commitments of higher priority.

2. Student Loan Repayment. The Employer may repay student loans for eligible bargaining unit employees to facilitate the recruitment or retention of highly qualified professional, technical, or administrative personnel. Such repayments may be up to the maximum allowed under law, rule and regulation. However, loan repayments provided for under this section will only be considered upon establishment of an agency loan repayment plan (reference 5 CFR Part 537.) Upon establishment of an agency loan repayment plan, the Employer will notify the Union pursuant to Article 45 of this Agreement.

Section F. Training for Advancement

1. When training is requested primarily to prepare employees for advancement, or if the requested training would fulfill specific qualification requirements for a position with known promotion potential, selection for such training will be made under competitive promotion procedures, including those contained in Article 21, Merit Promotion. Such training is subject to the Employer's budgetary limitations.

2. Employees in career-ladder positions, who have not yet reached the full performance level, shall not be required to compete for training that the Employer deems is necessary for their accession to the full performance level.

Section G. Variance in Work Hours

Requests for a variance in regular working hours and/or appropriate leave for educational purposes will be given consideration if such variance does not interfere with the workload and the mission accomplishment of the Employer.

ARTICLE 18: EMPLOYEE ORIENTATION

Section A. Orientation for New Employees

The Employer has determined new employees will attend an orientation session, normally, on their entrance on duty (EOD) date.

1. When the Employer holds an orientation session for new employees, the Union may, at its discretion make a 30-minute presentation. Additionally, employees may receive an introductory letter from the Union and a package of materials provided by the Union.

2. The Employer will provide the Union with:

    a. two weeks advance notification of all known orientation sessions. The initial notification will be sent via e-mail to the Union's e-mail account and will include: the date, time, agenda, and location of the session; the entrance on duty date, name, job title and grade of each employee scheduled to attend; the special hiring authority, if any; and the hiring work unit; and

    b. the entrance on duty date, the name, job title, grade; the special hiring authority, if any; and the hiring work unit, of additional new employees (cleared after the initial two week notification was given in Section A.2.a.) by close of business the Friday before the orientation. The secondary notification will be sent to the Union's email account.

3. Employees not given the opportunity to meet with the Union (at their normal EOD orientation) will be given the opportunity to voluntarily attend a 30-minute Union orientation make-up session, provided:

    a. the Union did not receive an orientation notice that includes a bargaining unit employee (pursuant to Section A.2.a); and

    b. an EOD notice (pursuant to Section A.2.b) was not received before the close of business the Wednesday before the orientation session; and

    c. the Union is unable to attend the normal EOD orientation due to the lateness of the Section A.2.b notice.

    The Union will hold its 30-minute monthly employee orientation make-up sessions on the first Wednesday of the month at 10:00 a.m. Subject to workload demands and advance supervisory approval, employees who did not meet with the Union at his/her normal EOD orientation may request to attend an orientation make-up session on official time. Such requests will not be unreasonably denied.

The Union will be represented by the Union President or their designee who will be on official time.

Section B. Negotiated Agreement Availability

At the orientation session, employees will be notified of the availability and location of the negotiated agreement. The Employer will provide written instructions to each new employee regarding accessing the agreement. This access information will be included in the new employee's orientation packet, supplied to all new employees during the orientation presentation. The Employer agrees to answer any related questions posed by the new employee(s).

ARTICLE 19: TRAVEL AND PER DIEM

Section A. Travel

Federal employee travel is governed by the Federal Travel Regulations (FTR) published at Title 41 Code of Federal Regulations, Chapters 300 through 304. FTR are available at the U.S. General Services Administration www.GSA.gov.

1. Approval (Reference FTR 301-2.1.) Generally, all travel must be approved in advance and written or electronic travel authorization obtained prior to beginning travel. If it is not practicable or possible to obtain such authorization prior to travel, your agency may approve a specific authorization for reimbursement of travel expenses after travel is completed.

   Written or electronic advance authorization must always be obtained for (Reference FTR 301-2.5):

   a. Use of other than coach-class service on common carrier transportation;

   b. Use of a foreign air carrier;

   c. Use of reduced fares for group or charter arrangements;

   d. Use of cash to pay for common carrier transportation;

   e. Use of extra-fare train service;

   f. Travel by ship;

   g. Use of a rental car;

   h. Use of a Government aircraft;

   i. Payment of a reduced per diem rate;

   j. Payment of actual expense, unless your agency has issued a blanket actual expense authorization under § 301-70.201;

   k. Travel expenses related to emergency travel;

   1. Transportation expenses related to threatened law enforcement/investigative employees and members of their families;

   m. Travel expenses related to travel to a foreign area;

n. Acceptance of payment from a non-Federal source for travel expenses, see FTR chapter 304 of this subtitle;

o. Travel expenses related to attendance at a conference; and

p. Due to an employee's medical requirements or religious beliefs, payment of the full M & IE allowance even though meals are furnished by the Government either directly or through a registration fee or other payment for a conference or other event, in accordance with FTR 301-11.18(b).

2. Tour of Duty. During travel on a nonworkday that involves an overnight stay, employees, except warehouse examiners, will be placed on a standard work schedule beginning at 8:00 a.m. and ending at 4:30 p.m. (see Article 6, Section C) on the first and last day of travel. (Reference Article 6, Section B.8.d.(3) and Section C.)

3. Scheduling Travel (Reference 5 USC 6101 (b)(2)). To the maximum extent practicable, the Employer will schedule the time to be spent by an employee in a travel status away from his official duty station within the employee's regularly scheduled workweek.

Travel status (Reference FTR 301-11.9):

a. begins on the day the employee leaves their home or official duty station; and

b. ends on the day the employee arrives at their destination or returns to their home or official duty station.

Compensatory time for travel is covered in Article 7B.

4. Advance of Funds (Reference FTR Chapter 301, Subchapter C, Part 301-51, Subpart C-Receiving Travel Advances).

Travel advances may be granted pursuant to the FTR. The Employer will expedite an emergency request for an advance of funds. Employees in a regular travel status may be provided funds for such travel through a regularly maintained travel advance. Travel advance balances will be maintained in accordance with existing requirements.

5. Use of Government Charge Card (Reference FTR Chapter 301, Subchapter C, Part 301-51, Paying Travel Expenses.) Employees must use a Government contractor-issued travel charge card for official travel expenses unless an exemption is granted. Generally, travel charge cards will be issued to all employees who engage in work-related travel prior to beginning travel. The credit card may be used only for expenses incurred in connection with official travel. This includes the use of the card at cash dispensing machines to withdraw appropriate daily per diem expense amounts. Use of the card for other than official purposes may result in disciplinary action. The following are exempt from the **mandatory** use of the card:

a. A vendor does not accept the travel charge card;

b. Laundry/dry cleaning;

c. Parking;

d. Local transportation system;

e. Taxi;

f. Tips;

g. Meals (when use of the card is impractical, e.g., group meals or the Government contractor-issued travel charge card is not accepted);

h. Phone calls (when a Government calling card is available for use in accordance with agency policy);

i. Employees having an application pending for a travel charge card;

j Individuals traveling on invitational travel;

k New appointees;

l. Relocation allowances prescribed under 41 CFR 302 except en-route travel and house hunting trip expenses.

m. Employees who travel five times or less a year. Even though exempt, agencies have the discretion to issue a travel charge card to such an employee.

6. Local Travel. The Employer will reimburse employees for all local work-related travel upon submission of a completed SF-1164.

7. Telephone Calls. Employees should use their government issued cellular telephone or the government telephone system for all authorized telephone calls while in travel status. Authorized telephone calls (reference FSA/FAS Travel Policy and Procedures Manual, Part 7) include:

- Calls made to conduct official Agency business;
- Emergency calls to notify family or doctor of an on-the-job injury or illness;
- Personal calls;
  - if necessary, on the first or last day of travel when a travel schedule change occurs; or
  - to check on family or residence

If the use of the Government telephone system is not possible, employees:

- issued a Government telephone card must use it for all authorized calls, except, if the telephone service does not function properly using the card. Generally, Government telephone cards will be issued to all employees who engage in work-related travel prior to beginning travel. Use of the card for other than official purposes may result in disciplinary action.
- not issued a Government telephone card must use the commercial telephone system such as a pay phone or hotel room phone.

Reimbursement for costs incurred in using cellular telephones on official business should be made when:

- it has been determined that the employee qualifies for reimbursement because of the nature of the job
- charges were incurred while transacting official business
- no other means of communication, such as public telephones or a Government telephone system, were available
- all calls and charges were certified by the employee and verified by the approving official

8. Extended Travel. The Employer will attempt to minimize extended travel (more than two weeks).

9. Travel Service (Reference FTR Chapter 301, Subchapter C, Part 301-50, Arranging for Travel Services.) Employees must use the agency provided travel management services to make travel arrangements for common carrier transportation, lodging, and rental car(s), except in situations wherein such services have been pre-arranged (e.g., some conference fees include lodging). Employees are responsible for any additional costs resulting from the use of an unauthorized travel agency. If use of the established travel management service is not convenient due to time constraints or similar exigencies, common carrier services may be purchased directly from the common carrier using the traveler's Government-issued charge card. No other means of procuring common carrier services are permitted by law. Use of other means may result in a claim for reimbursement being denied.

10. Travel Related Duties. With supervisory approval, employees may complete their assignments including; reading official correspondence received while in travel status, filing pertinent correspondence, entering time in WebTA and ARS, completing travel vouchers, reviewing memos, and preparing miscellaneous reports at the TDY site, motel, or their official duty station. Approval should not be arbitrary or denied as disciplinary action.

11. Travel Related Duties at Official Duty Station. Employees returning after extended travel will be allowed up to two hours at their official duty station to perform the tasks listed in Section A.10.

Section B. Per Diem

1. Reimbursement. Employees will be reimbursed in accordance with applicable travel laws and regulations (including Comptroller General decisions) for reasonable expenses incurred by them in the discharge of their official duties.

2. Standard of Care (Reference FTR 301-2.3.) Pursuant to Federal Travel Regulations, employees are expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. Indirect travel routes or en route delays, luxury accommodations, use of noncontract carriers and unusual services or expenses must be authorized in advance on approved travel authorizations in accordance with established regulations and procedures. Employees are responsible for paying excess costs.

3. Voluntary Return. An employee who is assigned to training or temporary duty outside their regular duty station, who elects to return home during nonworkdays, will be reimbursed for travel not to exceed the amount reimbursable for the per diem had the employee remained away from home as otherwise required by training or the duty assignment. If this occurs, the employee shall not receive per diem for the nonworkdays.

Section C. Privately-owned Vehicles

1. In the event the use of a privately-owned vehicle (POV) is justified, mileage for such use will be compensated at the prevailing rate published in the Federal Register.

2. When an employee is authorized to use a POV for official business and that vehicle sustains damage, the employee may file a claim in accordance with 31 CFR.

Section D. Illness

When an employee in travel status becomes ill, the supervisor will be notified as soon as possible and appropriate reasonable action will be taken.

Section E. Personal Use of Frequent Traveler Benefits

Promotional items (including frequent flyer miles, upgrade, or access to carrier clubs or facilities) an employee receives as a result of using travel or transportation services procured by the Employer may be retained by the employee for personal use if the item is obtained under the same terms as those offered to the general public and at no additional cost to the Employer.

Section G. Warehouse Examiners

Unless otherwise noted, all other sections of this Article apply to Warehouse Examiners.

1. Warehouse examiner may remain on a variable week schedule while traveling.

2. If extended travel is necessary for warehouse examiners, the Employer will normally offer it on a volunteer basis. If there are no volunteers or use of the volunteer(s) would result in excess cost, the Employer will select the appropriate examiner(s).

    a. Warehouse examiners will normally be given 15 days notice of extended travel. Notice will include the proposed itinerary, mode of transportation, and departure date. If significant change in the notice is required before the seventh day, the affected examiner will normally be given another seven-day notice.

    b. If the examiner has been away from home for two weeks and has at least one more week in travel status, they may return home once during nonworkdays at the Employer's expense, if the cost of the travel does not exceed the amount reimbursable for the per diem had the examiner remained away from home. If the travel is scheduled for more than three consecutive weeks the examiner will be allowed to return home at the end of the third week on official time and at the Employer's expense.

3. Warehouse examiners may request a government-furnished vehicle (GFV) for official use. However, General Services Administration (GSA) may require extended advance notice for long-term use. The examiner must agree to a three-year commitment for the GFV and sign necessary GSA forms, including garaging.

4. If a warehouse examiner has legitimate health or safety concerns about riding with another examiner, the employer will not require carpooling.

ARTICLE 20: CAREER PROMOTIONS

Section A. Performance

An employee in a career-ladder will be promoted on a first full pay period after:

1. The employee becomes minimally eligible to be promoted after one year or whatever lesser period satisfies basic eligibility requirements; and

2. The employee is certified as demonstrating the potential for satisfactory performance at the next higher level. In this regard, the supervisor must make this determination prior to the date the employee is minimally eligible to be promoted; and

3. The employee's current performance appraisal record is at the "Fully Successful" or better level; and

4. All other requirements of law and regulations are met.

ARTICLE 21: MERIT PROMOTION

Section A. Promotion Policy/First Consideration

1. This Article provides procedures to give consideration to all employees for advancement opportunities. The Employer will apply the principles and policies of equal employment opportunity and affirmative action with regard to selection decisions and especially in regard to situations in which under representation of protected groups has been identified and affirmative action goals established. The Employer will refer to the agency wide Affirmative Employment Plan (AEP) or applicable local AEP for guidance.

2. Displaced or surplus employees covered by the Career Transition Assistance Program (CTAP) in effect on the effective date of this agreement must be given selection priority pursuant to 5 CFR 330.606. This selection priority will be provided only to the extent that the CTAP regulations are in effect, and will be terminated with the expiration of the CTAP regulations. Kansas City FSA employees and warehouse examiners will receive two workdays first consideration for bargaining unit vacancies pursuant to this Article. This does not prevent the Employer from concurrently soliciting applications from outside sources including permanent FSA county employees. Selection or nonselection from a promotion certificate is not a basis for a grievance, absent prohibited personnel practices.

3. The Employer has the right to use all sources, recruitment flexibilities and special hiring authorities authorized by the Office of Personnel Management (OPM) to fill vacancies. Appropriate sources for recruitment include such things as reemployment priority lists, reinstatements, transfers, persons with disabilities, or Veteran Recruitment Act eligibles or those within reach on an appropriate OPM certificate.

Section B. Types of Actions Covered

This section contains the types of personnel actions that are covered by this Article.

1. Competitive promotions;

2. Reassignment or demotion to a position with more promotion potential than a position previously held by an employee on a permanent basis in the competitive service (except as permitted by reduction-in-force regulations) (see Note);

3. Transfer to a higher-graded position or a position with more promotion potential than a position previously held by an employee on a permanent basis in the competitive service (see Note);

4. Reinstatement to a permanent or temporary higher-graded position or a position with more promotion potential than a position previously held by the employee on a permanent basis in the competitive service (see Note);

5. Selection for detail for more than 60 days to a higher grade position or to a position with higher promotion potential;

6. Selection for training that is any of the following:

    a. part of an authorized training agreement

    b. part of a promotion program, although the promotion may not immediately follow the program

    c. required before an employee may be considered for a promotion as specified in Sec. 410.302 of the CFR;

    d. part of the Career Enhancement Program; or

    e. designed primarily to prepare employees for advancement or to fulfill specific qualification requirements for a position with known promotion potential.

7. Temporary (time-limited) promotion for more than 60 days to a higher-graded position or a position with higher promotion potential. (see Note); and

8. Term (time-limited) promotion for more than 60 days to a higher-graded position or a position with higher promotion potential (see Note).

NOTE: Agencies may noncompetitively reinstate, transfer, reassign, demote or promote an employee to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis, provided the employee was not demoted or separated from that grade because of deficiencies in performance or "for cause" reasons.

Section C. Types of Actions Not Covered

This section contains personnel actions that are not covered by this Article.

1. Promotion resulting from an employee's position being classified at a higher grade due to accretion of duties and responsibilities assigned to the position over a period of time which results in an inaccurate position classification.

2. Career-ladder promotion when an employee was previously selected for an assignment intended to prepare them for the position being filled. Sources of selection may be:

a. an OPM certificate

b. a list of employees issued under delegated examining authority

c. selection under competitive promotion procedures

d. special placement programs; or

e. any other direct hire authority.

3. Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons pursuant to 5 CFR 335.103.

4. Temporary promotion or detail, not longer than 60 days, to a higher-graded position or to a position with known promotion potential.

5. Detail for up to one year at the same or lower grade pursuant to 5 CFR 300.301.

6. Promotion resulting from upgrading a position, without significant changes in the duties or responsibilities, because of either the issuance of a new classification standard or the correction of an initial classification error.

7. Action taken as a remedy for failure to receive proper consideration in a competitive promotion action.

8. Promoting an employee upon exercise of reemployment rights if the employee's former position was reclassified during their absence.

9. Selection of a candidate from the Reemployment Priority List for a position up to the highest grade previously held in the competitive service pursuant to 5 CFR 330.206.

10. Position change permitted by Reduction-in-Force (RIF) regulations.

11. Competitive selection from an appropriate OPM certificate pursuant to 5 CFR 335.103(b)(4).

12. A temporary (time-limited) promotion for 60 days or less to a higher-graded position or to a position with known promotion potential.

13. Voluntary change to a lower grade with the same or less promotion potential than previously held under the competitive service.

14. A position change from a position having known promotion potential to a position having no higher potential.

15. A temporary (time-limited) promotion may be made permanent without further competition if both of the following apply:

    a. the promotion was originally made under competitive procedures

    b. there was a statement on the vacancy announcement that the promotion may become permanent.

16. Promotion to a grade or position from which an employee was demoted as a result of RIF.

Section D. Minimum Area of Consideration

The minimum area of consideration will be all permanent FSA employees in the Kansas City commuting area and all warehouse examiners in the field.

Section E. Vacancy Announcements

The Employer will utilize the Agency-wide automated system for all solicitations and application processes.

1. Vacancy announcements will:

    a. be posted Tuesday through Friday for a minimum of ten workdays; and

    b. include the closing time on the last workday; e.g. 10:59 central time.

2. Announcements will be:

    a. posted electronically on the OPM website and disseminated to all employees (including warehouse examiners) by electronic mail;

    b. distributed to disabled employees through a reasonable accommodation.

3. A copy of each bargaining unit vacancy announcement, amendment, and/or cancellation will be provided to the Union at the time of its issuance. An explanation will be provided for any cancellation.

4. Announcements shall contain the following:

    a. vacancy announcement number

    b. opening and closing dates

c. identification of position

d. location of position

e. promotion potential

f. statement of principal job duties

g. contact person

h. qualification requirements including general and/or specialized experience

i. area of consideration

j. selective placement factors, if any

k. evaluation method to be used

l. tour of duty

m. EEO statement

n. statement that the position is in the NTEU bargaining unit

o. exception to length of experience and modification of an OPM qualification standard, if applicable

p. time-in-grade requirement, if any

q. application procedures

r. disqualification statement

s. postage-paid envelope statement

t. statement of whether or not relocation expenses will be authorized. The announcement may not be silent on this point

u. application procedures for special placement programs (e.g., VRA, Americans with Disabilities)

v. number of positions

w. statement of whether or not recruitment incentives may be authorized. The announcement may not be silent on this point.

5. Vacancies will be announced at not more than two grade levels.

Section F. Application Procedures

1. Employees who wish to be considered for an announced vacancy must apply by submitting all application materials in accordance with the instructions in the vacancy announcement.

2. Failure on the part of the employee to submit the required documentation will result in disqualification for the advertised position.

3. Candidates applying noncompetitively who wish to be considered for the announced vacancy may apply by using the automated system and answering the assessment questions. The assessment score will only be used if it is determined that the candidate is required to compete.

Section G. Employees on Extended Absences

Employees who are on extended absence for reasons beyond their control and without reliable internet access may authorize a personal representative to apply for vacancies through the online system on their behalf.

Section H. Minimum Qualifications

1. The Employer will review the employees' application package to determine if the applicant meets the minimum qualification requirements for the position, as stated in the vacancy announcement.

2. Employees must meet all of the requirements as stated in the vacancy announcement by the closing date in order to be considered basically eligible.

3. All applicants will be notified as to the status of their application.

4. Employees must have a current summary rating of record of "fully successful" or better. If an employee does not have a rating of record, a rating of "fully successful" will be assigned for purposes of this Article.

5. The Employer will use selective placement factors in determining eligibility when they are essential to successful performance in the position to be filled.

Section I. Assessment Methods

1. Evaluation criteria are established using the position description and relevant subject matter expertise to determine job related questions.

2. The Employer has determined that, generally, employee's responses to the assessment questions will be evaluated and considered for determining placement on, or exclusion from, the Best Qualified List.

    a. An assessment question library (AQL) will be established. The AQL will consist of questions available for use on bargaining unit job postings.

    b. The Employer will afford the Union an opportunity to provide input on potential assessment questions prior to including the questions in the AQL.

    c. Assessment questions for vacancy announcements must be drawn from the AQL.

3. If the Employer determines that an alternative assessment method will be used, the union will be given the opportunity for input prior to its use.

4. Prior to the implementation of this Section I, the Union will be provided with 30 workdays to review and evaluate existing assessment questions. Thereafter, the Union will be given sufficient time (as shown below) to provide input regarding new assessment questions:

New Questions	Workdays Allowed
1-3	3
4-7	7
7-10	10
>10	15

Section J. Ranking Applicants

1. All applicants are rated on the extent and quality of experience, education, and training relevant to the duties of the position.

2. The automated system ranks applicants based on the weights established by the Employer.

3. Before any certificate can be issued to the selecting official, the resume is reviewed by an HR Specialist to assure that:

    a. minimum qualification requirements are met; and

    b. the resume supports the answers provided to the job-specific questions.

4. The Selecting Official may request from the HR specialist an investigation of the accuracy of any statement provided by an employee. False statements are punishable by law.

Section K. Determination of Best-Qualified

1. Best-qualified candidates are those applicants who receive the highest ratings above a discernable level in the evaluation process.

2. Up to seven candidates may be certified for each grade level if a discernable level cannot be made among a smaller number.

3. If more than one applicant receives the same ranking score for the lowest qualifying position on the promotion certificate, all candidates with that score will be referred.

4. If more than one selection is made, the next highest ranked applicant will be added to the promotion certificate, but only if there are less than seven candidates remaining.

Section L. Promotion Certificate

1. The first promotion certificate with best-qualified candidates referred to the selecting official shall contain only permanent FSA employees in the Kansas City commuting area and warehouse examiners in the field from the minimum area of consideration referenced in this Article. No additional candidates shall be referred to the selecting official for two workdays after the initial promotion certificate is provided.

2. The promotion certificate will list the names of the best-qualified candidates in alphabetical order and noncompetitive referrals in alphabetical order on a separate certificate.

3. The promotion certificate(s) will remain valid for 60 days from the date it was originally issued. In the event an identical vacancy (same grade level and job series) occurs within the original area of consideration during the 60 day period, the certificate(s) may be used to fill the subsequent vacancy(s) without advertising the subsequent vacancy.

4. The selecting official is entitled to make a selection from any candidate(s) listed on the promotion certificates based on his/her judgment of how well the candidate(s) will perform in the position being filled.

5. The selecting official may use any appropriate selection technique, provided that all techniques are uniformly applied to all BQL candidates.

6. Interview questions may be provided to applicants in advance, provided that if this is done for one interviewee, it must be done for all.

7. The selecting official has the option to either interview or not to interview the best-qualified candidates on a promotion certificate(s). If one best-qualified candidate is interviewed, then all best-qualified candidates must be interviewed.

8. Noncompetitive referrals need not be interviewed, nor must the selecting official interview all noncompetitive referrals if they interview one.

9. A selected candidate will normally be released to enter on duty in the new position no later than one pay period after selection. The Employer may extend the normal release date. In any case, the Employer agrees to pay at the new rate beginning with the first full pay period after the date of selection.

10. The selecting official will make a decision to select as soon as possible but not later than 60 days from the date of issuance of the BQL.

Section M. Information Available to Employees

Upon request, employees will be furnished the following information about a specific action:

1. HR will provide;

    a. if they were considered and basically qualified,

    b. whether they were among the best-qualified and how they scored

    c. scores of other candidates (not identified by name),

    d. number of qualified candidates,

    e. number of best-qualified candidates,

    f. who was selected,

    g. cut-off score.

2. Upon request from the employee, the Selecting Official will individually discuss the basis for nonselection. This discussion is not a basis for a grievance, absent prohibited personnel practices.

Section N. Miscellaneous

A candidate's leave balance will not affect the selection consideration.

Section O. Remedial Actions

Promotion violations will be remedied in accordance with the provisions of the Agreement and with applicable law.

Section P. Career Opportunities

1. The Employer recognizes that certain positions provide employees with opportunities to develop to their full potential.

2. The establishment of these positions depends on the existence of available and specific work.

3. The Employer and the Union (NTEU) will meet to discuss career opportunities at the Labor Management Relations Committee.

ARTICLE 22: REASSIGNMENTS

Section A. Definition

For purposes of this Article, the term "reassignment" means the noncompetitive change of an employee for an indefinite period to another position with the same grade and promotion potential.

Section B. Purposes

1. The Employer may reassign employees for purposes that will promote the efficiency of operations and/or for such reasons as to assure the better utilization of employee skills or abilities, to make the best use of current staff, to provide employees with opportunities to broaden their qualifications and experience in the work performed by the Employer, to resolve work-related problems and to comply with employee requests.

2. Reassignments may be used for cross-training; however, reassignments for the sole purpose of preparing an individual for a higher-graded position must meet merit promotion principles.

Section C. Procedures

1. The Employer agrees to give an employee who is going to be reassigned as much notice as possible before effecting a reassignment.

2. If the reassignment involves a change in duty station outside the KC Complex, the Employer agrees to give the employee a reasonable amount of time to accomplish the change in duty station in an orderly manner.

3. Involuntary reassignments will only be made to promote the efficiency of the service, and will be done according to law, rule and regulation. Upon request, a written justification will be provided to the employee prior to effecting an involuntary reassignment. When possible, prior to effecting an involuntary reassignment, the Employer agrees to consider qualified volunteers.

4. When an employee is reassigned to a different position, the employee will be given a reasonable period of time in which to demonstrate proficiency, including a reasonable training period, if appropriate.

Section D. Undue Hardship

When the designated employee indicates that the reassignment will result in undue personal hardship, the Employer will give reasonable consideration to the employee's claims.

ARTICLE 23: DETAILS

Section A. Definition

For the purposes of this Article, the term "detail" means the temporary assignment of an employee to another position at a lower grade, the same grade, or a higher grade with the same or different promotion potential. Upon completion of a detail, the employee will be expected to return to their pre-detail position.

Section B. Procedures

1. General.

   a. Pursuant to Article 17, the Employer may use details to meet mission-related organizational and employee development needs.

   b. Employees who want detail opportunities are responsible for notifying their supervisor in writing. Employees are encouraged to send copies to their union representative. Volunteering for a detail does not guarantee one.

   c. The Employer has determined that details will normally start at the beginning of a pay period.

   d. Assignment to or removal from details will not be used in lieu of disciplinary or adverse actions.

   e. Detail assignments will generally not exceed 120 days.

   f. Detail assignments designed primarily to prepare employees for advancement or to fulfill specific qualification requirements for a position with known promotion potential will be subject to competitive procedures.

   g. Upon request, the Employer will provide the Union with a sanitized copy of the SF-52 relating to a specific detail for more than 30 days. The request will be submitted to the employee's supervisor of record.

2. Details to a Higher Graded Position.

   a. The Employer agrees that an employee detailed to a higher-graded position for more than 30 days will be temporarily promoted to, and paid for, working at the higher grade until returned to his/her previous position provided the employee meets the appropriate qualification standards and time-in-grade requirements.

   b. Details to a higher-graded position or a position with greater promotion potential

for more than 60 days will be subject to competitive procedures.

c. Detail assignments will only be made to promote the efficiency of the service, and will be done according to law, rule and regulation.

3. Details to the Same Grade or Lower. Merit promotion procedures do not apply when the detail is to a position of the same or lower grade and promotion potential.

Section C. Records and Documents

1. Details for periods exceeding 30 days will be recorded and placed in the employee's permanent Official Personnel File. Such a detailed employee will also be provided with a copy of the position description for the position they are detailed to and a performance plan indicating the critical elements of the position.

2. Detail assignments longer than 30 days will be documented with a SF-52, Personnel Action Request. The SF-52 will include a not-to-exceed date. A SF-52 will be issued to show the termination of the detail assignment.

3. The employee's detail supervisor will provide an assessment of the employee's performance under the detail assignment, if requested by the employee. Employees detailed for more than 90 days will receive an Interim Rating when the detail is terminated.

4. The Employer has determined that the detailed employee's first line supervisor will normally continue to perform routine personnel functions for the employee, including time and attendance and performance appraisals. The Employer will notify the employee if any individual other than the first line supervisor performs these functions for more than one pay period.

Section D. Return to Original Assignment

Upon return to their position, the employee will be given reasonable time to become acquainted with any changes which have occurred during their absence.

ARTICLE 24: PART-TIME/SHIFT EMPLOYEES

Section A. General

The Employer and the Union agree that all of the provisions of this Agreement apply to part-time and shift employees, except as stated herein.

Section B. Part-time Employees

The Employer recognizes the benefit of part-time employment to both the Agency and employees in those situations where mission accomplishment permits such arrangements. Employees may request information concerning the impact of the conversion from full-time to part-time employment in the areas of retirement, reduction-in-force, health and life insurance, promotion, and step increases.

1. Requests to work full or part-time. The Employer will consider employee requests to work part-time or full-time if such conversion is in the Employer's interest. If the request is denied, upon request, the Employer will provide written justification within 15 workdays.

2. Requests must be in writing. Employee requests for part-time or full-time employment must be made in writing to the Employer.

3. Employee acceptance of part-time employment. Employees will sign a statement indicating acceptance of part-time employment conditions.

4. Filling full-time positions. The Employer will give strong consideration to filling full-time positions with qualified part-time employees.

5. Scheduling/changing nonpay day off. Employees may request, in writing, to initiate or change their nonpay day off by March 15, June 15, September 15, and December 15 of each year. During the quarter, employees may request one change to their variable week schedule. However, employees may not utilize this provision if the new requested day off would result in holiday pay that they would not otherwise receive.

6. Holidays. When a holiday mandated by Federal Statute, or an excused absence by Executive Order, falls on a part-time employee's scheduled day off, the employee is not entitled to holiday pay or an in-lieu of day for that holiday. If a part-time employee is relieved or prevented from working their scheduled tour of duty on a holiday, they are entitled to basic pay for the number of hours the employee is scheduled to work not to exceed eight hours.

7. Family Friendly Leave Act. The amount of sick leave that a part-time employee may use shall be equal to the average number of hours they are scheduled to work each

week. In addition, a part-time employee who maintains a sick leave balance equal to their tour of duty each pay period, may use additional sick leave equal to the average number of hours of sick leave they normally accrue during the leave year.

8. Court or military leave. When an employee goes on court or military leave, the employee is considered to be on their scheduled tour of duty to be worked and/or accounted for during the pay period.

Section C. Shift Employees

The Employer and the Union agree there is a need for shift work in those situations where mission accomplishment requires such an arrangement.

1. a. Regular Workday (Monday - Friday):

Shift 1: 7:00 am to 5:00 pm
Shift 2: 3:00 pm to 1:00 am
Shift 3: 11:00 pm to 9:00 am

b. Lunch Band:

Shift 1: 11:30 am to 1:00 pm
Shift 2: 7:30 pm to 9:00 pm
Shift 3: 3:30 am to 5:00 am

2. a. Saturday and/or Sunday Regular Workday (fixed tour):

Shift 1: 7:00 am to 3:30 pm
Shift 2: Noon to 8:30 pm
Shift 3: 3:30 pm to Midnight (if required)

b. Lunch band:

Shift 1: 11:30 am to 1:00 pm
Shift 2: 4:00 pm to 5:30 pm
Shift 3: 7:30 pm to 9:00 pm

3. Swing shift employees may use an hour of annual leave or work an added hour at the time of conversion to daylight savings time so as to maintain their regular eight-hour shift.

4. The Employer agrees that employees will work the same tour of duty within the period of seven consecutive days beginning with Sunday, unless it is required for the Employer to accomplish its mission.

a. Employees will be given at least 14 days notice prior to any significant change in their shifts.

b. The Employer will give consideration to an employee's request to change shifts due to hardship.

5. Variable Week Schedule.

a. Unless on approved leave, credit hours, or scheduled lunch period, all shift employees must be present for core time from:

Shift 1: 8:00 am to 3:30 pm
Shift 2: 4:00 pm to 11:30 pm
Shift 3: 12:00 am to 7:30 am

b. Shift employees may expand their lunch period within the designated lunch band, in 15 minute increments up to one hour, with advance supervisory approval, and make it up at the end of their shift.

c. Work performed in order to earn credit hours will not begin prior to the start time, or extend beyond the ending time as stated above (C.1.).

d. Shifts 2 and 3 must sign-in and out on the quarter hour.

6. Shift length will be set at six-week rotations.

7. Shift Exchanges.

Excluding emergencies, employees may request shift exchanges subject to the conditions specified below:

a. No employee may serve on any shift more than two consecutive rotations.

b. The desired exchange must:

(1) take place at the start of a pay period
(2) last for a minimum of one pay period
(3) be for one, two, or three pay periods within a given six-week shift rotation
(4) not overlap or extend beyond the regularly scheduled six-week rotation.

c. A written request, signed by both employees, must be submitted to the designated receiving point at least seven days prior to the effective date of the desired exchange.

d. Both employees must be of the same grade, have similar performance capabilities and expertise, and not be under any type of formal or informal performance review.

e. A response will be provided three work days after the date of the submitted exchange request.

ARTICLE 25: PROBATIONARY AND TEMPORARY EMPLOYEES

Section A. Definitions

1. A probationary employee is an employee who has been given a career or career-conditional appointment, is serving their first year of federal service, and meets the further requirements described in FPM, Subpart H, Section 315.801.

2. A temporary employee is an employee whose appointment is made for a limited period of time with a specific not-to-exceed (NTE) date determined by the authority under which the appointment is made.

Section B. Procedures for Probationary Bargaining Unit Employees

1. The Employer agrees, upon request, to advise a probationary employee of their performance progress at any time after expiration of the first six months of the probationary period but no later than the end of the tenth month of the probationary period.

2. When the Employer decides to terminate an employee serving a probationary period because the employee's work performance or conduct during this period fails to demonstrate fitness or qualifications for continued employment, the Employer shall terminate the probationary employee by notifying them of why they are being separated and the effective date of the action.

3. The Employer will meet with an affected probationary employee upon written request and/or accept a written statement relating to the termination, whether or not the employee is on the rolls, within 15 days of the employee's receipt of the notification of termination. If the employee elects both, the written statement must be delivered to the Employer on or before the date of the meeting. If a meeting is held, the employee may be accompanied by a Union representative.

4. The affected employee will be advised in writing by the Employer whether the decision to terminate is sustained or rescinded after considering the employee's written statement or oral statement made at the meeting.

   The Employer will allow a probationary employee the opportunity to resign their position in lieu of termination unless the needs of the service, time, or the availability of the probationary employee dictate otherwise.

5. To the extent permitted by applicable law, rule, and regulation, probationary employees shall have the right to appeal their termination to the Merit Systems Protection Board, or, if the employee believes that their termination is based on discrimination, the employee may file an EEO complaint.

Section C. Procedures for Temporary Bargaining Unit Employees

1. Pursuant to laws and regulations, temporary employees with appointments of 90 days or more are entitled to the rights and benefits of this Agreement, unless otherwise excluded elsewhere in this Agreement.

2. When an individual is hired as a temporary employee for a position which is in the bargaining unit, the employee will be notified of the duration of the appointment.

3. If the temporary employee is being terminated because their performance or conduct is below satisfactory, the Employer will allow the employee the opportunity to resign in lieu of termination unless the needs of the service, time, or the availability of the temporary employee dictate otherwise.

Section D. Consultation

Any probationary or temporary employee may consult with the Union regarding their termination.

Section E. Grievability

Nothing in this Article shall afford the probationary or temporary employee the opportunity to grieve a termination under the provisions of this Article.

Section F. Conversion of Temporary Employees

In the event there is an opportunity to convert a temporary employee to career conditional status, the following employees will be considered:

1. Employees having reinstatement eligibility.

2. Employees eligible under Veterans Readjustment Act.

3. Employees appointed under special emphasis programs for persons with disabilities.

4. Employees on an OPM certificate for career conditional appointments.

5. Employees otherwise eligible under provisions contained in 5 CFR 315.

ARTICLE 26: REDUCTION-IN-FORCE

Section A. Application and Use of Regulations

The Employer and the Union are committed to taking all steps practicable to lessen the adverse impact of a Reduction In Force (RIF) on bargaining unit employees (such as reduction in travel, training, reduction of contracts with consultants and contractors and other expenses not critical to the mission of the agency). This Article contains information and procedures relating to the RIF of any bargaining unit employee represented by NTEU Chapter 264. A RIF will be carried out in accordance with applicable laws, rules, and regulations, including but not limited to, 5 USC, and 5 CFR 351 and the Career Transition Assistance Program (CTAP) and the Interagency Career Transition Assistance Program (ICTAP) in effect at the time a Reduction In Force is directed. Relevant legal and regulatory citations in effect at the onset of this agreement have been provided where appropriate. However, this Article does not contain all information that may be useful to employees in the event of a RIF. Employees are encouraged to conduct research and obtain additional information from appropriate sources such as the Office of Personnel Management, Human Resources Office (HRO), Internet sites, etc.

Section B. Actions Not Covered

This Article does not apply to:

1. the termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay.

2. a change to lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error.

3. a change to lower grade based on reclassification of an employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after the Employer has formally announced a RIF in the employee's competitive area and when the RIF will take effect within 180 days. This exception ends at the completion of the RIF.

4. placement of an employee serving on an intermittent, part-time, on-call, or seasonal basis in a nonpay and nonduty status in accordance with conditions established at time of appointment.

5. a change in an employee's work schedule from other-than-full-time to full-time. (A change from full-time to other than full-time for a reason covered in 5 CFR 351.201(a)(2) is covered by this Article.)

6. Any Transfer of Function that the Employer may wish to do in connection with an announced RIF and/or reorganization.

Section C. Definitions

1. Assignment Rights . An employee's right to be assigned to a position occupied by another employee instead of being furloughed or separated (see 5 CFR 351, subpart G.)

2. Certificate of Expected Separation (CES) or other notice. Pursuant to 5 CFR 330.607. A written notification to an employee that they are likely to be separated by a Reduction-in-Force (RIF).

3. Competitive Area. Pursuant to 5 CFR 351.402. The area in which employees compete for retention. Defined in terms of the organizational unit(s) and geographical location. The competitive area for a RIF under this article is the Kansas City commuting area.

4. Competitive Levels. Pursuant to 5 CFR 351.403. Generally, competitive levels will consist of all positions in the competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that the Employer may reassign the incumbent of one position to any of the other positions in the level without undue interruption.

5. Displaced Employee. Pursuant to 5 CFR 330.604(c). A current career or career conditional competitive service employee in tenure group 1 or 2, at grade levels GS-15 or equivalent and below, who has received a specific reduction in force (RIF) separation notice.

6. Order of Release. The order in which employees are released from a competitive level. Generally, the Employer will release employees from a competitive level in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register, pursuant to 5 CFR 351.601. The Employer may exercise permissive continuing exceptions pursuant to 5 CFR 351.607. When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the Employer may select any tied employee for release, pursuant to 5 CFR 351.601(c).

7. Reduction In Force (RIF). The release of a competing employee from their competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment or restoration rights or reclassification of an employee's position due to erosion of duties when it occurs within 180 days of a formally announced RIF in a competitive area.

8. Reorganization. Pursuant to 5 CFR 351.203. The planned elimination, addition, or redistribution of functions or duties in the organization.

9. Retention Register. A list of employees in the same competitive level. Employees are listed in the order they may be retained, from highest standing to lowest. See 5 CFR 351.404.

10. Retention Standing. An employee's position on the retention register. Pursuant to 5 CFR 351.501 through 504, competing employees will be classified on the retention register on the basis of their tenure, veteran preference, and length of service (augmented by performance) within their subgroup.

11. Surplus Employee. Pursuant to 5 CFR 330.604(i). An employee who has received a certificate of expected separation or other official certification issued by the agency indicating that the position is surplus, for example, a notice of position abolishment, or a notice stating that the employee is eligible for discontinued service retirement.

12. Tenure. The type of appointment an employee has; that is, career, career conditional, or term appointment.

13. Transfer of Function. Pursuant to 5 CFR 351.203. The transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is being performed to another commuting area.

14. Veteran's Preference. Preference based on an employee's military service or their relationship to a disabled or deceased veteran.

Section D. Conducting a RIF

If the Employer determines that a RIF is necessary, the following steps will be taken. Some steps may be taken concurrently.

The Employer will:

1. notify the Union that a RIF appears imminent and that employees will be contacted by the Employer to validate their records

2. notify employees of an impending RIF and advise them that they will be contacted to validate their records. Employees are advised to check their records upon receipt of this initial notice. This notice will also inform employees of the place where the employee may inspect the regulations and records pertinent to their case.

3. arrange for joint management-union informational meeting(s) with all potentially impacted employees. The Employer will provide space and other reasonable supplies for the meetings. These meetings will be scheduled at dates and times mutually agreed to by the parties. The topics to be covered at this meeting include briefing employees on this RIF article, procedures, benefits, rights, and related matters.

4. provide employees, at their home address, with a printout of personal data for review and verification, no less than 45 days prior to the issuance of their specific RIF notice. Employees should pay particular attention to their Service Computation Date (SCD), veteran preference status, and previous three ratings. If a change is required, the employee should contact the HRO. Human Resources will make the correction, and annotate, initial and date the changes and return a copy to the employee.

5. request employees to review and verify the accuracy of their work history. Employees will be encouraged to update their qualifications through the submission of updated, resumes and/or OF 612's. Employees are responsible for maintaining up-to-date records of all previous experience in their Official Personnel Folder. This is especially important for experience gained outside the federal government. This experience becomes significant during a RIF in that it could provide an employee the necessary qualifications to qualify for a different position and possibly avoid separation.

6. review employee e-OPF's for completeness and accuracy.

7. prepare the retention register showing the order of release. The Union will be provided with a copy of the final retention register used to issue specific notices. The retention register will contain the following information and will be prepared from the current retention records of employees.

    a. Tenure. The retention register will show an employee's tenure as of the effective date of the RIF. There will be three major tenure groups designated by Roman numerals I, II, and III.

        (1) Group I: Includes career employees not serving on probation. For tenure grouping, "probation" does not include those employees serving the 1-year probationary period for new supervisors or managers.

        (2) Group II: Includes career-conditional employees. This tenure group also includes career employees serving a probationary period because they have received a new appointment from an OPM certificate of eligible employees.

        (3) Group III: Includes employees serving under term appointments, temporary appointments pending establishment of a register (TAPER appointments), status quo appointments, and other nonstatus, nonpermanent appointments.

    b. Veteran Preference. After employees are placed in a tenure group (I, II, or III), they will be divided into one of three veteran preference subgroups within their

tenure group.

(1) Subgroup AD: Employees entitled to veteran preference with a compensable service-connected disability of 30% or more.

(2) Subgroup A: All other employees entitled to veteran preference.

(3) Subgroup B: Employees not entitled to veteran preference.

The retention register will show an employee's veteran preference subgroup within their tenure group as of the date of the RIF. Some spouses, widows, widowers, and mothers of disabled veterans may get derivative preference connected to the death or total disability of a veteran.

c. Length of Service. After employees are placed in the proper tenure group/veteran preference subgroup, the Employer will determine each employee's creditable service. The length of service is determined by the employee's service computation date (SCD). An employee's SCD is determined by their current service plus any prior civilian or military service. The retention register will list employees within each tenure group/veteran preference subgroup from the earliest SCD to the latest (most recent.)

d. Credit for Performance. After the Employer has determined the employee's SCD, it must be adjusted to give credit for performance. Credit for performance is based on the mathematical average (rounded in the case of fractions to the next higher whole number) of the value of the employee's last three actual Federal annual performance ratings of record received during the 4-year period prior to the date of issuance of specific RIF notices. An employee who has not received any rating of record during the 4-year period shall receive credit for performance based on the modal rating for the summary level pattern that applies to the employee's official position of record at the time of the RIF.

(1) A modal rating is defined as the summary level assigned most frequently among the actual ratings of record that are:

(a) assigned under the summary level pattern that applies to the employee's position of record on the date of the RIF;

(b) given within the same competitive area, or a the agency's option within a larger subdivision of the agency or agency wide; and

(c) on record for the most recently completed appraisal period prior to the date of issuance of RIF notices or the cutoff date specified in subsection C. 7. d. (5), after which no new ratings will be put on record.

(2) An employee who has received at least one but fewer than three previous ratings of record during the 4-year cycle shall receive credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received.

(3) If an employee in a competitive area has ratings of record under more than one pattern of summary levels, the Employer will provide additional years of service in accordance with the following:

USDA Rating Pattern	Level 1 Unacceptable (Results Not Achieved)	Level 2 Marginal*	Level 3 Fully Successful (Results Achieved)	Level 4 Superior*	Level 5 Outstanding*
Pattern A 2 Tier PAS	0	NA	16	NA	NA
Pattern H 5 Tier PAS	0	0	14	16	18
* Or its equivalent Note: NA means not applicable to the rating pattern, i.e., the level is not used in that pattern. The numbers represent the number of years to be credited for a rating at that level and under that pattern.					

Examples:

1- An employee on a 5-tiered system (Pattern H) whose last three annual performance ratings of record were Outstanding, Superior, and Superior would have a total of 17 years (18 + 16 + 16 = 50, divided by 3 = 16.7, rounded to next higher whole number) added to his or her length of service for RIF purposes.

2- An employee whose last three annual performance ratings of record were Outstanding and Superior (based on 5-tier system - Pattern H) and Results Achieved (based on Results Achieved/Results Not Achieved rating system - Pattern A) would have a total of 17 years (18 + 16 + 16 = 50, divided by 3 = 16.7, rounded to next higher whole number) added to his or her length of service for RIF purposes.

Employees who have received ratings of record pursuant to any non-FSA performance appraisal system for any year in the four years prior to the effective date of a RIF will be provided additional years of service for those years in accordance with the following table:

USDA Rating Pattern	Level 1 Unacceptable	Level 2 Marginal*	Level 3 Fully Successful,	Level 4 Superior *	Level 5 Outstanding*
Pattern B 3 Tier PAS	0	NA	13	NA	17
Pattern C 3 Tier PAS	0	NA	13	17	NA
Pattern D 3 Tier PAS	0	0	17	NA	NA
Pattern E 4 Tier PAS	0	NA	12	15	18
Pattern F 4 Tier PAS	0	0	14	NA	18
Pattern G 4 Tier PAS	0	0	14	17	NA
* Or its equivalent Note: NA means not applicable to the rating pattern, i.e., the level is not used in that pattern. The numbers represent the number of years to be credited for a rating at that level and under that pattern.					

Example: An employee who received superior rating under pattern E for two years and the third year under Pattern A was rated "Results Achieved" would have a total of 17 years (15+15+16=46, divided by 3 = 16.3, rounded to the next higher whole number) added to their length of service for RIF purposes.

(4) An employee who has received an improved rating following an opportunity to demonstrate acceptable performance as provided for in 5 CFR Part 432 shall have the improved rating considered as the current annual performance rating of record. An employee's current annual performance rating of record shall be presumed to be "Results Achieved" when the employee had been demoted or reassigned because of unacceptable performance and as of the date of issuance of RIF notice has not received a rating for performance in the position to which demoted or reassigned.

(5) In accordance with regulation, a cutoff date of 30 days prior to the issuance of the specific notices will be used. Performance appraisals due after that date will not be used for retention determination purposes.

NOTE: The agency will abide by the prohibitions contained in 5 CFR 351.704.

8. prepare a Civil Rights Impact Analysis pursuant to DR-4300 and DR-1010. The union will be provided a copy of the analysis. If the Impact Analysis indicates there is

disparate impact on a protected class, the Employer will consider comments submitted by the Union.

9. notify the Union of any RIF at least 120 days prior to the effective date of the RIF. The information to be furnished to the Union will be the position(s) to be abolished (title, series, grade), organizational and geographic location, name of the incumbent, and the proposed effective date.

10. institute a freeze on most personnel actions for affected employees in the competitive area. Until the RIF process is completed, no action will be processed that would result in a change in an affected employees RIF status, such as, promotions, change in work schedule or reassignment.

11. notify each competing employee selected for release from a competitive level at least 60 days before the effective date of release. This notice will include information pursuant to 5 CFR 351.802. Employees should once again review the data for accuracy. Upon request, the Employer will meet with employees selected for release individually pursuant to 5 CFR 351.803.

    Note: When a RIF is caused by circumstances not reasonably foreseeable, and the Director of OPM, at the request of an agency head or designee, has approved a notice period of less than 60 days, the Agency will notify the union and employees as soon as practicable. This shortened notice period must cover at least 30 full days before the effective date of release. Agency will promptly provide to the union a copy of its request to OPM.

    An employee is entitled to a written notice of at least 60 days if the agency decides to take an action more severe than first specified pursuant to 5 CFR 351.805.

12. issue CES letters to surplus employees no later than 60 days prior to the effective date established in D. 11 of this Section, and no earlier than 6 months prior to that date (5 CFR 351.807). Receipt of CES letter establishes an employees eligibility to Career Transition Assistance Program and the Interagency Career Transition Assistance Program benefits. If a CES letter is issued it must be rescinded in writing with reason included.

13. provide the Union, upon request, additional information in accordance with 5 USC 7114(b)(4).

14. provide benefit information (i.e. severance pay, unemployment compensation, health and life insurance, lump sum payment)

15. preserve intact all registers and records relating to an employee for at least one year from the date the employee is issued a specific notice pursuant to this article pursuant to 5CFR 351.505

16. will provide the employees with saved grade and pay retention pursuant to 5 CFR 536.

Section E. Assignment Rights

When a group I or II competitive service employee with a current annual performance rating of record of fully successful or equivalent, or higher, is released from a competitive level, the Employer will offer assignment pursuant to 5 CFR 351.701, rather than furlough or separation, to another competitive position which requires no reduction, or the least possible reduction, in representative rate. The employee must be qualified for the offered position. Upon accepting an offer of assignment, or displacing another employee (bumping or retreating) an employee retains the same status and tenure in the new position.

1. Bumping. A released employee will bump to a position that is held by another employee in a lower tenure group or in a lower subgroup within the same tenure group, and is no more than three grades below the position from which the employee was released. However, if the Employer cannot make an equally reasonable assignment by displacing an employee in a lower subgroup, a competing employee will be permitted to displace an employee with lower retention standing in the same subgroup consistent with 5 CFR 351.705(a)(1).

   Examples: A subgroup IAD employee has bumping rights over employees in IA, IB, and groups II and III.

   A subgroup IA employee has bumping rights over employees in IB and groups II and III.

   A subgroup IB employee has bumping rights over employees in groups II and III.

   A subgroup IIAD employee has bumping rights over employees in IIA, IIB, and group III.

   A subgroup IIA employee has bumping rights over employees in IIB and group III.

   A subgroup IIB employee has bumping rights over employees in group III.

2. Retreating. A released employee will retreat to a position that is held by another employee with lower retention standing in the same tenure group and subgroup; and is not more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent); and is the same position, or an essentially identical position, formerly held by the released employee as a competing employee in a federal agency. (5 CFR 351.701(c))

   Example: An IA employee with a service computation date of June 25, 1978, may

retreat to a position held by another IA employee with a service computation date of September 21, 1978, provided it was to the same position or one that was essentially identical to the position the employee once held. However the employee with a current annual performance rating of record of marginal or equivalent may only retreat to a position held by another employee with a current annual performance rating of record no higher than marginal or equivalent (5 CFR 351.701(d)).

3. The Employer has determined that excepted service tenure group 1 and 2 employees will be provided assignment rights.

Section F. Outplacement and Employee Assistance

The Union will be informed of placement efforts for affected employees.

The Employer will:

1. provide employees access to the regulations and records pertinent to their case (e.g. retention register, e-OPF, EPF, etc.)

2. make a maximum effort to place adversely affected employees in positions for which they qualify pursuant to 5 CFR 351.704

3. actively pursue placement in other federal agencies

4. request authority for voluntary early retirements and buyouts

5. assist employees identified for separation in being placed on the Reemployment Priority List (RPL) pursuant to 5 CFR 330.203 and are responsible for ensuring that persons on the RPL receive full and proper consideration for reinstatement to positions for which they are qualified and available.

   An employee who has declined an assignment to a position with the same type of work schedule and with a representative rate as high as that of the position from which the employee was or will be separated shall not have their name placed on the list. (5 CFR 330.203(a)(4))

   The name of a competitive service employee shall remain on the list for two years from the date the employee is entered onto the RPL (5 CFR 330.208).

   An employee's name shall be deleted from the list before the period of eligibility expires when they:

   a. Decline or fail to reply to the agency's inquiry about an RPL offer of a career, career conditional, or excepted appointment without time limit for a position having the same type of work schedule and a representative rate at least as high as

the position from which the registrant was, or will be, separated;

b. Receive a written cancellation, rescission, or modification to:

- The RIF separation notice or Certification of Expected Separation so that the employee no longer meets the conditions for RPL eligibility in 330.203(a); or
- The notification of cessation of injury compensation benefits so that injury compensation benefits continue;

c. Separate from the agency for any other reason (such as retirement, resignation, or transfer) before the RTF separation effective date. Registration continues if the RPL registrant retires on or after the RIF separation effective date. This paragraph does not apply to an RPL registrant under 330.203(b);

d. Request the agency to remove his or her name from the RPL;

e. Are placed in a position without time limit at any grade or pay level within the agency;

f. Are placed in a position under a career, career-conditional, or excepted appointment without time limit at any grade or pay level in any agency; or

g. Leave the area covered by an overseas RPL or is ineligible for continued overseas employment because of previous service or residence.

An RPL registrant is removed from the RPL at registered grades or pay levels with a representative rate at and below the representative rate of a position offered by the agency if the offered position is below the last grade or pay level held and the registrant:

- Declines or fails to reply to the agency's inquiry about an RPL offer of a career, career-conditional, or excepted appointment without time limit for a position meeting the acceptable conditions shown on the RPL registrant's application; or

- Declines or fails to appear for a scheduled interview.

An RPL registrant removed from the RPL under paragraph b of this section at lower grades or pay levels than the last grade or pay level held remains on the RPL for positions with a representative rate higher than the offered position up to the grade or pay level last held, unless registration expires or otherwise terminates.

Declination of time-limited employment does not affect RPL eligibility.

6. provide information concerning how to apply both for unemployment insurance

through the appropriate State program and benefits available under the State dislocated worker unit(s) pursuant to 5 CFR 351.803

7. permit employees to make reasonable use of official time, equipment, and supplies for the purpose of finding other employment as long as it does not unduly interfere with the Employer's business

8. provide selection priority for employees identified as surplus in accordance with the Career Transition Assistance Program

9. provide employees assistance pursuant to Article 39, Employee Assistance Program of this Agreement

10. upon separation, displaced employees will continue to have access to transition resource services and facilities for up to 90 workdays after their separation date

11. consider requests from employees served a RIF notice to share a job with another employee who volunteers to do so

12. consider requests from employees to volunteer to move to positions targeted for abolishment

13. make a temporary exception pursuant to 5 CFR 351.606 to retain an employee who is being involuntarily separated and who elects to use annual leave to remain on the agencies roles after the effective date the employee would otherwise have been separated in order to establish eligibility for retirement

    The agency will not retain an employee past the date that the employee first becomes eligible for immediate retirement.

Section G. Appeal Rights

Employee appeals of all RIF actions will be subject to the MSPB, which will be the exclusive forum for resolution of all employee challenged RIF actions. The Employer will notify each employee of their MSPB appeal rights pursuant to Section D. 11 of this article.

Union grievances concerning the effect or interpretation, or a claim of breach, of this Article; or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation pertaining to a RIF, may be submitted pursuant to Article 42 of this Agreement or to the appropriate administrative body (e.g. the Federal Labor Relations Authority).

ARTICLE 27: PERFORMANCE APPRAISAL SYSTEM

Section A. General

This article shall govern the administration of the Performance Appraisal System (PAS) process for all employees within the bargaining unit. Management does not waive any of its authority under 5 U.S.C. 7106 (a) and (b), relative to the PAS, to make changes to the PAS during the term of this Agreement subject to the obligation under law and Article 45 to give the union notice of, and the opportunity to bargain over changes in conditions of employment.

Section B. Objectives

The objectives of the PAS are to:

1. Improve both individual and organizational performance;

2. Encourage constructive, honest and open communication between supervisors and bargaining unit employees about performance issues;

3. Encourage bargaining unit employees to participate in assessing their own strengths and areas requiring further development; and

4. Meet statutory and regulatory requirements concerning the PAS process.

Section C. Evaluation of Performance

1. The Employer has determined that the evaluation of the employee's work performance, for purposes of both competitive and noncompetitive personnel actions, shall be made by means of elements and performance-based appraisals.

2. For purposes of this Agreement, competitive and noncompetitive personnel actions include annual ratings, all promotions, within-grade increases, reductions-in-force, and acceptable level of competence determinations.

3. This Article will be applied in a manner consistent with Chapter 43 of Title 5 of the U.S. Code (U.S.C.) and Title 5 Code of Federal Regulations (CFR) Part 430.

Section D. Definitions

1. *Appraisal* - The act or process of reviewing and evaluating the performance of an employee against the described performance plan, including oral and/or written

progress reviews.

2. *Appraisal Period* - The period of time during which an employee's performance will be reviewed and a rating of record will be prepared. The appraisal period generally begins on October 1 of each year and ends on September 30 of the following year.

3. *Does Not Meet Fully Successful (Does Not Meet)* - Element rating indicating performance *does not meet* expectations.

4. *Element* - A component of a position consisting of one or more duties and responsibilities on which the employee is rated and which contributes toward accomplishing the goals and objectives of the organization.

    a. *Critical element* - A work assignment or responsibility of such importance that a "does not meet" rating on the element would result in a determination that an employee's overall performance level is "Unacceptable".

    b. *Noncritical element* - A component of an employee's job that is of such importance as to require measurement but which is not critical.

5. *Element Rating* - The level of performance on any element which is determined by comparing accomplishments to the performance standard. The Employer has determined that element rating levels are: "exceeds fully successful," "meets fully successful" and "does not meet fully successful."

6. *Exceeds Fully Successful (Exceeds)* - Element rating indicating performance exceeds expectations.

7. *Interim Rating* - An appraisal which is completed when an employee has served on a performance plan for at least 90 days and a detail is terminated, the supervisor changes, or the employee is leaving one permanent position for another.

8. *Meets Fully Successful (Fully Successful)* - Element rating indicating performance meets expectations.

9. *Minimum Appraisal Period* - A 90 day period of time during which an employee must have operated under a performance plan for which the employee may receive a performance rating.

10. *Performance Improvement Plan* - A written notice informing an employee of unacceptable performance and of the action to be taken by the employee to improve performance.

11. *Performance Plan* - The written document that identifies the employee's elements and performance standards by which the employee will be rated.

12. *Performance Standard* - The management-approved expression of the performance threshold(s), requirement(s), or expectation(s) that must be met to be appraised at a "Fully Successful" or "Exceeds" level of performance.

13. *Progress Review* - A joint discussion between the Rating Official and the employee regarding the employee's progress toward achieving performance standards. It does not involve the issuance of a rating of record.

14. *Rating Official* - An employee's first line supervisor or other person designated with responsibility for establishing performance plans, conducting progress reviews, and issuing final ratings of record.

15. *Rating of Record* - The final summary rating normally issued at the end of the appraisal period which becomes a part of the employee's performance file (EPF).

16. *Reviewing Official* - The individual responsible for reviewing and approving a performance rating.

17. *Summary Rating* - An expression of an aggregate of the individual performance elements ratings. The Employer has determined to use the following five summary ratings: "Outstanding," "Superior," "Fully Successful," "Marginal," and "Unacceptable."

    a. Outstanding – all appraisal elements are rated "Exceeds Fully Successful

    b. Superior – more appraisal elements are rated "Exceeds Fully Successful" than are rated "Meets Fully Successful", and no elements are rated "Does Not Meet Fully Successful"

    c. Fully Successful - as many or more appraisal elements are rated "Meets Fully Successful" than are rated "Exceeds Fully Successful".

    d. Marginal - more appraisal elements are rated "Does Not Meet Fully Successful" than are rated "Exceeds Fully Successful"

    e. Unacceptable – 1 or more critical elements are rated "Does Not Meet Fully Successful"

Section E. Performance Plans

1. General. Planning performance is the process of developing performance plans that align individual performance with organizational goals. Focus will be placed on accomplishments rather than on activities. Performance plans document progress reviews and specify the elements and the standards on which employees will be rated.

2. Elements. Performance plans under this PAS contain elements as required by the Office of Personnel Management and the Employer. The Employer will make every effort to establish the number of elements to be at least three, but no more than seven elements with at least one critical element; however, the Employer reserves the right to exceed this number.

   The Employer has determined that the elements will be:

   a. observable,

   b. measurable,

   c. attainable by the employee,

   d. compatible with results expected of other employees in the work unit,

   e. based solely on duties and responsibilities assigned to the employee and for which the employee is accountable.

3. Standards. Pursuant to 5 U.S.C. 4302, performance standards must, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the position in question.

   The Employer has determined the standards will be:

   a. realistic and achievable, that is based on factors that the employee has the authority to control,

   b. defined at the "Fully Successful" and "Exceeds" levels for each Employee, and

   c. defined, whenever possible, in terms that measure:

      (1) quality

      (2) quantity

      (3) timeliness

      (4) economy

      (5) results

      (6) effectiveness.

   d. recorded and reviewed on a system provided by the employer. The Employer will ensure that the system permits users to print the record for review and/or

retention.

4. Developing Performance Plans. In developing performance plans, communication between rating officials and employees is essential. Rating officials and employees should work together to jointly clarify how elements apply within the work environment so that there is a common understanding about the expectations for performance. The Employer and employee will discuss the plan in an attempt to avoid misunderstandings about the expected performance.

   a. The Employer will:

      (1) make every effort to use standardized performance elements and standards if available,

      (2) consider the comments of employees and the Union before finalizing performance plans,

      (3) upon request of the employee, meet to discuss standards or examples of performance at any level. Accomplishment of the examples themselves does not necessarily constitute performance at the levels discussed. Overall performance must be substantially at the level represented by the examples.

   b. Employees will be:

      (1) provided a minimum of five workdays to submit comments,

      (2) allowed to meet with their Union representatives on official time to discuss proposed changes. If travel would be required for such discussions, the discussions may be accomplished by telephone.

      (3) responsible for placing a check mark in the EmpowHR box labeled "discussed/view" certifying that all of the following occurred:

         (a) a discussion took place with the rating official about performance plan,

         (b) the employee has seen their performance plan,

         (c) the employee has viewed the standards of conduct and has had any questions answered to their satisfaction.

      (4) responsible for checking the box labeled "refused to sign" if the employee declines to sign.

         Note: If employee declines to agree to performance plan, employee will still be held accountable for the elements and standards within performance plan.

5. Annual Issuance. In accordance with 5 CFR 430.206(b)(2) a performance plan will be reissued annually, normally within 30 days from the beginning of the appraisal period.

6. New Assignments/Details. Employees permanently assigned to new positions or work units with different elements and standards or employees on details expected to exceed 90 days will be issued a performance plan, normally within 30 days of entering the new position or starting the detail.

Section F. Assessment of Performance

1. Timing of Appraisals.

   a. Employees will receive performance appraisals annually. If the employee has not been on the performance plan for 90 calendar days by the end of the appraisal period, the appraisal period may be extended to allow for a rating to be given. If no plan has been put into place by the end of the appraisal period then a rating cannot be given. If there is a change from one permanent position to another during the last 90 days of the appraisal period, the Interim rating described in b below will become the rating of record for the appraisal period.

   b. Employees will receive an interim appraisal when:

      (1) they change from one permanent position (that they have been in for at least 90 days) to another permanent position, or

      (2) at the termination of a detail that has lasted at least 90 days.

      The interim appraisal will be issued within 30 days of the change in position.

2. Appraising Performance. At the conclusion of the annual appraisal period, the rating official will:

   a. prepare a fair and objective written performance appraisal. The appraisal shall consist of an assessment of whether the employee performance exceeds, is fully successful or does not meet the standard for each element set forth in the performance plan.

   b. prepare a brief narrative when the employee fails to meet the fully successful standard for any element. The narrative will include examples of performance which fails to meet the fully successful standard of performance. The employee will be assigned an overall summary rating unless he/she is on a Performance Improvement Plan (PIP), in which case the appraisal will be delayed until the PIP ends; with the exception of instances where the appraisal is required for an acceptable level of competence determination.

c. rate the employee on observed and/or documented performance. Each element should be rated separately and independently of all others so that the rating on one element does not unjustifiably influence ratings on other elements.

d. take care to evaluate the employee against the position requirements, rather than against other employees.

e. make allowances for factors beyond the employees control when applying performance standards. The Employer will take into account mitigating factors over which the employee does not have control, such as availability of resources, lack of training, or frequent authorized interruptions. Performance evaluations will take into account all job functions the employee is expected to perform, as well as the time available to perform the work. When rating employees or otherwise applying performance standards, an element will be shown as "not applicable" when the employee has not had a reasonable opportunity to perform.

f. not consider authorized time spent performing collateral duties and Union representational functions as a negative factor when evaluating performance. Because service as a union representative using official time is a statutorily protected activity, the Employer will ensure that Union Representatives are not interfered with, restrained or coerced in the exercise of the right through the application of performance standards to them.

g. meet with the employee and discuss the appraisal and at the employee's request, explain the basis for the rating. If a rating of "Unacceptable" is received, the Employer will provide all documentation used by the Employer in developing the rating.

3. Employees:

a. may use a reasonable amount of official time to prepare a self appraisal or other documentation of accomplishments, if the employee chooses to do so.

b. will be provided a minimum of five workdays to review the appraisal and provide comments to the Rating Official. Employees may make written comments regarding their appraisals and any documented progress reviews received. The comments will be filed and attached to the appraisal.

c. will be responsible for placing a check mark in the EmpowHR box labeled "discussed/view" certifying that all of the following have occurred:

(1) a discussion took place with the rating official about the annual appraisal,

(2) the employee has seen their annual appraisal,

d. will be responsible for checking the box labeled "refused to sign" if the employee "declines to sign."

e. may meet with their Union representatives on official time to discuss the appraisal and comments to be provided to the Rating Official. If travel would be required for such discussions, the discussions may be accomplished by telephone. The Employer agrees to consider the comments of employees and the Union before issuing a final rating of record.

f. may print a copy of their appraisal after the final rating is issued.

4. Documentation.

a. Any documentation that the Employer would use in support of a "does not meet" performance element rating normally will be provided to the employee within 30 workdays of its development or receipt by the rating official.

b. Documentation in support of performance summary ratings must be maintained for the longer of 45 days from the date the employee receives the rating, or if the rating is disputed, until the date the rating is finalized through resolution of the dispute. Any time the Employer purges appraisal documentation, the Employer will give all documentation to the employee if requested.

Section G. Grieving Appraisals

1. For an employee grieving their rating of "Unacceptable" the burden of proof shall be on the Employer to establish that the rating was proper.

2. For an employee grieving a rating of "fully successful" or higher, the burden of proof shall be on the employee to establish that the rating was improper.

3. Any employee who wishes to dispute their performance rating under this Article may appeal the review directly to the Step 2 official of the Grievance Procedure of this Agreement, or under any other appeal procedure allowed by law or regulation.

4. When a grievance is resolved and changes are directed or agreed to, a new appraisal will be prepared reflecting the change(s). It will become the rating of record to be retained by the Employer in the employee's performance file. The grieved appraisal will be removed from all files other than the grievance file. If the grievance is denied and the appraisal is sustained, the grieved appraisal will become the current rating of record and retained in any file where it is maintained pursuant to law and regulations.

Section H. Progress Reviews

1. Informal discussions, including review of performance to determine progress and problems, are a normal part of supervision and should occur throughout the appraisal period.

2. Progress Reviews:

    a. Progress reviews provide the opportunity to identify and resolve problems in the employee's performance. A progress review must be conducted and documented at the approximate midpoint between the date the employee's performance plan was issued and the end of the appraisal period.

    b. Additional progress reviews may be conducted.

    c. Progress reviews will summarize the employee's performance in comparison to each critical and noncritical element of the performance plan. Required corrective actions will be identified. Changes in the performance plan warranted by changes in the work situation, including those factors beyond the control of the employee, are also appropriate subjects of the progress review.

    d. The employee will be asked to initial and date the progress review. The employee can print a personal copy.

    e. As part of the progress review process, the employee may add comments as desired on an attachment. Such comments will be attached to and become part of the progress review. Employees wishing to make written comments concerning their progress review will be provided with a reasonable amount of official time to do so with prior supervisory approval.

Section I. Performance Improvement Plan (PIP)

An employee rated "Does Not Meet" in one or more critical element(s) will be given a PIP as provided for in Article 29 of this Agreement.

Section J. Record Keeping

The current official copies of the performance plan and any other supporting or related documentation concerning the PAS shall be maintained by the Employer. Performance Plans will be established and maintained in accordance with 5 CFR 293.402 (a) and 5 CFR 293.404 (a)(1)(i). This information shall be safeguarded and released only for the purposes pursuant to applicable statutory law and regulation. Employees may review their documentation upon request to the Employer or by accessing the applicable online system.

ARTICLE 28: ACCEPTABLE LEVEL OF COMPETENCE

Section A. Acceptable Level of Competence

An employee will be granted a within-grade increase (WGI) when the required waiting period has been completed and the employee has performed at the acceptable level of competence.

Section B. Not Acceptable Level of Competence

When the Employer concludes, following criteria established pursuant to Article 27 Performance Appraisal System, that an employee's work is not at an acceptable level, the Employer will:

1. notify the employee in writing, normally at least sixty days in advance, that the WGI will be denied. The notification will state:

    a. the element(s) and standard(s) that the employee has failed to perform at an acceptable level, with examples of the unacceptable performance,

    b. provide advice as to what the employee must do to bring the performance to an acceptable level, and

    c. advise the employee of their reconsideration rights in accordance with 5 USC 5335 (c).

2. issue a new rating of record documenting the unacceptable performance,

3. initiate a “Denial of Within-grade” SF-52,

4. continually monitor the employee’s performance, and

5. initiate an SF-52 to grant the within-grade increase and issue a new rating of record as soon as the employee’s performance is at an acceptable level.

Section C. Reconsideration

Neither the substantive nor procedural aspects of WGI denials may be grieved until a reconsideration decision is due or issued. A reconsideration decision is due thirtyfrom the date of the Employer's receipt of the employee's written request.

ARTICLE 29: UNACCEPTABLE PERFORMANCE

Section A. Definition/Scope

1. An action based on unacceptable performance is defined as the reduction in grade or removal of an employee whose performance fails to meet established performance standards in one or more critical elements of the employee's position.

2. This Article applies only to employees who have completed their probationary or trial period. It does not apply to employees serving on a temporary appointment.

Section B. Performance Improvement Plan

At any time during the performance appraisal cycle that an employee's performance is determined to be unacceptable in one or more critical elements, the employer must notify the employee of the critical element(s) for which performance is unacceptable and the standard(s) not met. The employer should also inform the employee that unless his or her performance in the critical element(s) improves to and is sustained at an acceptable level, the employee may be reduced in grade or removed. The employer will afford the employee a reasonable opportunity to demonstrate acceptable performance on a Performance Improvement Plan before initiating an unacceptable performance action.

1. The Employer will make a reasonable effort to assist employees in improving deficient performance. Prior to issuing a notice of proposed action based on unacceptable performance, the Employer will issue a Performance Improvement Plan (PIP) to the employee that contains the following:

    a. identification of the critical element(s) and performance standard(s) for which performance is unacceptable,

    b. specific examples of how the employee's performance is failing to meet the standard,

    c. advice as to what the employee must do to bring performance up to an acceptable level, and the assistance the Employer will provide the employee to improve performance,

    d. a statement that the employee has a reasonable period of time but never less than 90in which to bring the performance up to an acceptable level.

2. If the employee's performance substantially improves during the PIP period, and no action is to be taken, written notification will be given to the employee.

3. The Union or employee will not grieve either the substance or the procedural aspects of

this notice until a final decision is issued.

Section C. Unacceptable Performance Actions

1. Procedural Requirements. The procedural requirements prescribed by USDA/FSA regulations and this Agreement apply in processing unacceptable performance actions.

2. Written Notice of Proposed Action.

   a. In all cases of proposed action based on unacceptable performance, the employee will be given written notice of the penalty proposed and the reasons and specifications of unacceptable performance on which the proposed action is based, 30in advance of the action.

   b. The advance written notice proposing either to remove or downgrade an employee for unacceptable performance will include:

      (1) specific instances of unacceptable performance by the employee on which the proposed action is based,

      (2) the critical element and performance standard,

      (3) the employee's right to be represented by the Union, an attorney or other representative,

      (4) the employee's right to answer orally and/or in writing, and

      (5) the employee's right to review all the material relied upon to support the reasons and specifications.

3. Employee Response.

   a. The employee will be given the opportunity to respond orally and/or in writing prior to a decision. Any request for an oral reply must be submitted within seven days, and any written reply must be submitted within 15 days.

   b. If the employee elects to make an oral reply, the Employer may make a verbatim transcript of the oral reply and will provide a copy to the employee.

4. Decision Letter.

   a. The deciding official will set forth findings with response to each reason and specification listed in the letter proposing the action.

   b. The decision letter will also:

(1) address factual disputes, if any, raised by the employee's reply by stating the reasons why each factual dispute was rejected.

(2) state whether the employee has a right to appeal the final decision to the Merit Systems Protection Board (MSPB) and/or through the negotiated grievance procedure. Under no condition may an employee appeal a decision based on unacceptable performance to both the MSPB and arbitration.

(a) If the Union elects to appeal the decision to arbitration, the Union must give the Employer written notice of its decision within 20 days from the effective date of the action.

(b) The notice of appeal must be given by certified mail or by hand delivery to the Chief, Employee and Labor Relations, Kansas City.

(3) indicate the effective date of the action.

Section D. Time Extensions

Any of the time limits set forth in this Article may be extended or waived by mutual agreement of the parties; however, the written notice may not be extended for more than thirty days except as provided for by law, rule or regulation.

ARTICLE 30: AWARDS

Section A. General

1. Substantial benefits and enhanced productivity will accrue through an Incentive Awards Program that objectively recognizes and rewards employee accomplishments and effectively differentiates between high and low performance and rewards top performers. Every effort will be made to make a fair and equitable distribution of awards. Recognition may be given for instances in which an employee or group/team clearly exceeded the expectations of the Employer; for sustained, high quality performance throughout the rating period, or a specific outstanding accomplishment such as a superior contribution on a short-term assignment or project, an act of heroism, or significant cost savings. There are two categories of awards available;

    a. Ratings Based Awards (RBA); and

    b. Superior Accomplishment Awards (SAA).

2. The availability of all monetary awards is subject to budgetary constraints.

3. The parties agree that the awards and recognition program should:

    a. foster the confidence of employees in that the program recognizes employees based on the merits of their accomplishments and contributions;

    b. generate understanding and openness by publicizing the awards and recognition criteria, processes and results;

    c. be based on merit, given throughout the year (i.e. SAA), and as close in time to the accomplishment as feasible.

Section B. Superior Accomplishment Awards

1. SAAs are meant to recognize a single action or series of actions, either within or outside normal duties, which are so significant that special recognition is clearly justified and supported by written documentation. These awards are given in recognition of an employee's contribution, in the public interest, connected with or related to official employment, which contributes to the efficiency, economy, or other improvement of Government operations, or achieves a significant reduction in workload. The contribution must be measurable, demonstrating either tangible benefits and/or intangible benefits to the Government.

2. Employees may nominate their co-workers, or themselves, for Spot, Extra Effort, Time Off Award (TOA), or Monetary and TOA, Mementos and Written Commendations. They may not nominate any supervisor or management official.

3. For SAAs, a full-time employee may be granted up to a total of 80 hours of time off during a leave year. A part-time employee or an employee with an uncommon tour of duty may be granted up to the average number of hours worked in a pay period or the employee's scheduled biweekly basic work requirement. These are annual limits covering all time off awards whether given as a SAA, or a combination of awards. However, not more than 40 hours may be granted for a single award.

4. Types of Superior Accomplishment Awards.

   a. Spot Award. A monetary award designed to grant "immediate" recognition to individuals or teams of employees for their day-to-day extra efforts and contributions. Spot awards are designed to quickly recognize one-time and short-term efforts by employees that result in service of an exceptionally high quality or quantity. Use of Spot Awards is particularly appropriate for rewarding employee efforts that might otherwise go unrecognized. Spot award achievements may be recognized by granting a minimum award of $50 and a maximum award of $500. Spot awards should be issued immediately. Examples include situations where employees:

      (1) produce exceptionally high quality work under tight deadlines;

      (2) perform added or emergency assignments in addition to their regular duties;

      (3) demonstrate exceptional courtesy or responsiveness in dealing with customers or colleagues; or

      (4) exercise extraordinary initiative or creativity in addressing a critical need or difficult problem.

   b. Extra Effort Award. A monetary award that recognizes an individual or group for moderate or substantial improvements or changes in methods or services affecting the performance, workload, or value of a product, activity, program or service, affecting more than just the employee's work unit. The award amount is determined by the resulting benefits to the Government. Extra effort awards (EEA) may be recognized by granting a minimum award of $100 and a maximum amount of $2,500. Employees eligible for an EEA have the option of converting the monetary award to a time off award at the rate of one hour salary to one hour time off. For example, an employee who earns $25.00 per hour and receives a $100 monetary award could have their monetary award converted to 4 hours TOA. Hours will be converted to the nearest half hour. EEA conversions will have a limit of 40 hours of time off. Any remaining dollar amount, over 25 dollars, after the conversion will be provided to the employee as a monetary award.

   c. Time Off Award (TOA). A TOA is a type of award that is an excused absence, without charge to leave or loss of pay. A TOA is supported by a written

description of the contribution. The amount of time off should be commensurate with the level of benefit to the government.

All employees are eligible for TOAs except intermittent employees. The receipt of a TOA does not prevent an employee from receiving any other award, and receiving prior awards does not prevent granting a TOA.

TOA may be used in single block of time or quarter hour increments, subject to approval by management. A TOA must be used within one year from the date the award was granted or it will be forfeited.

d. Monetary **and** TOA. The parties recognize TOAs are a valuable tool in rewarding employees. TOAs may be given in conjunction with a monetary award to enhance what in certain circumstances might be a minimal monetary award amount.

e. Mementos. Mementos are a non-monetary recognition of an employee's noteworthy contributions. Appropriate mementos may include items such as paperweights, key chains, clocks, plaques, jackets, T-shirts, coffee mugs, pen and pencil sets, etc.

f. Written Commendations. All employees may write a letter of thanks, appreciation, and commendation recognizing individuals they believe have made a noteworthy contribution. When warranted, a letter of commendation from a higher organizational level may be requested.

5. Responsibilities.

a. The Employer is responsible for:

(1) considering input from the union and nominating employees when making recognition decisions.

(2) recognizing contributions in a timely manner.

(3) emphasizing the importance of teamwork through recognition of groups.

(4) allowing those recognized to choose the type of recognition, in accordance with this Article.

(5) reviewing nominations to ensure that recognition is linked to the contribution and the amount accurately reflects the value of the contribution rather than grade level or other non-merit factors.

(6) informing the Nominating Official of the reason(s) for the disapproval and, if requested, provide a written explanation.

(7) ensuring fair and equitable distribution of awards.

(8) reviewing awards for compliance to stated criteria and certifying funds availability.

(9) providing the Union with information regarding the amount of funds allocated for awards by organization.

(10) recognizing employees for specific achievements.

(11) furnishing the Union with a complete listing of bargaining unit employees showing series/grade/job title, organization, type, and duration of award within 30 days of completion of awards distribution for the year.

b. Nominating Officials (employee making nomination) are responsible for:

(1) actively seeking out exceptional achievements worthy of recognition.

(2) developing employee recognition nominations based solely on merit.

(3) accurately documenting the exceptional achievements of others and complying with appropriate guidelines.

(4) documenting self-nominations with the following:

(a) their name and position
(b) the time frame covered by the nomination
(c) a description of the activity
(d) their personal achievement worthy of recognition within the activity; and
(e) submitting the written nomination to their supervisor.

6. SAA Submissions

All award submissions must use the approved form and include the following:

a. identification of Recommending (i.e. Nominating) Official

b. type of SAA

c. description of the accomplishment

d. explanation of how the accomplishment exceeded expectations
Example: project completed ahead of schedule, overcame adverse obstacles, or displayed unusual creativity.

e. description of the results

Example: savings in time, money, material, increased efficiency, or improved levels of cooperation.

Section C. Ratings Based Awards

1. General. A Ratings Based Award (RBA) is an award based on the employee's performance/accomplishments over the course of the rating cycle, as documented on the employee's Rating of Record. A RBA may be in the form of a Quality Step Increase (QSI), monetary (lump-sum), TOA, or monetary and TOA in combination. Employees may receive **one** RBA in recognition of their performance during the rating period. Funds for RBAs will be made available as soon as practical after the Employer receives its budget.

2. Eligibility.

   a. Employees rated as "Outstanding" (or its equivalent) are eligible for all RBAs.

   b. Employees rated as "Superior" (or its equivalent) are eligible for all RBAs, except QSIs.

   c. Employees rated as "Fully Successful" or lower (or their equivalents) are not eligible for RBAs.

3. Types of RBAs.

   a. Quality Step Increase (QSI). A QSI is an increase in an employee's rate of basic pay from one step in the grade of the employee's position to the next higher step of that grade. The QSI is the highest ratings based award that an employee can earn. Employees who meet all of the following criteria will be considered for a QSI:

      (1) Rating of record must be "Outstanding"

      (2) Not received a QSI within the last 52-weeks

      (3) Not at Step 10 of their grade level. (Employees at Step 10 of their grade who are selected for a QSI (which, because they are at Step 10 will be of no value to them) will be given a monetary award which is equivalent in value to the QSI they should have received; i.e. the difference between Step 9 and Step 10 of the employee's grade).

(4) Demonstrates sustained performance of high quality significantly above expectations.

(5) Has held the same grade and type of position (or similar position) in a pay status for at least six months before the end of the appraisal cycle.

NOTE: If an employee is in the process of being promoted within 60 calendar days after the effective date of QSI, the employer will check the next salary level to ensure that QSI will **not** be lost.

QSIs will be made effective the first day of the pay period AFTER receipt in Human Resources. The effective date may be delayed up to 4 pay periods when advantageous to the employee. Employees may **not** receive any other RBA for the same appraisal period.

b. Monetary (lump sum).

(1) If funds are available, all employees rated "Outstanding" and "Superior" must be given a RBA.

(2) Recognizing that higher grade employees generally perform more complex duties with more responsibility, and to facilitate a meaningful differentiation between high and low performance that rewards top performers, award amounts will be prorated based on employee salaries.

(3) An employee's monetary award based on a rating of record may not exceed $3,200. If an employee's monetary award calculation exceeds $3,200, the employee will be awarded the $3,200.

(4) For each mission area, the value of a monetary or monetary/TOA for employees rated "Superior" must be 50% the amount of the monetary or monetary/TOA for employees rated "Outstanding". When calculating this ratio, the Employer will use the amounts employees rated "Outstanding" actually received.

Example: If the employee's outstanding award would have been $6,000, but was reduced to $3,200 because of the limitations, the Employer will use $3,200 for the 2:1 ratio calculations.

(5) The Employer will prorate RBAs for either of the following:

(a) new employees with less than 1 year of service with FSA

(b) all part-time employees.

Award amounts should be prorated depending on the number of months the employee has worked for FSA.

c. TOA. For RBAs, a full-time employee may be granted up to 40 hours of time off. A part-time employee or an employee with an uncommon tour of duty may be granted up to the average number of hours worked in a pay period or the employee's scheduled biweekly basic work requirement. However, not more than 80 hours may be granted for a RBA and SAAs in combination during a leave year.

d. Monetary **and** TOA. The parties recognize TOAs are a valuable tool in rewarding employees. TOAs may be given in conjunction with a monetary award to enhance what in certain circumstances might be a minimal monetary award amount. The Employer will document clear distinctions based on performance for combination awards.

Section D. Program Support, Evaluation and Publication

The Employer and the Union agree to work together in the Labor and Management Relations Committee to design, develop, and execute the initial joint training and to annually evaluate and publicize the results of the awards program.

1. ***Training.*** Both parties recognize the need for training of supervisors and employees in support of the awards program. This training will encompass the various types of awards and recognition, the criteria for determining eligibility for nomination and selection, procedures for submitting nominations, approval authority levels, and review and approval process.

2. ***Evaluation.*** Both parties recognize that the effectiveness of the awards program should be evaluated annually against the objectives identified in this Article. Within 30 days after completion of the award program year, data on the distribution of awards and recognition under each of the programs will be evaluated. The data will be evaluated to determine:

   a. if the awards and recognition have been distributed in accordance with established policies and procedures;

   b. how many awards of each type have been distributed;

   c. the aggregate dollar and time-off amounts of recognition distributed;

   d. if award distribution between bargaining and non-bargaining unit employees was equitable;

   e. if revisions are necessary.

3. ***Publicity.*** Both parties recognize that publicizing the various types of awards, and recognition is critical to the success of the program. Public disclosure of personal information is subject to any law or regulation (e.g. Privacy Act).

ARTICLE 31: PROHIBITED PERSONNEL PRACTICES

Section A. Purpose

1. For the purpose of this Article, and in accordance with 5 U.S.C. Section 2302, prohibited personnel practice means any action described in Section B below.

2. For the purpose of this Article, personnel action means:

    a. an appointment

    b. a promotion

    c. an action under the Civil Service Reform Act of 1978 (5 U.S.C. Chapter 75)

    d. a detail, transfer, or reassignment

    e. a reinstatement

    f. a restoration

    g. reemployment

    h. a performance evaluation under the Civil Service Reform Act of 1978 (5 U.S.C. Chapter 43)

    i. a decision concerning pay, benefits, or awards; or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation; or other action described in this Section, and

    j. a decision to order psychiatric testing or examination; and

    k. any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level.

Section B. Prohibited Practices

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority:

1. Discriminate for or against any employee for employment:

    a. on the basis of race, color, religion, sex, or national origin, as prohibited under

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

b. on the basis of age as prohibited under Section 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631.633a);

c. on the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

d. on the basis of handicapping condition, as prohibited under Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791);

e. on the basis of marital status or political affiliations, as prohibited under any law, rule, or regulation.

2. Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of:

a. an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

b. an evaluation of the character, loyalty, or suitability of such individual.

3. Coerce the political activity of any person (including the providing of any political contribution or service) or take any action against any employee as a reprisal for the refusal of any person to engage in such political activity;

4. Deceive or willfully obstruct any person with respect to such person's right to compete for employment;

5. Grant any preference or advantage not authorized by law, rule, or regulation to any employee (including defining the scope or manner of competition or the requirement for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

6. Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in 5 U.S.C. 2302, Section 3110(a)(3)) of such employee if such position is in the Agency in which such employee is serving as a public official (as defined in 5 U.S.C. 2302, Section 3110(a)(2)) or over which such employee exercises jurisdiction or control as such an official;

7. Take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee because of:

a. any disclosure of information by an employee which the employee reasonably believes evidences:
   (1) a violation of any law, rule, or regulation, or

   (2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

b. any disclosure to the Special Counsel for the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee reasonably believes evidences:

   (1) a violation of any law, rule or regulation, or

   (2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

8. Take or fail to take, or threaten to take or fail to take, any personnel action against any employee because of:

   a. the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

   b. testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to Subparagraph h(1);

   c. cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

   d. for refusing to obey an order that would require the individual to violate a law.

9. Discriminate for or against any employee on the basis of conduct which does not adversely affect the performance of the employee or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness, any conviction of the employee for any crime under the laws of any state, the District of Columbia, or the United States,

10. Take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in 5 U.S.C. 2301.

Section C. Withholding of Information

Nothing in Section B above shall be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress.

Section D. Equal Employment Opportunity

Nothing in Section B shall be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee in the civil service under:

1. Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

2. Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631 and 633a), prohibiting discrimination on the basis of age;

3. Under Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

4. Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition;

5. The provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

Section E. Prohibited Personnel Practice

An employee affected by a prohibited personnel practice may raise the matter under a statutory procedure or the negotiated grievance procedure (Article 42), but not both.

ARTICLE 32A: DISCIPLINARY ACTION

Section A. General Provisions

1. A disciplinary action is a letter of official reprimand or a suspension of 14 days or less.

2. No employee will be the subject of disciplinary action except for such cause as will promote the efficiency of the Service. The Employer agrees that any disciplinary action taken will be appropriate to the specific offense. In effecting disciplinary actions, the Employer has determined that it will normally utilize progressive discipline.

3. In deciding what action may be appropriate, the Employer will give due consideration to the relevance of any mitigating and/or aggravating circumstances. The following factors, included herein for purposes of illustration, are neither meant to be exhaustive nor intended to be applied mechanically, but rather to outline the tolerable limits of reasonableness:

    a. the nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical and inadvertent, or was committed maliciously or for gain, or was frequently repeated;

    b. the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;

    c. the employee's past disciplinary record, including the freshness or time frame of previous offenses.

    d. the employee's past work record; including length of service, performance on the job, ability to get along with fellow workers, and dependability;

    e. the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the Employer's confidence in the employee's ability to perform assigned duties;

    f. consistency of the penalty with those imposed upon other employees for the same or similar offenses;

    g. consistency of the penalty with any applicable Employer table of penalties;

    h. the notoriety of the offense or its impact upon the reputation of the Employer;

    i. the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;

j. potential for the employee's rehabilitation;

k. mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and

l. the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

4. Discipline will be administered as timely as possible.

5. In any disciplinary action, the employee will, upon request, be furnished with a copy of the material relied upon by the Employer to take the action.

6. Whenever the Employer suspects an employee has engaged in misconduct, it is generally desirable that the Employer bring the alleged misconduct issue to the employee's attention as soon as possible and point out the possible violation to the employee.

Section B. Reprimand

1. A reprimand is a written document describing the conduct or other deficiency giving rise to the reprimand, and provides official notice that a failure to correct the conduct or deficiency, or repeated instances, may result in more severe action.

2. Reprimands shall be maintained in the employee's Official Personnel Folder (e-OPF) for a period not to exceed two years. The period of retention may be reduced when the employee's supervisor determines that circumstances warrant a shorter period. Reprimands that have been overturned as a result of grievance or other authority shall be immediately removed from all official personnel records other than the official grievance or other authority file.

3. Employees may file a grievance over a letter of official reprimand, in accordance with Article 42, Grievance Procedure.

Section C. Disciplinary Suspensions

1. When the Employer proposes to suspend an employee for 14 days or less, the following procedures will apply:

a. The Employer will provide the affected employee with at least 15 days advance notification of the proposed action. It is understood that the proposal is not grievable upon receipt.

b. The employee has the right to make an oral and/or written reply on the reasons and specifications prior to a decision on them provided that the oral or written reply is received by the Employer within a reasonable amount of time after the employee's receipt of the proposed action. Any request for an oral reply must be made within seven days from the employee's receipt of the letter of proposed action. When an oral reply has been requested, it will be scheduled at the convenience of the parties within 15 days from the date the employee received the notice, unless otherwise mutually agreed by the parties.

c. The Employer will issue a final decision after receipt of the written and/or oral reply, or the termination of the 15-day notice period. This letter will state which reasons and specifications are sustained and will address factual disputes, if any, raised in the employee's reply by stating the reasons why each factual dispute was rejected.

2. The employee shall have the right to be represented by the Union, an attorney, or other representative in connection with the oral and/or written reply.

3. If an oral reply is by an employee and/or a representative outside of the Kansas City Complex, the reply will be by telephone. The employee and representative may also utilize the employer’s telephone service in preparation for such an oral reply.

4. An employee may appeal a disciplinary suspension, with the consent of the Union, to binding arbitration. If the Union elects to appeal a disciplinary suspension to arbitration, the Union must give the Employer written notice of its decision within 20 days from the effective date of the action. The notice of appeal must be given by certified mail or by hand delivery to HR, Kansas City.

Section D. Time Limit Extensions

Any of the time limits set forth in this Article may be extended or waived by mutual agreement of the parties.

Section E. Appeal Rights

All final decision letters issued by the Employer will inform affected employees of their appeal rights.

ARTICLE 32B: SUBSTANCE ABUSE PROGRAM AND SAFE HARBOR

Section A. Substance Abuse Programs

An employee's absence for attendance and participation in a recognized substance abuse treatment program may be covered by a grant of sick leave, annual leave and/or leave without pay when requested by the employee and approved by the Employer.

1. The employee must provide the Employer an acceptable medical certificate and/or acceptable evidence of regular attendance at treatment sessions for which the employee has been granted leave. The medical documentation requirements will be specified by the Employer; see Article 9, Sick Leave.

2. Situations involving relapses by an employee previously treated in such a program will be reviewed on a case-by-case basis consistent with the recognized principles of this Section.

Section B. Safe Harbor

1. The parties agree that a voluntary referral procedure to encourage employees using illegal drugs to seek counseling and rehabilitation is desirable. Therefore, the Employer will not initiate disciplinary or adverse action against any employee for illegal drug use, if the employee agrees to all four of the following conditions:

    a. The employee voluntarily identifies him/herself, in writing, as a user of illegal drugs, prior to being identified by the employer through other means;

    b. The employee immediately enters and successfully completes a recognized substance abuse treatment program and provides certification from the program administrator of entering and completing the rehabilitation program;

    c. The employee refrains from using illegal drugs thereafter; and

    d. The employee agrees to drug testing at the discretion of the Employer to confirm abstinence from all illegal drug use.

2. Future use of illegal drugs may result in immediate termination. Information provided under this section will be retained in the employee's medical file.

3. This provision does not:

    a. protect an employee from disciplinary action in cases where there is proven misconduct beyond illegal drug use;

b. absolve the employee from reimbursing the Employer for any and all expenses owed the Employer that are related to prior illegal drug related conduct (if applicable); or

c. prevent the Employer from taking other actions related to access or security clearances or determinations.

ARTICLE 33: ADVERSE ACTIONS

Section A. General Provisions

1. An adverse action is a removal, suspension for more than 14 days, a reduction in grade, a reduction in pay, or a furlough of 30 days or less of a full-time employee.

2. No employee will be subject to an adverse action except for such cause as will promote the efficiency of the Service. The Employer agrees that any adverse action taken will be appropriate to the specific offense. In effecting adverse actions, the Employer has determined that it will normally utilize progressive discipline.

3. Adverse actions will be administered as timely as possible.

4. In any adverse action, the employee will, upon request, be furnished with a copy of the material relied upon by the Employer to propose the action.

Section B. Procedures

1. In all cases of proposed adverse action, the employee will be given written notice stating the specific reasons for the proposed action at least 30 days in advance of the action, except as provided below.

2. The employee has the right to make an oral and/or written reply on the reasons and specifications prior to a decision provided that the oral and/or written reply is received by the Employer within 20 days after the employee's receipt of the letter of proposed action. Any request for an oral reply must be made within seven days of the employee's receipt of the letter of proposed action.

3. In deciding what action may be appropriate, the Employer will give due consideration to the relevance of any mitigating and/or aggravating circumstances. The following factors, included herein for purposes of illustration, are neither meant to be exhaustive nor intended to be applied mechanically, but rather to outline the tolerable limits of reasonableness:

    a. the nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical and inadvertent, or was committed maliciously or for gain, or was frequently repeated;

    b. the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;

c. the employee's past disciplinary record, including the freshness or time frame of previous offenses;

d. the employee's past work record; including length of service, performance on the job, ability to get along with fellow workers, and dependability;

e. the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the Employer's confidence in the employee's ability to perform assigned duties;

f. consistency of the penalty with those imposed upon other employees for the same or similar offenses;

g. consistency of the penalty with any applicable agency table of penalties;

h. the notoriety of the offense or its impact upon the reputation of the Employer;

i. the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;

j. potential for the employee's rehabilitation;

k. mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and

l. the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

4. In cases of proposed removal or indefinite suspension where the Employer has reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, the employee will be given written notice stating the specific reasons for the proposed action at least seven days in advance of the action. The employee has the right to make an oral and/or written reply in response to the proposed letter prior to a decision provided the oral and/or written reply is received by the Employer within seven days of the employee's receipt of the proposed action.

5. The notice of proposed adverse action shall include the following:

a. A statement of charges, specifications, and reasons for the action proposed;

b. A statement that the employee shall receive a reasonable amount of official time to review the material relied upon to support the charges and to prepare an answer to the charges orally and/or in writing;

c. A statement that the employee has the right to be represented by the Union or an

attorney or other representative of their own choosing;

d. A statement that the Employer will provide a written decision and specific reasons therefore; and,

e. The name of the official to whom the reply is to be made, who shall be a higher ranking official than the one proposing the action.

6. If the employee elects to make an oral reply, the Employer may prepare a verbatim transcript of the oral reply and upon written request will provide a copy to the employee or designated Union representative.

7. If an oral reply is by an employee and/or a representative outside of the Kansas City Complex, the reply will be by telephone. The employee and representative may also utilize the government telephone system in preparation for such an oral reply.

8. The employee shall have the right to be represented by the Union, or by an attorney or other representative of their own choosing in connection with the oral and/or written reply.

9. Whenever the Employer suspects an employee has engaged in misconduct, it is generally desirable that the Employer bring the alleged misconduct issue to the employee's attention as soon as possible and point out the possible violation to the employee.

Section C. Decision

1. The Employer will issue a final decision after receipt of the written and/or oral reply, or the termination of the advance notice period. This letter will state which reasons and specifications are sustained and will address factual disputes, if any, raised in the employee's reply by stating the reasons why each factual dispute was rejected.

2. If the final decision is made to take the adverse action, the employee will be informed of their appeal rights and the time limits for filing an action under those rights. The decision letter will also include the name and location of the appropriate agency or official to whom an appeal shall be addressed.

3. If the Union is the designated representative, the Employer will provide a copy of the decision to the Union.

Section D. Appealing Adverse Action

An employee may appeal an adverse action decision to the Merit Systems Protection Board (MSPB), or with the consent of the Union, to binding arbitration. An employee cannot

appeal an adverse action to both MSPB and arbitration.

1. If the Union elects to appeal an adverse action to arbitration, the Union must give the Employer written notice of its decision within 20 days from the effective date of the action.

2. The notice of appeal must be given by certified mail or by hand delivery to Human Resources, Kansas City, MO.

Section E. Fifth Amendment Right

If the Employer or an agent of the Employer interviews an employee with regard to possible criminal misconduct, the employee will be notified prior to the beginning of the interview of their Fifth Amendment right to remain silent, and informed that providing a false answer may result in criminal prosecution.

Section F. Time Limits

Any of the time limits set forth in this Article may be extended or waived by mutual agreement of the parties.

ARTICLE 34: NOTICES TO EMPLOYEES

Section A. Written Notice

When the Employer presents written notice to an employee concerning a personnel action in which the employee has appeal rights in accordance with applicable law, rule and regulation, the Employer will provide the employee with an original and one copy of the notice, which the employee may transmit to their Union representative.

Section B. Notice Statement

When the Employer presents an employee with a written notice specified in Section A of this Article, the extra copy of the notice given to the employee shall include the following statement: "An extra copy of this notice is enclosed. This copy may, at your own option, be furnished to NTEU, Chapter 264."

ARTICLE 35: FITNESS-FOR-DUTY EXAMINATIONS

Section A. Direction

The Employer may direct an employee to undergo a fitness-for-duty examination in accordance with applicable federal laws and regulations. Negative results from this examination as it relates to their position may result in termination.

Section B. Advance Notice

Except in emergency situations, an employee is entitled to five workdays advance notice that they are to take a fitness-for-duty or psychiatric examination. In the event that the employee is requested to set up an appointment, they shall be allowed reasonable time to do so. The notice will set forth the reasons for the examination and the general scope and character of the examination.

Section C. Examination

In accordance with regulations, if an employee objects to the medical examiner specified by the Employer, they may submit a list of three physicians from within the commuting area of the employee. From the list, the Employer will select one doctor to examine the employee. In psychiatric examinations, the physicians will be Board Certified.

Section D. Costs

In accordance with regulations, the Employer will pay all costs related to a directed medical examination.

Section E. Copies of Correspondence

The Employer will provide an employee, who has been directed to undergo a fitness-for-duty examination, copies of correspondence not specifically prohibited by applicable laws, government-wide rules, and regulations.

Section F. Warehouse Examiner Health Screenings

Every two years, in conjunction with national or regional meetings, the Employer will provide voluntary health screenings related to potential hazards encountered during warehouse examinations. The information from the screenings will be confidential and provided to the employee for their personal follow-up.

ARTICLE 36: WAIVER OF OVERPAYMENT

Section A. Processing Requests

1. When an employee receives an overpayment of pay and allowances, other than travel and transportation expenses, they may request a waiver of overpayment in accordance with applicable law, rule, and regulation.

2. The Employer will process all requests for waiver of overpayment as expeditiously as practicable.

3. To the extent possible, if an employee has applied for a waiver of overpayment, no overpayment will be collected until the employee's application for waiver of overpayment has been decided.

4. If a requested overpayment is denied, the employee will be notified of the reason(s) for the denial in writing.

Section B. Repayment

1. When an employee is not granted a waiver of overpayment, the employee will be permitted to make repayment in accordance with applicable law, rule, and regulation.

2. If an employee terminates employment with the Employer prior to the liquidation of any overpayment described in this Article, the Employer retains the right to satisfy any outstanding balance from any funds due to the employee.

ARTICLE 37: RETIREMENT COUNSELING AND RESIGNATION

Section A. Retirement Counseling

1. The Employer will provide retirement counseling when new employees are hired. In addition, retirement counseling will be provided during new employee orientation.

2. Employees will not be charged leave to visit the Employer's retirement counselor.

3. Every eligible employee will be given the opportunity to attend one Mid-Career Seminar and one Pre-retirement Seminar (e.g. offered by the Federal Executive Board (FEB)), at the Employer's expense. In order to be eligible to attend at the Employer's expense, the employee must meet the eligibility requirements indicated by the FEB, on their announcement. When the Employer pays for the registration fee, the employee will not be charged leave to attend the seminar.

4. Upon request, the Employer will provide a statement setting forth an estimate of the employee's monthly compensation and options available.

Section B. Resignation

An employee may withdraw a resignation at any time prior to its effective date provided:

1. the withdrawal is communicated in writing to the Employer, and

2. the Employer has not made a commitment to any specific person to fill the position.

ARTICLE 38: OUTSIDE EMPLOYMENT

Section A. Requests

An employee, other than a special government employee, who is required to file either a public or confidential disclosure report (SF 278 or OGE Form 450), or an alternative form of reporting approved by the Office of Government Ethics, shall, before engaging in outside employment, obtain written approval from the Employer. All requests for such outside employment must be in writing and must be submitted on form FSA-322 in advance of the proposed start work date.

Section B. Approval

The Employer will review and approve or disapprove requests of an employee to engage in outside employment or activities as quickly as possible after the Employer's receipt of the request.

Section C. Criteria

The Employer agrees that all requests for outside employment or activities shall be evaluated based upon the criteria established in 5 CFR 2635, by the Office of Government Ethics, and the USDA Standards of Conduct in effect.

ARTICLE 39: EMPLOYEE ASSISTANCE PROGRAM

Section A. Objective

The Employer and the Union support the objective of assisting employees whose job performance is adversely affected by alcoholism, drug abuse, emotional illness, financial, or legal concerns, marriage or family concerns, or other personal problems. Given this common objective, the Employer agrees to continue the Employee Assistance Program (EAP).

Section B. Union Cooperation

The Union agrees to cooperate fully with the Employer in an attempt to rehabilitate affected employees who accept assistance made available under the provisions of the Program.

Section C. Confidentiality

Employee participation in the EAP will be strictly confidential.

Section D. Annual Notification

The Employer will continue to issue an annual notice to employees explaining the Program and the services it provides.

Section E. Program Participation

1. The parties recognize that the Program is designed to deal with problems at an early stage when the situation may be more likely to be correctable. If an employee participates in the EAP, the responsible supervisory official will give consideration to this fact in determining any appropriate disciplinary action.

2. The Employer will not take any action against an employee for seeking assistance through the EAP. Participation in the Program will not prevent the Employer from proposing and taking conduct and performance-based actions.

3. EAP services will be made available to those employees who request and need them. The Employer agrees to assist employees by providing information and encouragement to use counseling services as needed. Should counseling appointments require absence from the workplace, the employee will make the appropriate advance arrangements with their supervisor.

Section F. Leave During Duty Hours

Absences during duty hours for counseling, assessment, referral, rehabilitation, or treatment must be charged to sick leave, annual leave, leave without pay, credit hours, or compensatory time in accordance with leave regulations and this Agreement.

Section G. New Hire Orientation

Newly hired employees will receive appropriate EAP information and materials during orientation.

ARTICLE 40: HEALTH AND SAFETY

Section A. Provisions

The Employer will, to the extent of its authority and consistent with Executive Order 12196, as amended, the Occupational Safety and Health Act (OSHA) of 1970 (29 U.S.C. 668), requirements, as well as other applicable health and safety codes, provide and maintain safe and healthful working conditions for all employees. The Employer and the Union will cooperate to that end and will encourage employees to work in a safe manner.

Section B. Actions for Unsafe Conditions

1. The Employer will initiate prompt and appropriate action to abate any unsafe working condition, reported or observed, in accordance with Executive Order 12196, as amended. When the Employer determines that a risk of exposure to unsafe or unhealthy working conditions exists and cannot be immediately abated, interim steps will be taken to protect employees.

2. Pursuant to applicable law and regulation, no employee shall be subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in Agency occupational safety and health program activities, or because of the exercise by such employee on their behalf or another's of any right afforded by Section 19 of OSHA, Executive Order 12196, as amended, or 29 CFR 1960. These rights include, among others, the right of an employee to decline to perform their assigned task because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting.

Section C. Employee Information and Equipment

1. The Employer agrees to provide information about ergonomic hazards and how to prevent ergonomic-related injuries.

2. Consistent with workload demands, employees using VDTs for extended periods during the course of a day will be granted periodic relief by interspersing other work tasks requiring less visual concentration.

3. The Employer agrees, to the extent possible, to provide safety devices, such as glare screens, printer sound covers, etc., which will promote greater safety and comfort for VDT operators.

Section D. Safety/Health Inspections

The Employer will assure each building at the Kansas City Complex will have an annual safety inspection. The Union, at its option, may participate as an observer in OSHA investigations. Copies of any OSHA inspections or investigation reports pertaining to the Kansas City Complex will be provided to the Union.

Section E. Asbestos, Air, and Water Quality

The Employer will comply with OSHA regulations as related to asbestos, air (including radon), and water quality. When an employee requests this information on a facility in which they are required to work and the facility is not under the control of the Employer, the Employer will make reasonable efforts to obtain the information.

Section F. Employee Occupational Injury or Illness

When an employee is injured or becomes occupationally ill in the performance of duties, they should report injury or illness to their supervisor immediately and obtain first aid as necessary. The employee shall submit a written report (Form CA-1 or CA-2) to their supervisor within 30 days of the date of the injury or illness. Information on employee benefits under Federal Employee's Compensation Act (FECA) is listed on Forms CA-1 and CA-2. Additional information regarding injury compensation is available in HR.

Section G. Occupant Emergency Plan

Each building at the Kansas City Complex shall have an Occupant Emergency Plan contained in Handbook 21 ADM (KC). The Employer will issue an annual reminder of the Occupant Emergency Program Plan.

Section H. Health Benefits

The Employer will make information available to employees on health benefits open season activities and maintain copies of offered health plans for review upon request.

Section I. Chemical Materials

1. The Employer will make available all data sheets on chemical materials used in and around the buildings at the Kansas City Complex.

2. The Employer will inform the Union of chemicals that are not routinely used in its buildings such as paint, cleaners, or pesticides as soon as it is aware that such will be

used. This includes advice regarding routine schedules for lawn maintenance and pest control in or around the buildings.

Section J. First-Aid

1. The Employer will provide first-aid kits at all Kansas City Complex building locations for use when Health Unit facilities are not available. Employer-designated employees will ensure kits are maintained and will notify a Health Unit nurse when replacement of supplies are needed. All employees will have reasonable access to these supplies; however, employees should use Health Unit services when available.

2. The Employer may provide training to interested employees for cardiopulmonary resuscitation (CPR) during duty or nonduty hours. If during duty hours, official time will be given to those approved for participation.

Section K. Health Services and Wellness Programs

1. The Employer, within budgetary limitations, will continue to operate health services and wellness programs (e.g., screenings, classes, and informational materials). The Employer and the Union recognize that some activities may involve voluntary employee financial contributions in part or in whole. Employees will be permitted to participate in offered screenings on official time.

2. Vision Screening. Employees may schedule Titmus screenings with the Health Unit. After the successful completion of a pilot screening, scheduled for May 2010, the Employer will ensure that Glaucoma screenings are offered on a minimum basis, every other year beginning with even numbered years subject to budget constraints and availability of a provider.

Section L. Safety Reports

Pursuant to law and regulation, any required Employer safety reports will be made available for review by the Union.

Section M. Snowfall Safety

After a snowfall, the Employer will continue to make every reasonable effort to ensure that walkways, parking areas, and driveways are cleared and, if needed, salted or sanded as soon as possible.

Section N. Safety Issues

Safety issues and activities within KC, FSA that normally are the substance of a joint safety committee will be addressed through the Labor Management Relations Committee.

The Employer will inform the appropriate union representative of all FSA and shared space indoor and outdoor construction activities occurring during normal work hours. When the activity occurs in space immediately occupied by employees, management will take appropriate safety measures.

Section O. Warehouse Examiner Safety Advisory Team

1. The Employer and the Union agree to continue a warehouse examiner safety advisory team. The team is made up of three (3) willing bargaining unit employees nominated by the Union and selected by the Employer and one team leader designated by the Employer to carry out coordination and liaison functions. Team members should be from different geographic areas of the country.

2. As vacancies occur on the team, the Employer will select employees from a list nominated by the Union. The Union will nominate at least three (3) different employees for each vacancy. For example, if there are two (2) simultaneous vacancies, the Union will nominate six (6) different employees.

3. Reports will reflect the team's activities and recommendations to the Employer.

4. Communication among team members will generally be conducted by telephone, mail, and electronically.

5. Safety Advisory Team discussions, regardless of how conducted, will be held at least annually. The team will strive to solicit agenda items in advance of discussions.

Section P. Safety Equipment for Warehouse Examiners

In accordance with law, regulation, and this Agreement, the Employer agrees to provide safety equipment to warehouse examiners appropriate for the normal performance of their assigned duties. This normally includes items such as a hard hat and flashlight with batteries. Respirator masks with filters and protective eye and ear equipment will be provided upon request. The Employer will also consider requests on a timely basis for additional equipment for use in unique facilities and/or special tasks.

ARTICLE 41: EQUAL EMPLOYMENT OPPORTUNITY

Section A. Affirmation

The Employer and the Union affirm their commitment to the policy of providing equal employment opportunities to all employees and to prohibit discrimination because of Age, Color, Disability (Mental or Physical), Genetic Information, Marital or Family Status, National Origin, Parental Status, Political Beliefs, Race, Religion, Sex, or Sexual Orientation or reprisal for previous Equal Employment Opportunity (EEO) activity. The parties agree that Equal Employment Opportunity shall be administered in accordance with Title 7 of the Civil Rights Act of 1964, 29 CFR Part 1614, Title 5 USC, and Executive Order 11478, authorizing legislation and applicable rules and regulations.

Section B. Employee Participation

The Union and the Employer encourage all employees to actively participate in the EEO Program. This includes such special emphasis activities as the Federal Women's Program, Selective Placement, the Hispanic Employment Program, and other appropriate programs and activities.

Section C. EEO Advisory Committee

The establishment of EEO advisory Committees is at the discretion of the Employer. If the Employer is directed to establish such a committee, the Employer will notify the Union pursuant to Article 45 of this Agreement.

Section D. Contacts

Nothing in this Agreement shall preclude the Employer from dealing directly with Civil Rights Organization, Women's Groups, or any other organization not qualified as a labor organization, on EEO matters or policies involving their members so long as such dealings do not detract from or violate the rights of the Union under applicable laws or this Agreement, or assume the character of formal consultation on matters of general employee-management policy affecting the bargaining unit.

Section E. Employee Rights

1. Any employee who believes that they have been discriminated against on any of the grounds set forth in Section A above may file:

    a. a complaint under Agency procedures for filing a complaint of discrimination; or

b. a grievance pursuant to the provisions of Article 42 of this Agreement; or

c. an appeal to the Merit Systems Protection Board (MSPB) where an action is otherwise appealable to the Board and the employee alleges that the basis for the action was discrimination prohibited by Section A; or

d. an appeal to the Equal Employment Opportunity Commission (EEOC) where there is an allegation of discrimination but no otherwise appealable action.

2. An employee, at their option, may file a grievance under the provisions of this Agreement or a complaint under an appropriate appeals procedure, but may not file under both.

Section F. Consultation

Employees are encouraged but not required to consult with an Equal Employment Opportunity Counselor prior to filing a grievance or appeal under this Article.

Section G. Representation

1. At any stage in the processing of a complaint, the employee shall have the right to be accompanied, represented, and advised by a Union representative.

2. The employee shall also have the right to present the complaint without representation.

3. If the employee elects to pursue the complaint under the grievance procedures of this Agreement and elects to process the grievance without representation, the Union shall have the right to be present at any meeting between the Employer and the employee concerning the grievance.

4. Any employee who wishes to file or has filed a complaint shall be free from coercion, interference, and reprisal, and shall be entitled to expeditious processing of the complaint within the time limits prescribed by regulations. Any employee who seeks to file a complaint shall have the right to select a representative of their choosing.

5. No Union official or Union representative will serve as an EEO counselor.

Section H. Obligations

Where the development and implementation of the Employer's EEO plans and programs involve changes in personnel policies, practices, or working conditions, the Employer will notify the Union pursuant to Article 45 of this Agreement.

Section I. Formal Discussions

Following adjudication under a statutory procedure, the decision will generally affect the complainant alone. However, when a formal discussion is held by the Employer with the complainant and/or the complainant's representative for the purpose of implementing a decision which impacts employees in the bargaining unit, the Union will be given an opportunity to be represented at the meeting.

Section J. Statistical Summaries

Upon request, the Employer will provide the Union the statistical data required to be maintained by EEOC regulations.

ARTICLE 42: GRIEVANCE PROCEDURE

Section A. Purpose

The purpose of this Article is to provide a mutually acceptable method for prompt and equitable resolution of grievances. Grievances must be handled promptly at all levels and according to the time limits stated herein. Resolutions of grievances are encouraged at any stage of the grievance process.

Section B. Definitions

1. Grievance. The term "grievance" means any written and signed complaint:

   a. by any employee for personal relief concerning any matter not excluded by the terms of this Agreement relating to the employment of the employee;

   b. by the Union for personal relief for any employee concerning any matter not excluded by the terms of this Agreement relating to the employment of any employee; or,

   c. by any employee, the Union, or the Employer concerning:

      (1) the effect or interpretation, or a claim of breach, of this Agreement; or

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

2. Personal Relief. The term "personal relief" means a specific remedy directly benefiting the grieving employee or the Union, but does not include a request for discipline or other action affecting another employee, including a supervisor or management official.

3. Receipt. The term "receipt" as used in this Article is defined to mean the date a written decision was delivered to the grievant and/or their Union representative. When the U.S. mail is utilized to effect delivery of a written decision, proof of delivery or reasonable efforts will constitute receipt.

4. Meeting. The term "meeting" as used in this Article includes telephonic conference calls for those employees not in the Kansas City metropolitan area.

Section C. Scope of Procedures

1. The procedures set forth shall be the exclusive procedures available to employees and to the parties to this Agreement for resolution of grievances covered under the terms of

this Agreement.

2. The following matters are not grievable and are specifically excluded from the coverage of this Article:

   a. any claimed violation of 5 USC Chapter 73 Subchapter III relating to prohibited political activities;

   b. retirement, life insurance, or health insurance;

   c. a suspension or removal under 5 USC Section 7532 concerning National security;

   d. any examination, certification, or appointment;

   e. the classification of any position which does not result in the reduction in grade or pay of an employee;

   f. non-selection for promotion from a group of properly ranked and certified candidates as excluded by this Agreement;

   g. termination of a probationary employee during the probationary period and termination of a temporary employee during their temporary appointment, as excluded by this Agreement;

   h. decisions with respect to award nominations, the giving of awards, or the number of awards to employees, as excluded by this Agreement;

   i. a preliminary warning or proposal of an action which, if effected, would be covered under this procedure or under a statutory appeals procedure;

   j. matters which are not subject to the control of the Employer.

   k. individual employee challenges to a Reduction-In-Force.

3. An aggrieved employee affected by a prohibited personnel practice under 5 USC Section 2302 (b)(1) may raise the matter under the appropriate statutory procedure or under this procedure, but may not do both. An employee shall be deemed to have exercised their option under this provision to raise the matter under either a statutory procedure or this procedure at such time as the employee initiates an action under the applicable statutory procedure or files a grievance in writing under this procedure, whichever occurs first.

4. An aggrieved employee affected by matters covered under 5 USC Sections 4303 and 7512 may raise the matter under the appropriate statutory procedure or under this procedure, but may not do both. An employee shall be deemed to have exercised their option under this provision to raise the matter under either a statutory procedure or this

procedure at such time as the employee initiates a notice of appeal under the applicable statutory procedure or files a grievance in writing under this procedure, whichever event occurs first.

5. For purposes of Section C3 and C4 of this Article, settlement of an issue through a statutory procedure, whether formal or informal, constitutes a notice of appeal under the applicable statutory procedure.

Section D. Representation

1. Exclusive Representation. Any employee or group of employees may present a grievance covered under the terms of this Agreement to the Employer under this Article. The Union as exclusive representative, or its designated representative, shall be the only representative used by an employee or group of employees under this procedure, except that an employee or group of employees may elect to represent themselves.

2. Self Representation. If an employee or group of employees elects to represent themselves, the Union shall be notified and given an opportunity to be present at any grievance discussion conducted under the negotiated procedure. When an employee(s) chooses self-representation during a grievance, the Employer will provide the Union with a copy of any decisions or settlements made by the Employer.

3. Representative Fees. There are no provisions for payment of fees or other expenses associated with filing a grievance to grievant or their representatives except as mandated under an arbitrator's award.

Section E. Procedures

The Employer agrees that its representative(s) will have authority to resolve the grievance. All like or similar grievances may, at election of either party, be combined. No more than three employees and their Union representative may attend any grievance meeting. In addition, upon advance notice and with written permission of the grievant, the Union may bring in one trainee observer, from the bargaining unit, to any grievance meeting. A trainee may attend no more than three separate grievances. The trainee observer will not be able to speak or pass information during the grievance meeting.

1. Grievance Format and Content

   a. Employee and Union Grievances

      A grievance by an employee or group of employees, or by the Union, must be written and signed by the grievant(s). The grievance must contain a clear and plain statement of the complaint being made and the personal relief requested.

The grievance must also contain factual detail sufficient to enable the Employer to investigate and assess the grievance, to determine whether the grievance relates to something within the Employer's control, and to determine whether the personal relief requested is within the Employer's control to provide. Grievances alleging a violation of, or failure to comply with, the terms of this Agreement must identify the Article, and specific provision thereof, that forms the basis of the grievance.

b. Employer Grievances

Grievances by the Employer shall be written and signed and must contain a clear and plain statement of the complaint being made and of the relief requested, and factual detail sufficient to enable the Union to investigate and assess the grievance and to determine whether the relief requested is within the Union's control to provide. Grievances by the Employer alleging a violation of, or failure to comply with, the terms of this Agreement must identify the Article, and specific provision thereof, that forms the basis of the grievance.

2. Procedures for consideration of grievances by the Union on behalf of an employee or by an individual employee are shown below. The Employer will designate different resolving officials at each step of this grievance procedure.

a. STEP 1

(1) A grievance must be submitted in writing, signed by the grievant, and filed with the grievant's immediate supervisor no later than 30 days from the date of the act or occurrence giving rise to the grievance, or from the date on which the employee knew, or had reason to know, of the act or occurrence. However, in no instance may a grievance be filed more than one year from the date of the act or occurrence which gave rise to the grievance.

(2) The Step 1 resolving official will contact the Union and schedule a meeting to occur not later than five workdays following the receipt of the grievance. By mutual agreement the meeting may be deferred.

(3) The Step 1 resolving official will submit a written response not later than ten workdays following the Step 1 meeting.

b. STEP 2

(1) An employee dissatisfied with the answer provided in the Step 1 response may file an appeal of the decision with the Division Chief. Such notice of appeal will be timely if made within ten workdays of receipt of the decision in Step 1.

(2) The Step 2 resolving official will contact the Union and schedule a meeting to occur not later than five workdays following the receipt of the

appeal. By mutual agreement the meeting may be deferred.

(3) The Step 2 resolving official will issue a written response no later than ten workdays following the Step 2 meeting.

c. STEP 3

(1) An employee dissatisfied with the answer provided in Step 2 may file a written appeal of the decision to the Director or their designee. Such notice of appeal will be timely if made within ten workdays after the Step 2 decision was, or should have been, issued.

(a) The employee must attach a copy of the Step 2 presentation and decision.

(b) If a decision was not issued within the time period required in Step 2, that fact should be noted.

(2) The Step 3 resolving official will contact the Union and schedule a meeting to occur not later than five workdays following the receipt of the appeal. By mutual agreement the meeting may be deferred.

(3) The Step 3 resolving official will issue a written response no later than 15 workdays following the Step 3 meeting.

Any Step(s) of this procedure may be waived by mutual agreement.

Section F. Arbitration

If the Director or their designee's decision is not acceptable to the employee or the Union, or if they do not issue a timely decision, the Union may proceed to arbitration in accordance with the provisions of Article 43, Section B.1.

Section G. Exception to the Grievance Procedure

In disciplinary, adverse, or performance actions where an employee is afforded an opportunity to respond orally or in writing to the proposed action (e.g., disciplinary suspensions, within-grade increase denials, downgrade, and removals), the grievance procedure is waived and the employee may request that the Union invoke arbitration in accordance with Article 43 of this Agreement.

Section H. Procedures for Consideration of Union Grievances

When the Union initiates a grievance on its own behalf concerning (1) the effect or interpretation, or a claim of breach of this Agreement or (2) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment or (3) any employee grievance where the subject of the grievance is the result of a decision or action of HR in Kansas City the following procedures will apply:

1. STEP 1

    a. A written grievance, signed by the Union Chapter President, and submitted on behalf of the Union, must be filed with Employee and Labor Relations in Kansas City no later than 30 days from the act or occurrence giving rise to the grievance, or no later than 30 days from the date the Union knew, or had reason to know, of the act or occurrence. However, in no instance may a grievance be filed more than one year from the date of the act or occurrence giving rise to the grievance.

    b. The Employer will identify the Step 1 and Step 2 reviewing officials. The Step 1 reviewing official will schedule a Step 1 meeting within five workdays of the receipt of the grievance.

    c. The Step 1 reviewing official will submit a written response not later than ten workdays following the Step 1 meeting.

2. STEP 2

    a. If the Union is not satisfied with the response issued at Step 1, the Union Chapter President may file an appeal with the designated Step 2 reviewing official.

    b. Such appeal must be filed within ten workdays of receipt of the response in Step 1.

    c. A Step 2 meeting will be held, if mutually agreed, within five workdays of the receipt of the appeal.

    d. The Step 2 reviewing official will issue a written response within ten workdays of the receipt of the appeal or no later than ten workdays following the Step 2 meeting, whichever is later.

Section I. Rejection of Grievances

Notwithstanding a declaration that a matter is not grievable, the responding official will still address the grievance on the merits. A grievance may be rejected if:

1. it was not filed within the specified time limits;

2. it consists of a matter or matters excluded from the coverage of the grievance

procedures;

3. it contains no specific request for relief;

4. it does not meet the definition of "personal relief" as defined in Section B2 of this Article; or

5. in the case of a group grievance, there is no commonality of interest between or among members of a group of employees.

A rejection of a grievance under this Section or Section C.2 on grounds that the matter is not grievable under this Agreement shall constitute a statement by the rejecting party that the grievance is not arbitrable. If the grieving party does not accept the reason for rejection of the grievance, the grieving party may pursue the grievance through the remaining steps of the grievance procedure established by this Agreement, as to both rejection of the grievance and the merits of the grievance. In the event the grievance is not resolved, the procedure established in Article 43 shall apply.

Section J. Time Limits

1. Failure to Comply. Unless mutually agreed upon, all time limits contained in this Article shall be strictly observed. Failure by the Union, employee, or Employer upon submitting a grievance to adhere to the time limitations for filing a grievance at any step of the procedure will result in cancellation of the grievance. The time within which grievances may be filed is not affected by informal attempts to resolve a potential grievance unless mutually agreed upon. If the Union or the employee fails to respond within the time frame, the grievance is nullified. If the Employer fails to respond within the time frame, the Union may appeal to the next step. Should the Union or the Employer fail to adhere to the time limits at the final step of the grievance procedure, either party may invoke arbitration on its grievance pursuant to the provisions of Article 43 of this Agreement.

2. Computation of Time. In computing periods of time for purposes of this Article, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, a legal holiday, a day other than a legal holiday when the Employer's office is closed, or a day on which a unscheduled leave policy is in effect due to inclement weather, in which event the period runs until the end of the next day which is not one of the aforementioned days.

Section K. Service of Grievances and Grievance Decisions

1. Grievances and grievance decisions must be served at each step of the procedures established by this Article by electronic mail or hand delivery to the appropriate

person's office, desk, or work station.

2. Service of grievance decisions on the designated Union representative shall constitute service on an employee. If the employee does not desire to be represented by the Union, service shall be made simultaneously to the employee and designated Union representative.

3. Service on a group of employees who elect not to be represented by the Union, shall be made simultaneously on any single member of the group and the Union Chapter President.

4. Grievance decisions by the Union shall be served on the Employer's Personnel Officer or designee.

Section L. Questions of Arbitrability

Either party having objection to the appropriateness of a matter for consideration shall make the matter known prior to or at the Director's level of this procedure. Grievability/arbitrability determinations shall be contained in one or more of the decisions issued at the various steps of the grievance procedures.

Section M. No Expansion of Issues

New issues may not be raised by the Union unless they have been raised at or before the Step 1 meeting. All issues must be related to the subject of the grievance as written and submitted. New issues, for purposes of this Section, mean complaints arising out of a different set of facts that should have properly been the subject of a different grievance. An additional legal or contractual argument is not considered a "new issue."

Section N. Precedence Setting Grievance Decisions

Absent mutual agreement, Employer decisions rendered during the grievance procedure are not precedential.

Section O. Procedures for Consideration of Employer Grievances

A grievance by the Employer shall be submitted in writing by the Employer to the Union Chapter President or designee within ten workdays of the event giving rise to the grievance. The Union Chapter President will respond in writing to the grievance within ten workdays of receipt of the grievance. The decision of the Union Chapter President shall specify that it is the Union's final decision on the grievance.

ARTICLE 43: ARBITRATION

Section A. Applicability

Any grievance under the terms of this Agreement that is not resolved may be subject to binding arbitration. Only the Union or the Employer may invoke arbitration.

Section B. Preliminary Procedures

1. Notice. Either the Union or the Employer may invoke arbitration by serving a notice on the other within 20 workdays following receipt (as defined in Article 42, Section B3) of the final decision under Article 42. 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 30 days, the grievance is dropped, except when the invoking party has made a good-faith effort to schedule the arbitration.

2. Arbitrator Selection. Within five workdays from invoking arbitration, the party that invoked arbitration will request a list of five impartial arbitrators from the FMCS by submitting a jointly executed FMCS Form R-43. Within ten workdays from receiving a list of arbitrators from FMCS, the parties will meet to select an arbitrator. If the parties cannot agree on an arbitrator, the parties will each strike one name from the list alternately and then repeat this procedure until only one name remains. The person whose name remains will be selected as the arbitrator. The party striking the first name from the list in each case will be chosen by a coin toss. At any time the parties may agree to obtain a new list of arbitrators from the FMCS.

3. Cost. Except as indicated elsewhere in this Article, all arbitration fees and expenses will be borne equally by the parties to the arbitration. If, prior to the arbitration hearing, the parties resolve the grievance, any cancellation fee will be borne equally by the parties. If a party requests arbitration, and later withdraws the request for any reason other than resolution, that party will bear the full cost of any cancellation fee imposed by the arbitrator. In all arbitrations, each party will bear their own costs for transcripts, their own attorney fees, and any other costs associated with the arbitration. However, attorney fees may be awarded to the prevailing party in accordance with applicable law and regulation.

4. Scheduling. Upon selection of the arbitrator, the parties will jointly communicate with the arbitrator to select an agreeable date for the submission of motions and responses dealing with questions of arbitrability, if any, and a date for the hearing. Hearings will be held on the Employer's premises, unless otherwise mutually agreed. The arbitration hearing will be held at a convenient site arranged by the Employer.

5. Prehearing Conference. By mutual agreement, the parties will arrange for a prehearing conference, with or without the arbitrator, to consider possible settlement and means of expediting the hearing.

Section C. Authority of Arbitrator

For appeals processed pursuant to this Article, the arbitrator will have no power to add to, subtract from, disregard, alter, or modify the terms of this Agreement. Their award or recommendation will be limited to the issue(s) presented at arbitration.

Section D. Arbitration Procedures

1. Arbitrability.

   Issues concerning the arbitrability of a grievance presented for arbitration under the terms of this Agreement will be heard by the arbitrator on written motion, or, if either party requests, a hearing, in advance of any scheduled arbitration hearing to decide the merits of the case. Arbitrability issues must be raised prior to the effective date of any applicable cancellation fees. The arbitrator's decision on any such issue will be communicated in writing to the respective parties at least ten workdays prior to a scheduled arbitration hearing. Unless otherwise mutually agreed to by the parties, no arbitration hearing may proceed unless and until the arbitrator has rendered a written decision on issues of arbitrability. If the Employer declares a grievance nongrievable or nonarbitrable, the original grievance will be considered amended to include that issue.

2. Availability of Witnesses and Parties. The grievant(s), the grievant's representative, and all employees designated as witnesses, who are in an active duty status, will be excused from duty to the extent necessary to participate as a party or to testify as a witness in the arbitration proceeding without a loss of pay.

3. Testimony. All witnesses who testify in an arbitration hearing will be placed under oath by a person qualified to administer oaths.

4. Arbitrator's Decision

   a. In rendering a decision, the arbitrator will issue detailed findings of fact and conclusions of law setting forth the basis for the decision. In cases where the arbitrator directs that particular relief be provided, the arbitrator will issue findings of fact and conclusions of law setting forth the basis on which the relief has been ordered.

   b. An arbitrator will be requested at the hearing to render a decision as quickly as possible after the close of the record, but, in no event, later than 30 days after the

joint submission of briefs unless the parties mutually agree to extend that time limit.

5. Disputes. Any dispute regarding the application or implementation of the arbitrator's award may be returned, by either party, to the arbitrator for resolution. It is understood that such return does not delay the time in which either party may file an appeal of the award.

6. Award Appeals. It is agreed and recognized that arbitration provided herein is final and binding on both parties. However, either party may file exceptions to an award with the Federal Labor Relations Authority under regulations prescribed by the Authority.

ARTICLE 44: EXPEDITED ARBITRATION

Section A. Intention

This expedited arbitration procedure is intended to provide prompt and efficient resolution of certain matters. Accordingly, by mutual agreement, any grievance may be appealed to arbitration under the terms of this Article.

Section B. Requesting Arbitration

The request for arbitration under this Article must be made within 15 days after receipt of the final decision by the Employer or the Union, or, if no final decision is issued, within 15 days from the date each decision should have been issued.

Section C. Arbitrators

1. Within 60 days after the effective date of this Agreement, the parties will create a list of arbitrators to be maintained exclusively for grievances processed under this Article. Any arbitrator selected for inclusion may be removed from this list only by mutual agreement of the parties.

2. After the first 12 months, and after every succeeding 12 month period this Agreement remains in effect, the Employer and the Union may each remove unilaterally from the list a number of arbitrators not to exceed one-third (1/3) of the total. Replacements will be chosen in equal number to those removed, and in the same manner as originally selected.

3. Arbitrators will be selected to hear a grievance under the procedure on a rotational basis. Arbitrators will be selected within five workdays after notice of appeal to arbitration is served upon the other party. Notice of selection will be forwarded to the arbitrator within two workdays after selection.

4. The arbitrator will conduct the hearing within 15 days after being notified of their selection. If the arbitrator is unable to hear this case within this time frame, the next arbitrator on the list will be selected.

Section D. Arbitrating Disputes

The following procedures will apply to the arbitration of any dispute under this procedure:

1. The arbitration hearing shall be held during the regular work hours of the basic workweek at a convenient site arranged by the Employer.

2. The parties have the right to issue opening and closing statements, and to present and cross-examine witnesses.

3. Attendance at the hearing will be limited to those determined by the arbitrator to have direct knowledge of the circumstances and factors bearing on the case. The arbitrator may exclude any testimony or evidence that is determined to be irrelevant or unduly repetitious.

4. Witnesses will normally be present at the hearing only while testifying and should be permitted to testify only in the presence of the aggrieved employee or their representative and the Employer's representatives.

5. The grievant's representative and all employees of the Employer who are called as witnesses, and who are on active duty status, shall be excused from duty to the extent necessary to participate in the arbitration proceedings without loss of pay. If an employee must be excused from duty, the amount of time to testify will be charged to official time. The arbitrator shall have sole discretion to determine who may testify.

6. The hearing shall be informal and strict rules of evidence will not apply. However, all testimony shall be made under oath or affirmation.

7. Bargaining history testimony may be introduced, as appropriate.

8. There will be no transcript.

9. The arbitrator shall be bound by the provisions of this Agreement and applicable laws, rules, and regulations.

Section E. Filing Exceptions

1. The arbitrator's decision will be due within 30 workdays of the close of the hearing. This decision will be final and binding on both parties. However, either party may file exceptions to an award with the Federal Labor Relations Authority, under regulations prescribed by the authority.

2. The arbitrator shall have no power to add to, subtract from, or modify the terms of this Agreement, Agency policies, or regulations. The award will be limited to the issues presented at arbitration.

3. The arbitrator shall have the authority to make all arbitrability and/or grievability determinations. The arbitrator shall make such determinations prior to addressing the merits of the original grievance.

4. No decision rendered under this Article will be precedential.

Section F. Arbitrator's Fees

The arbitrator's fee and expenses of the arbitration, if any, shall be borne equally by the parties unless otherwise stated in this Agreement.

Section G. Additional Fees

Once the date for arbitration has been established, any party that unilaterally requests that an arbitration hearing be postponed, delayed, canceled, and/or withdrawn for whatever reason, which results in any fees being charged by the arbitrator, shall pay any additional fees.

ARTICLE 45: MID-CONTRACT NEGOTIATIONS

Section A. Matters Outside the Scope of Negotiations

Except as provided elsewhere in this Article, bargaining matters covered by this Agreement are not appropriate for further negotiation during the life of this Agreement, unless by mutual agreement.

Section B. Mandated Changes to This Agreement

1. If a future statute, Executive Order, government-wide regulation, or judicial decision requires the parties to change this Agreement, the Employer or the Union will notify the other, in writing, of proposed formal contract language to implement the change required. If either party desires to negotiate the impact and implementation of the change, to the extent permitted by law, it shall notify the other within five workdays. Such request to negotiate shall include a specific formal proposal for negotiations. Failure by either party to respond timely to the other's notice shall constitute a waiver of any right to negotiate on the proposed required change, and the proposed formal contract language will become part of this Agreement subject to approval by the Agency Head as set forth in Article 63 of this Agreement. Neither party will be permitted to propose changes unrelated to the change specifically required by law, Executive Order, government-wide regulation, or judicial decision.

2. If the Union has timely requested negotiations regarding a mandated change, the Employer will, where possible, delay the implementation of such change until such time as the parties reach agreement on all negotiable issues connected with the change.

Section C. Agreements Under This Article

1. Any agreements signed under the provisions of this Article shall be deemed to be supplemental to this Agreement and subject to approval by the Agency Head as set forth in Article 63 of this Agreement.

2. Should a provision of any agreement negotiated pursuant to this Article be rendered invalid by appropriate authority, either party may reopen the specifically affected sections as well as issues clearly and unmistakably bargained away as part of this Agreement.

3. Notwithstanding this Article, nothing shall affect the authority of the Employer to take whatever actions may be necessary to carry out its mission during emergencies.

Section D. Ground Rules

In addition to the requirements of Section C of this Article, the following procedures shall govern the conduct of all negotiations pursuant to this Article.

1. Negotiations shall take place as soon as practicable during regular duty hours unless otherwise mutually agreed by the parties.

2. The Employer will provide a site for negotiations.

3. The Union will be authorized the same number of Union representatives on official time as the Employer has representatives at the negotiating table.

4. It is the intent of the parties to consolidate issues for bargaining to the greatest extent possible.

5. Unless mutually agreed, neither party may submit new proposals after the first day of negotiations.

6. All agreements are tentative until full agreement is reached.

7. Agreements reached will be written and signed by both parties.

8. 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.

9. Upon written request of either party, written agreements reached under this Section will be subject to reopening upon expiration of this Agreement.

Section E. Proposed Changes by the Employer

1. A proposed change by the Employer, affecting the conditions of employment of any employee, will be submitted in writing to the Union. The Employer will provide the Union with reasonable advance notice. The notice will include the following:

    a. A description of the change.

    b. An explanation of how the change will be implemented.

    c. The date of implementation.

2. The Union may request a briefing or request to negotiate within five workdays of receipt of the proposed change.

3. If the Union requests a briefing, one will be held within five workdays of the request. The Union must submit its request to negotiate within five workdays of the briefing.

4. Union written proposals relating to the proposed change must be submitted within 10 (ten) workdays of the request to negotiate referenced in paragraphs two and three of this Section. Those proposals must be germane to the subject submitted by the Employer.

5. Negotiations will begin no later than five workdays following written proposals submitted by the Union.

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

7. If the Union has timely requested negotiations, the Employer will, where possible, delay the implementation of such change until such time as the parties reach agreement on all negotiable issues connected with the change.

Section F. Impasse Procedures

If agreement cannot be reached on the matters under negotiation, the following procedures apply:

1. Declarations of Impasse.

    a. Neither party may declare an impasse until all Articles and Sections are agreed to or declared nonnegotiable by the Employer or declared at an impasse by either party. The parties agree that each will use their best good-faith efforts to avoid impasse in negotiations.

    b. Either party declaring any provision nonnegotiable will provide to the other party a statement of non-negotiability and reasons therefore, without prejudice to later supplementation of the reasons.

2. Impasse.

    a. In the event either party declares an impasse in negotiations, the Federal Mediation and Conciliation Service shall be immediately requested to provide services and assistance to resolve the dispute pursuant to 5 U.S.C. 7119.

    b. If mediation services of the Federal Mediation and Conciliation Service do not result in resolution of the impasse, either party may invoke the services of the Federal Service Impasses Panel pursuant to 5 USC 7119. Prior to taking such

action, however, the party seeking to invoke the services of the Federal Service Impasses Panel will provide notice to the opposing party of its intention to take such action.

ARTICLES 46: LEFT BLANK INTENTIONALLY.

ARTICLE 47: General Office Supplies and Materials

1. The Employer agrees it is solely responsible to provide general office supplies and materials that are necessary for employees to perform their official duties.

2. The Employer will determine how employees will obtain general office supplies and materials and will make that information known to the employees.

3. The Employer has determined it will maintain a Supply Store, for employees to request general office supplies and materials, and will post the hours of operation (i.e. normally 9:30 AM to 2:30 PM).

4. If the Employer determines to change the means by which employees can obtain general office supplies and materials, the Employer will meet its Article 45 obligation.

ARTICLE 48: OFFICIAL TIME AND UNION REPRESENTATIVES

Section A. Union Representation

1. The Employer agrees to recognize a total of 17 officers and stewards (hereinafter referred to as Union representatives).

2. The Union will notify the Employer, in writing, of the identity of any Union representative before the Employer will recognize that representative for any purpose under this Agreement.

Section B. Definition of Official Time and Bank Time

1. For purposes of this Agreement, "official time" means time expended by an employee during the employee's assigned duty hours for one of the recognized purposes set forth in Section C or Section E of this Article without charge to annual leave.

2. For purposes of this Agreement, "bank time" means time expended by an employee during the employee's assigned duty hours for one of the recognized purposes set forth in Section D of this Article without charge to annual leave.

3. The Employer recognizes that individual employees have a legitimate need for use of official time for purposes recognized by applicable law, rule, regulation, and this Agreement. The Employer also recognizes that, by virtue of recognition of the Union as the exclusive representative for employees, the Union has a legitimate need for employees to use official time or bank time as Union representatives for representational activities as permitted by applicable law, rule, regulation, and this Agreement.

Section C. Recognized Representational Purposes For Official Time

1. The supervisor of an employee entitled to use official time will approve official time for the purposes and amounts set forth in this Section that are reasonably necessary to accomplish the purpose for which official time is requested, unless the presence of the person entitled to use official time is needed to meet work requirements.

2. The parties recognize the following purposes for official time for representational duties:

    a. meetings with the Employer concerning personnel policies, practices, or other general conditions of employment.

    b. oral replies to notices of proposed disciplinary, adverse, or unacceptable

performance actions.

c. meetings to present appeals in connection with statutory or regulatory appeal procedures in which the Union is designated as the representative.

d. attendance at examinations of employees by a representative of the Employer in connection with an investigation if:

(1) representation is requested by an employee, and

(2) the employee reasonably believes disciplinary action may result from the investigation.

e. grievance meetings with the Employer and arbitration hearings.

f. for participation for or on behalf of the Union in any phase of proceedings before the Federal Labor Relations Authority during the time the Union representative would otherwise be in a duty status.

g. travel to and from the above listed activities.

Section D. Recognized Purposes For and Amounts of Bank Time

1. The parties agree to continue to maintain a bank of time to be used when a Union representative reasonably requires additional time in excess of five hours per week to conduct representational activities identified in this Section D. The representative is entitled to use time from the bank provided it is requested and approved according to the provisions of this Agreement. The bank will consist of all unused weekly hours accrued by the 17 Union representatives up to 700 hours.

2. The supervisor of an employee entitled to use bank time will approve bank time for the purposes and amounts set forth in this Section that are reasonably necessary to accomplish the purpose for which bank time is requested, unless the presence of the person entitled to use bank time is needed to meet work requirements.

3. For representational purposes, a reasonable amount of time (up to five hours per 40-hour work week per representative) for activities listed below:

a. to confer with employees with respect to any matters for which remedial relief may be sought pursuant to the terms of this Agreement.

b. to prepare grievances.

c. to prepare for negotiations.

d. to review documents that are not readily available during nonduty hours.

e. to prepare a reply to a notice of proposed disciplinary/adverse action.

f. to prepare a reconsideration statement in connection with the denial of a within-grade increase.

g. to interview and prepare witnesses.

h. to meet and/or confer with national staff representatives of the Union with a grievance, arbitration, or unfair labor practice charge.

i. to prepare files and documents for arbitration.

j. local travel within the Kansas City metropolitan area to any of the activities above.

k. for Union officers and Union representatives to participate in training designed primarily to further the interest of government by improving the labor/management relationship. The Union shall provide the Employer training content and/or materials to support the time requested.

l. to effectuate Congressional contacts:

(1) for any meeting with members of Congress or their staffs as a result of a prearranged appointment made through the NTEU National Office, provided the meeting involves a condition of employment, or,

(2) for any contacts in their own office areas with members of Congress or their respective staff members, provided the meeting involves a condition of employment, or,

(3) for testimony before Congress, provided the testimony involves a condition of employment.

m. for the appropriate Union officers to prepare and maintain records and reports required of the Union and its representatives by federal agencies and the Employer.

n. travel to and from the activities listed in paragraphs k through l above.

Section E. Official Time for Individual Purposes

The parties recognize the following purposes for official time, normally not to exceed two hours:

1. To confer with Union representatives regarding matters for which they may receive remedial relief under the terms of this Agreement.

2. To prepare grievances and appeals during the grievance procedure, and responses to disciplinary or performance-based actions proposed by the Employer.

3. For employees whom are necessary participants in any statutory appeal, grievance, or arbitration procedure to travel to and attend any meeting or hearing in connection with that procedure.

Section F. Check Out Procedures

BUEs that have been designated as NTEU representatives will use only two codes in ARS for bank and official time, codes 37 and 38 respectively.

1. NTEU - Bank Time. NTEU Representatives will request bank time in advance, using a mutually agreeable process, verbally or via e-mail. If the NTEU Representative and their first-line supervisor cannot agree on a process, the request will be via e-mail. The request will include the approximate time needed and a phone number where they can be reached during their requested time. Upon return to the work area, the Representative will provide notification of an accurate amount of bank time actually used.

2. NTEU - Official Time. NTEU Representatives will request official time in advance, using a mutually agreeable process, verbally or via e-mail. If the NTEU Representative and their first-line supervisor cannot agree on a process, the request will be via e-mail. The request will include the approximate amount of time needed, phone number where they can be reached during their requested time and the name of the supervisor or management official with whom they are meeting. Upon return to the work area, the Representative will provide notification of an accurate amount of official time actually used.

3. Employee – Official Time. Employees requesting to utilize official time as outlined in Section E above will:

    a. contact their appropriate Union representative by phone to schedule an appointment. The scheduled appointment may be immediate.

    b. notify their supervisor of the approximate amount of time needed in advance.

    c. notify their supervisor of a phone number where they can be reached during their requested time.

Section G. Prohibited Use of Official Time or Bank Time

Official time or bank time will not be permitted, granted, or utilized for internal Union business, including, but not limited to the following:

1. the attendance at meetings for internal Union business;

2. the solicitation of membership;

3. the collection of dues;

4. the election of Union officials;

5. the preparation and distribution of Union newspapers, flyers, bulletins, or other publications;

6. the discussion of internal Union business by telephone, in person, or otherwise;

7. attendance at national or regional Union conferences, except as provided for in Section D.3.k and D.3.l of this Article; or

8. travel time to, or from, any of the above listed activities.

Internal Union business shall be performed only during the time that an employee is in a nonduty status.

Section H. Miscellaneous Provisions

1. When the Employer requests that a representative be present for labor-management activities and the representative's supervisor denies the request for official time, the Employer will make reasonable efforts to resolve the conflict and, if necessary, will provide the Union with the opportunity to designate another representative.

2. Prior to leaving their duty station to meet with an employee, a Union representative will make an appointment with the employee with whom the representative wishes to visit and obtain the employee's assurance of their availability for the meeting by reason of their being in nonduty status or having complied with the provisions outlined in Section F of this Article. The employee will not be required to explain to their supervisor the specific reason for the meeting beyond representing that the meeting is with a Union representative relating to an individual matter as defined in Section E of this Article.

3. In the event that a request for the use of official time by a person entitled to use official time as outlined in Section E of this Article is disapproved in whole or in part, the employee may make an alternative request for official time and/or notify the Union.

4. In the event that a request for the use of official time or bank time by a Union representative, as outlined in this Article is disapproved, the Union representative may make an alternative request and/or notify the Union. In this circumstance, the Union may, at its discretion, utilize another designated Union representative.

5. Union representatives may be granted official time or bank time where specifically designated elsewhere in this Agreement or in law and regulations.

6. Any dispute over the use of official time or bank time will be resolved through the grievance procedures set forth in Article 42 of this Agreement.

ARTICLE 49: FACILITIES AND SERVICES

Section A. Employer Provided Space, Furnishings, and Equipment

The Union agrees that use of Employer provided space, furnishings, and equipment will be restricted to official Chapter 264 business.

1. Space.

   a. The Employer will provide room G264 (Union Room), lockable office in the Beacon Street facility, for the exclusive use of the Union.

   b. The Employer will provide the Union a reasonable amount of space, if available, on a periodic basis to conduct ballot box elections and referenda during non-duty hours. Such availability will be determined by whether or not work functions of the office will be disrupted.

   c. The Union will be granted the use of Employer meeting rooms for Union-sponsored meetings. Requests for use of meeting space must be submitted via the room reservation system. The Union agrees to comply with this Agreement and normal safety, security, and utilization policies and regulations concerning meeting space. The Union may be allowed use of meeting space when such space is not scheduled for some other use and when use by the Union would not otherwise interfere with or unduly burden the Employer's security and/or work requirements.

2. Furnishings. The Employer will provide the following furnishings for the Union Room:

   4 bookshelves
   2 rolling file cabinets
   6 five foot tables
   1 three foot table
   1 flip chart
   1 dry erase marker board and markers
   1 wooden lateral file cabinet
   18 blue fabric covered wheeled desk chairs
   2 blue fabric covered wheeled desk chairs with arms
   2 square trash cans
   1 blue recycle bin
   1 three hole punch
   1 bulletin board
   1 clock
   9 fabric covered wheeled desk chairs
   3 letter sized file cabinets

2 letter sized lockable file cabinets
1 desk,
1 credenza
2 bookshelves
1 bulletin board
1 computer desk
1 clock
1 round six foot table
1 trash can
1 three hole punch
1 computer table
1 recycle bin
1 dry erase marker board and markers

3. Equipment. The Employer has the responsibility to review the use of equipment owned by the Employer. The Employer agrees to provide routine upgrades to the Employer provided equipment when office-wide upgrades are performed. The Employer will provide the following equipment for the Union Room:

   a. two personal computer equipped with standard software used by the Employer. The Employer will respect the privacy of the Union's personal computer files including the PC files of Union representatives using their workstation PCs to the same extent of any user;

   b. a color printer;

   c. two telephones with access to the government telephone system and voice mail at no cost to the union;

   d. a small copier for the exclusive use of the Union. For jobs which require auto-feed, stapling or collating, the Employer will allow the Union access to its copying equipment; however, mission related needs take priority;

   e. a fax line and machine;

   f. a paper shredder;

   g. an electric stapler.

   Union requests for maintenance should be submitted to the Employer’s designee.

Section B. Union Access to Employer Communications Systems

1. Union representatives may use Employer word processing, fax and electronic mail for communication with management and employees. The Union may also use whatever

means of electronic communications that are available to communicate official Union business. The work process of the Employer always has priority as to the use of the facilities.

2. The Union may receive mail through the Employer's address and mail service. Mail addressed to the Union will be delivered to the President or their designee. The Employer accepts no responsibility for late, lost, damaged, opened, or misrouted mail caused by the U.S. Postal Service. The Employer agrees that mail marked personal and confidential, etc., shall not be opened by the Employer.

3. The Union may use the Employer's internal mail system for communicating with employees and/or management officials and supervisors on labor-management relations matters and for purposes of exercising rights set forth in 5 USC Section 7102 (1). Putting any required response into the mail does not constitute a timely response unless permitted under this agreement.

4. Union representatives on approved official time or bank time will be allowed to use the internet for research purposes. The Employer will unblock appropriate internet sites upon request of a representative designated by the Union. The Union will be allowed access to appropriate internet research services at its own expense. The Union may grieve Employer determinations that particular internet sites are inappropriate.

Section C. Distribution of the Agreement

1. The Employer agrees to provide to the Union 25 copies of the tentative Agreement. The copies will be provided in a reasonable time prior to a Union ratification vote.

2. The Employer will provide the Union with 25 copies of the Agreement.

3. The Employer will maintain a write-protected electronic copy of this Agreement on a shared drive and/or the intranet within its computer network system. Employees will be allowed to access the Agreement, and will be allowed to view and/or print one copy of the Agreement on official duty hours. Instructions for accessing and printing the Agreement on the intranet will be provided to each employee.

Section D. Union Access to Bulletin Boards and Literature Distribution

1. The Employer will provide bulletin boards at six locations mutually agreed to by the parties. This space is for exclusive use by the Union. The Union Chapter President or their designee(s) has the right to directly post literature on its bulletin board space with no prior approval or review by the Employer.

2. The Union is responsible for all information posted on its bulletin boards. The Union agrees that information posted or distributed must not:

a. Violate any law, regulation, this Agreement, or the security of the Employer; or

b. Contain slanderous/libelous material regarding any individual, the Employer, or the Federal Government.

3. The Union may distribute Union literature in work areas, before 8:00am or after 4:30pm on regular workdays, as long as the distribution does not interfere with the Employer's mission. The person distributing the material must do so on their own time.

Section E. Telephone Usage

Each Union representative and Chapter officer, as well as the employee(s) exercising their rights pursuant to this Agreement, shall be permitted to utilize the Employer's telephone system. No other usage of the telephone system, i.e. internal Union business, is authorized by this Section. Use of the telephone system shall be limited in duration to periods not exceeding 30 minutes per telephone call. All calls exceeding five minutes will be reported as official time usage. Calls expected to exceed 30 minutes in duration require advance permission from the immediate supervisor. Employer reserves the right to audit telephone usage, connect time, and charges incurred as deemed necessary to ensure compliance with this Agreement.

Section F. Personnel Policies and Notices

The Employer will add the Union to the active directory enabling NTEU to receive instructions and notices of USDA/FSA regulations concerning personnel policies and conditions of employment.

Section G. Access to Audiovisual Equipment

Upon reasonable advance request, the Union will be allowed to use the Employer's audiovisual equipment for official Union duties within the Kansas City Complex. The work process of the Employer always has priority as to the use of the equipment.

Section H. Listing of Employees

On a quarterly basis, the Employer will provide Chapter 264 and the NTEU National Office an electronic file in readable format that will contain the following data on all employees in the bargaining unit:

- Name

- Grade
- Step
- Position Title
- Series
- Position Type (Permanent, Temporary, etc.)
- Work Hours per Pay Period
- Office
- Division
- Branch
- Post of Duty City
- Post of Duty State
- Work E-mail Address (This will be provided on a separate report)
- Years of FSA service
- Service Computation Date
- FLSA Coverage (Exempt or Non-Exempt)

ARTICLE 50: DAY CARE

The Employer and the Union agree that healthful and adequate child/day care facilities are a concern for employees. The Employer agrees to:

1. issue a notice to employees within 30 days of the implementation of this Agreement regarding the availability of child care services through the Corporate Kids Child Development Center currently located at 601 East 12th Street, Suite 149, Kansas City, Missouri.

2. issue subsequent notices to employees regarding any known changes to the availability of child care services through the Corporate Kids Child Development Center.

3. include child care information in orientation packets given to new employees.

4. notify the Union if there is any information received relative to GSA's Memorandum of Understanding (MOU) with the Corporate Kids Child Development Center.

ARTICLE 51: FOOD SERVICES and CAFETERIA

The Employer and the Union agree that accessibility to affordable and adequate food service facilities is a concern for employees and contributes to an employee-friendly workplace.

Section A. Service

1. Hours. The Employer will make every effort to support service hours of

Breakfast:	6:30 am to 9:30 am
Limited Services:	9:30 a.m. to 11:00 a.m.
Lunch:	11:00 am to 1:30 pm
Limited Services:	1:30 p.m. to 3:00 p.m.

NOTE: Please see Article 6 Hours of Work for lunch band.

2. Menu offerings. The Employer will support menu offerings which will include, but will not be limited to:

Breakfast foods
Desserts
Entrées, hot and cold
Grill
Pizza
Salad bar
Sandwich bar
Snacks and grab and go items
Soup
Soft serve ice cream or yogurt
Variety of bottled, canned and fountain sodas
Variety of coffees, teas
Vegetables

The parties agree on the importance of a balanced diet as recommended in the Dietary Guidelines jointly issued by USDA and Health and Human Services; http://www.health.gov/dietaryguidelines/. Employees are encouraged to make healthy choices to reduce their risk for obesity and chronic disease, and to encourage the Cafeteria operator to offer healthy, low-fat options.

Section B. Quality Review

The Employer and Union agree that cafeteria and food services (including vending facilities) are an appropriate matter for discussion at Labor Management Relations Committee (LMRC)

meetings. Appropriate matters for the LMRC meeting agenda may include, but are not limited to: food selection and quality, pricing, cafeteria services and practices, hours of operation, and maintenance of facilities.

Employees are encouraged to submit comments regarding cafeteria operations to their Union or on the FSA Intranet.

Upon e-mail request to the Employer's designee, the Employer will request a meeting between Union representatives and the GSA COTR (or, if no COTR is designated, the Employer's point of contact) to address food service and cafeteria concerns as they arise. The Employer may attend and participate in these meetings.

Section C. Breakrooms

1. The Employer agrees to continue to furnish refrigerators and microwave ovens in coffee bar and break room areas. Breakrooms may be equipped with two refrigerators, based on availability; i.e. budget permitting or excess equipment (prior to surplusing). Refrigerators are to be used primarily to refrigerate perishable food items. Insulated food carriers are subject to removal if placed in employer provided refrigerators.

2. Breakrooms are not subject to reservations.

ARTICLE 52: FITNESS/HEALTH FACILITIES

The Employer and the Union agree that accessibility to free on-site fitness facilities is a concern for employees and contributes to an employee-friendly workplace.

Section A. Fitness Center Quality Review

The Employer and Union agree that Fitness Center services are an appropriate matter for discussion at Labor Management Relations Committee (LMRC) meetings. The Employer agrees to carry recommendations and concerns forward to the appropriate authority on matters that are jointly agreed upon in the LMRC. Employees are encouraged to submit comments to the Union for possible discussion at LMRC meetings.

Section B. General

1. The Employer will support providing space and equipment for a physical fitness center and maintain and/or replace the equipment, budget permitting and provided there is sufficient employee interest. The Employer will notify the Union in advance of changes in physical fitness center space, and upon request, negotiate to the extent required by law.

2. Prior to distribution, the Employer will provide the Union with copies of "All Employee" fitness-center related communications initiated by the Employer. Absent emergencies, the Union will be given a reasonable amount of time to submit comments to the Employer prior to distribution.

Section C. Fitness Time

Employees are encouraged to participate in fitness activities on their own time. The fitness center will be open 6:00 a.m. until 6:00 p.m on scheduled workdays. Employees using the fitness center and equipment:

1. agree that their use of the fitness center facilities is at their own risk; and

2. acknowledge that on-site personnel trained to provide emergency assistance are available only from 6:00 a.m. until 6:00 p.m., Monday through Friday, during the scheduled workday.

ARTICLE 53: PARKING

Section A. General

1. The Employer and Union agree that parking issues not within the scope of this Article are appropriate for discussion at Labor Management Relations Committee (LMRC) meetings. The Employer agrees to carry recommendations and concerns forward to the appropriate authority on matters that are jointly agreed upon in the LMRC.

2. Parking accommodations at the Beacon facility and the warehouse will be governed by applicable laws and regulations. Parking at the Beacon facility and the warehouse will be available to bargaining unit employees at no cost.

3. At the Beacon facility and the warehouse, the Employer will make available one parking space for every employee. The Employer agrees to notify the Union, in advance, of any permanent changes in the status of parking and, upon request, negotiate to the extent required by law. When possible, the Employer will provide employees advance notice of temporary parking changes.

Section B. Reserved Parking

Consistent with the 42 USC, Chapter 126, the Americans with Disabilities Act (ADA), sufficient space for those employees with a state approved disabled parking license or a state approved disabled permit (hangtag) will be provided.

Section C. Carpools

The Employer and Union encourage the use of and participation in carpools.

ARTICLE 54: EMPLOYEE SEATING AND FILLING VACANT WORKSPACE

Section A. Employee Seating in Realignments and Reorganizations

1. Notification. The Union will be notified of all proposed space changes, realignments and reorganizations prior to the Employer changing the working conditions of the employee. Anytime the Employer proposes to make a change in work space that is more than de minimis it will comply with Article 45 of this Agreement.

2. Employee Seating in Work Units. Employees at the Official Duty Station (ODS) will normally be seated in Employer determined work units.

3. Employee Seating Within Work Units. Employees will be permitted to select a seat based on earliest to most recent service computation dates (SCD). If management determines that it has a need to deviate from this in order to promote the efficiency of the agency, the reason for the deviation will be given to the Union in writing in advance of employee placement and negotiations will ensue in accordance with Article 45.

Section B. Filling Vacant Work Space

1. Window Space. When an employee vacates a window work space (through promotion, reassignment, retirement, etc), the Employer will notify employees in the same work unit (office/center/division/branch/group). The employees will be offered the opportunity to relocate to the vacant window space beginning with the employee with the earliest SCD, unless the more senior employee involved declines that vacant window space. In the event the most senior employee declines the vacant window space, the vacant window space will be offered to the employee with second earliest SCD and so on until the vacant window space is filled by an employee or all employees decline the window space.

2. Interior Space. Employees in a work unit may request to be relocated to a vacant interior work space in the work unit. All such requests must be supported by a justification. If the Employer denies the request, the Union will be notified.

Section C. Windows

Windows in the work units are for the benefit and well-being of all employees in the building. Employees will not be permitted to locate furniture in the window space or surrounding area so as to block natural light from entering the work area.

ARTICLE 55: CHILD CARE ASSISTANCE PROGRAM

Section A. General

At the discretion of the Employer, appropriated funds, otherwise available for salaries and expenses, may be used to provide child care services for lower income employees (reference Public Law 107-67, Section 630.)

1. The Employer has established a Child Care Assistance Program (CCAP) under Public Law 107-67, Section 630, to subsidize a portion of the cost of dependent care incurred by employees.

2. The Employer intends that the program qualify as a program providing dependent care assistance under Internal Revenue Code (Code), Section 129. Only the subsidies provided under these procedures for eligible child care expenses on behalf of a qualifying child who is also a qualifying dependent will be eligible for exclusion from the participant's gross income under the Code, Section 129(a.) Subsidies disbursed on behalf of a qualifying child who is not also a qualifying dependent must be included in the participant's gross income.

Section B. Definitions

1. "Benefits" means the amounts paid to participants under the plan to subsidize eligible child care expenses paid or incurred by the participant.

2. "Child" means a member of a household maintained by an employee who bears the following relationship to the employee:

   a. A biological child who lives with the employee;

   b. An adopted child;

   c. A stepchild;

   d. A foster child;

   e. A child for whom a judicial determination of support has been obtained; or

   f. A child to whose support the employee who is a parent or legal guardian makes regular and substantial contributions.

3. "Child Care Assistance Program Coordinator" (CCAP Coordinator) means the official authorized to implement child care subsidies under this program for employees within the Farm Service Agency Kansas City.

4. “Code” means the Internal Revenue Code of 1986, as amended.

5. “Dependent” means any individual who is a dependent of a participant within the meaning of Code Section 152(a).

6. “Earned Income” means all income, as defined under Code Section 32 (c)(2), including from wages, salaries, tips and other employee compensation, and net earnings from self-employment, but does not include any amounts received:

    a. as pre-tax benefits under Code Section 129 on behalf of a qualifying dependent under the CCAP or any other dependent care assistance program;

    b. as a pension or annuity; or

    c. as unemployment or workers’ compensation.

7. “Educational Institution” means any college or university, the primary function of which is the presentation of a formal instruction and that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.

8. “Eligible Child Care Expenses” means expenses incurred by a participant for qualifying services which are paid to a qualifying provider who is not:

    a. a dependent of a participant or a dependent of the spouse/domestic partner of a participant,

    b. a child of a participant under the age of 19, and which are incurred to enable the participant or the participant’s spouse/domestic partner to be gainfully employed.

9. “Eligible Employee” means an individual employed on a full-time or part-time basis and meeting the eligibility requirements.

10. “Highly Compensated Employee” means any person who is a highly compensated employee as defined in the Code, Section 414(q).

11. “Participant” means any employee who has satisfied the eligibility requirements, who has made application and been accepted for benefits under CCAP.

12. “Program Year” means the 12-month period commencing on January 1 and ending on December 31.

13. “Qualifying Child” means a child of a participant who is:

    a. age 13 or younger;

b. under age 18 and is physically or mentally incapable of caring for himself or herself.

14. "Qualifying Day Care Center" means a day care center, as described in the Code Section 21 and regulations there under, that:

    a. complies with all applicable laws and regulations of the State and town, city or village in which it is located,

    b. is licensed to provide day care services in the state or location in which the day care center operates,

    c. provides care for more than six individuals (other than individuals who reside at the day care center) and

    d. receives a fee, payment or grant for services for any of the individuals to whom it provides services (regardless of whether the facility is operated for a profit).

15. "Qualifying Dependent" means:

    a. a dependent of a participant who is under the age of 13; or

    b. a dependent of a participant who is under the age of 18 and who is physically or mentally incapable of caring for himself or herself.

16. "Qualifying Provider" for subsidies paid out of appropriated funds means an individual or a qualifying day care center licensed to provide child care services in the State or location in which they operate.

17. "Qualifying Services" means services performed:

    a. In the home of the participant, or outside the home of the participant, or at a qualifying day care center;

    b. For the care of a qualifying child or qualifying dependent of the participant;

    c. To enable the participant or the participant's spouse/domestic partner to remain gainfully employed; and

    d. For the primary purpose of assuring the qualifying child's or qualifying dependent's well being and protection.

    Qualifying services do not include services provided at a camp where the qualifying child or qualifying dependent stays overnight.

18. "Spouse" means the husband or wife (includes domestic partner as defined by OPM) of a participant but does not include an individual legally separated from a participant under a decree of legal separation.

19. "Student" means an individual who during each of five calendar months during a plan year is a full-time student at an educational institution.

20. Total Family Income means the total income figure as cited on the employee's IRS Form 1040 or 1040A for the current tax year if filing a joint return or as single-head of household. However, if the employee and their spouse/domestic partner file separate tax returns, then the total income from both returns will be considered.

Section C. Eligibility and Participation

1. All employees will receive at least an annual notice in writing or electronically of their potential eligibility for child care assistance. Newly hired employees will be informed of the CCAP at their orientation session.

2. An employee who meets the eligibility requirements described in the CCAP is an eligible employee.

3. Employees can apply at any time for CCAP.

4. An eligible employee will become a participant in the program upon application for benefits, and approval by CCAP Coordinator.

5. If participant ceases to be an eligible employee, he or she will no longer be eligible to receive benefits under the program. If the employee again becomes an eligible employee, he or she may again become a participant in the program by applying and being accepted.

6. For employees who are married and not separated, their spouse must be one of the following:
    - working
    - enrolled in full-time studies
    - unable to care for the child or children.

Section D. Benefits

1. A participant in the program will be eligible to receive benefits under the procedures for all eligible child care expenses incurred by the participant or his or her spouse/domestic partner subject to the limitations of Section F.

2. Benefit Amounts.

a. Benefits will be provided as a percentage of the eligible child care expenses according to a schedule based on the participant's total family income.

b. The Employer/CCAP Coordinator may adjust the schedule as necessary based on the availability of funding for the program and to maintain an equitable distribution of benefits for all eligible employees.

c. As changes are made, the Employer/CCAP Coordinator will issue amendments to the schedule noting the effective date and provisions of the adjusted benefits.

3. A participant will be entitled to benefits under these procedures only for eligible child care expenses incurred after the later of:

   a. the date he or she becomes a participant in the program; or

   b. the effective date of the program.

4. Each participant who desires to receive a benefit must submit a statement containing the following information:

   a. Name, home address and employment information for each of the child's parents;

   b. Name, date of birth, child care enrollment information and weekly cost for each child to be covered;

   c. Gross annual salaries of the father, mother and/or guardian, as appropriate, and total gross family income as reported on the most recent Federal income tax return;

   d. Amount and source of any other State, county or local child care subsidies or assistance;

   e. Completed and signed child care provider information form, along with proof of the provider's licensure and the provider's Federal tax identification number; and

   f. Such other information or documents as the Employer/CCAP Coordinator may require to administer CCAP.

5. Following receipt of the required information, the Employer/CCAP Coordinator will notify the participant whether or not he or she is eligible to receive benefits.

6. Approval for and payment of benefits will be subject to the availability of appropriated funds.

7. If a participant ceases to be an eligible employee:

a. No benefits will be paid for eligible child care expenses incurred after the date the participant ceases to be an eligible employee; and

b. Unless the participant was discharged from employment for cause, requests for benefits may be made after the date of termination for eligible child care expenses incurred prior to the date of termination.

8. The participant is responsible for notifying the Employer/CCAP Coordinator immediately of any change to information submitted for the purpose of qualifying for benefits.

Section E. Authorization and Payment of Benefits

1. At the end of each calendar month, the Employer/CCAP Coordinator will send an invoice approval form to the qualifying provider named by the participant on his or her benefits application.

2. The qualifying provider will certify on the invoice approval form that the qualifying services for that billing period were actually performed on behalf of the participant's qualifying child.

3. The participant will certify on the invoice approval form that the participant's qualifying child in fact received the qualifying services for that billing period.

4. The qualifying provider will then submit the completed invoice approval form to the Employer/CCAP Coordinator for review and payment.

5. The Employer/CCAP Coordinator will review the submitted invoice approval form and may pay the benefit amount directly to the qualifying provider. Any amount(s) due the qualifying provider over and above that paid by the CCAP Coordinator are the sole responsibility of the participant.

Section F. Limitations on Benefits

1. The following amounts will not be subject to exclusion from the participant's gross income:

a. Benefits payable for eligible child care expenses on behalf of a qualifying child who is not a qualifying dependent; or

b. Benefits payable for eligible child care expenses that exceed the following maximum amounts for the program year:

(1) For a participant who is single at the close of the calendar year, the lesser of the participant's earned income for the program year (after all reductions in compensation), or $5,000;

(2) For a participant who is married at the close of the program year, the least amount of the following:

(a) The participant's earned income for the calendar year;

(b) The earned income of the participant's spouse/domestic partner for the calendar year;

(c) $5,000, if the participant and his or her spouse/domestic partner file a joint Federal income tax return; or

(d) $2,500, if the participant and his or her spouse/domestic partner file separate Federal income tax returns.

If the foregoing amounts are changed by an amendment to the Code, Section 129, the amounts set forth shall be adjusted automatically to reflect the new amounts.

2. For purposes of Section F, a spouse/domestic partner of a participant who is not employed during any month in which the participant incurs eligible child care expenses, and which spouse/domestic partner is either physically or mentally incapable of caring for himself or herself or is a student, will be deemed to have earned income for such month of:

a. $200, if there is one qualifying dependent for whom the participant incurs eligible child care expenses; or

b. $400, if there is more than one qualifying dependent for whom the participant incurs eligible child care expenses.

3. In accordance with the Code, Section 129 (d), the average benefits provided to participants who are not highly compensated employees will be at least 55 percent of the average benefits provided to highly compensated employees. The Employer/CCAP Coordinator may adjust the benefits payable to highly compensated employees to assure that the program remains in compliance with this provision.

Section G. Benefits Schedule

A full-time or part-time employee who meets the following criteria may apply for assistance:

1. TFI is less than $47,000;

2. has a child (or children) age thirteen (13) or younger or a child under age 18 who is physically or mentally incapable of caring for himself or herself; and

3. uses a Qualifying Day Care Center or Qualifying Provider providing Qualifying Services.

The Employer will use the employee's TFI in determining the amount of the employee's child care assistance benefit. The amount of the assistance he or she receives cannot exceed the actual approved child care costs incurred by the employee. The assistance will be reduced by the amount of any other child care assistance received. When more than one parent works for the Federal government, child care cannot be awarded by more than one Federal agency

The annual assistance amount for an employee is determined as follows:

TFI Level	**IF the employee's TFI is…[1/]**	**THEN the maximum monthly assistance per family is…[2/]**
1	$44,000-46,999	$83
2	$41,000-43,999	$166
3	$38,000-40,999	$249
4	$35,000-37,999	$332
5	$34,999 or less	$415

[1/] To document TFI, the Employer will need a copy of the employee's IRS Form 1040 or 1040A for the current tax year, if filing a joint return or as single-head of household. If the employee and their spouse/domestic partner file separate tax returns, then a copy of both tax returns will be required.

[2/] Assistance amounts will be reduced by any subsidies paid by a State and/or local Government for child day care services involving the child or children for whom the employee is requesting CCAP.

Monthly assistance amounts apply to **total cost** of child day care; **not cost per child.** If the employee's monthly child day care costs are **less than** the maximum monthly assistance amount the employee qualifies for based on TFI, the **lesser** amount will be paid to the provider.

Funding of CCAP will be evaluated by the Employer each FY. If an unanticipated funding emergency occurs **before** the end of a funded FY, the Employer agrees to notify CCAP participants and the Union, normally at least 30 days prior to reducing or terminating funding.

Section H. Plan Administration

1. The Employer/CCAP Coordinator will:

a. administer the CCAP according to the terms of this Agreement subject to applicable law, for the exclusive benefit of persons entitled to participate in the program, without discrimination among them, and

b. decide the eligibility of any person to participate in the CCAP.

2. The Employer/CCAP Coordinator will make available to each eligible employee such records under the CCAP as pertains to the eligible employee, by request under the Privacy Act.

3. Whenever, in the administration of the program, any discretionary action by the Employer/CCAP Coordinator is required, the Employer/CCAP Coordinator will exercise their authority in a nondiscriminatory manner so that all persons similarly situated will receive substantially the same treatment.

4. The Employer/CCAP Coordinator will provide to each participant a statement of the amount of benefits received by the participant during the program year. This statement will be furnished to the participant by January 31 following the end of the program year. The amount of child care assistance provided to the employee will be reported on the employee's Form W-2.

5. The Employer will notify employees of the FSA CCAP coordinator designee and any changes to its appointment/designee.

6. The Employer will notify participants of their status in the CCAP, indicating approval or declination.

Section I. Claims Procedure

1. A participant may make a claim for benefits by completing the invoice approval form in conjunction with the qualified provider, as described in Section E.

2. If a claim is wholly or partially denied, notice of the decision will be furnished to the participant and to the qualifying provider within a reasonable period of time, not to exceed 90 days after receipt of the claim by the Employer/CCAP Coordinator, unless special circumstances require an extension (the Employer/CCAP Coordinator will notify the participant prior to the end of the initial 90-day period.) The extension may not exceed 90 days from the end of the initial period. The notification will include:

a. The specific reason(s) for the denial;

b. A description of any additional information necessary to make a decision; and,

c. An explanation of the program's claims review procedure, as described below (H.3.).

3. If a claim is denied, the participant may request in writing that the Employer/CCAP Coordinator review the claim. Upon receipt of a request for review, the Employer/CCAP Coordinator will review the decision and respond to the participant within 60 days of receipt of the written request. If the Employer/CCAP Coordinator affirms the original denial of the claim, the participant may file a grievance under the negotiated grievance procedure in this Agreement.

4. If a dispute arises on any matter under this program, the Employer/CCAP Coordinator may refrain from taking any other or further action in connection with the matter involved in the controversy until the dispute has been resolved.

Section J. Amendment and Termination of Plan

1. The Employer may amend or terminate this program at any time. The benefits hereunder are not guaranteed and may be reduced by amendment to these procedures. The Employer will notify the Union and participating employees of its intention to amend or terminate CCAP. The Union and participants will receive no less than 30 day notice that the program will be terminated.

2. The Employer agrees to consider leave requests (pursuant to this Agreement) brought about by unexpected changes in CCAP.

Section K. Miscellaneous Provisions

1. This program and the benefits it offers do not provide any additional rights to participants or employees other than those expressly set forth herein.

2. This program will be constructed administered and enforced according to law, rule and regulation.

Section L. CCAP Quality and Participation

The Employer and Union agree that CCAP are an appropriate matter for discussion at Labor Management Relations Committee (LMRC). Appropriate matters for the LMRC meeting agenda may include, but are not limited to: participant levels, child care and program concerns.

The Union, in agreeing to aspects of this Article, does not waive its right to negotiate over child care facilities, as permitted by law.

ARTICLE 56: A-76 CONTRACTING OUT IMPACT AND IMPLEMENTATION

Section A. Duty to Notify

The Employer will notify the Union, pursuant to Article 45 of this Agreement, in advance of implementing changes of conditions of employment that may occur as a result of a contracting decision. Upon request, the Employer agrees to negotiate over legally negotiable contracting out matters to the extent required by law.

Section B. Impact and Implementation

1. The Union will be allowed to appoint one representative per team to participate on the Employer's planning and development team(s) working on retaining the work in-house.

2. The Employer will hold informational meetings with all potentially impacted employees and the Union, upon the Union's request. The Employer will provide space and other reasonable supplies for the meetings. These meetings will be scheduled at dates and times mutually agreed to by the parties. The topics to be covered at this meeting include briefing employees on the results of the competition and/or contracting process, how to further minimize any adverse effects of any contracting decisions on employees, and to answer Union/employee questions.

3. In the event that any bargaining unit positions are abolished as a result of the Employer's decision to contract out, the contractual procedures detailed in Article 26, "Reduction in Force," will be followed.

ARTICLE 57: TELEWORK

Section A. General

The Employer fully supports and promotes the use of telework, up to the maximum extent appropriate, for and by eligible employees. Telework should be used as a strategic tool for attracting a diverse pool of potential applicants, qualified candidates, and for retaining valued employees. The appropriateness of the type/category and amount of telework suitable for eligible employees is a determination reserved for the Employer.

1. Telework is a voluntary program that permits employees to work at approved alternative worksites utilizing government issued equipment.

2. Any provision of this article, except the necessity for a telework agreement, may be waived or modified for an employee with an illness or disability. If an employee requests a waiver of any provisions of this Article, his/her telework arrangements will be negotiated on a case-by-case basis.

3. The resources available to support an all-inclusive telework program are subject to the Employer's right to determine its budget (reference 5 USC 7106), and may limit the scope of this program. The Employer will pursue obtaining sufficient equipment to allow for full employee participation in telework. In compliance with the Departmental Regulations (DR) 4080-811-002 (January 30, 2014) excess personal property (computers, laptops, printers, and fax machines) will be earmarked for telework programs prior to being recorded as excess. Any equipment used for telework, must be supported by the Employer.

4. Definitions:

   Ad hoc Telework: Telework that occurs on an irregular, non-scheduled basis.

   Alternative Worksite: Authorized worksite locations, other than the ODS, that satisfy all requisite federal health and safety laws, rules and regulations pertaining to the workplace, where an employee performs their official duties while teleworking. Supervisors may authorize telework from a number of alternative worksites. Temporary authorizations or changes in the location of designated alternative worksites do not require a new Telework Agreement.

   a. Primary Alternative Worksite. The approved location where the employee normally teleworks.

   b. Secondary Alternative Worksite(s). Any approved worksite(s) other than the primary alternative worksite.

Basic Work Requirement (daily): the number of hours, excluding overtime hours, an employee must work or otherwise account for by leave, credit hours, holiday hours, excused absence, compensatory time off, or time off as an award (see Article 6).

Emergency Situation: An event, incident, or circumstance that interrupts or may compromise normal daily operations at, or travel to/from, an official or alternative worksite. This may include issues of national security, extended emergencies, inclement weather, travel conditions, civil disruptions, public health emergencies, power outages, or other unique situations which result in an official announcement of an operating status authorizing unscheduled telework.

Employee Telework Classifications:

- Ad hoc Teleworker: Employee with an approved telework agreement authorizing telework on an irregular, non-scheduled basis.

- Core Teleworker: Employee with an approved telework agreement authorizing telework on routine, scheduled days.

- Non-teleworker: An employee without an approved telework agreement.

- Telework-ready Employee: All eligible employees with an approved telework agreement who are prepared and equipped to telework. If unable to telework, use of paid or unpaid leave may be requested.

- Unprepared Teleworker: Ad hoc and Core teleworkers not prepared to telework when the Employer authorizes unscheduled telework.

Short-Term Change: A temporary authorized change to the telework arrangement of 60 days or less. Such change will not require a change of the telework agreement or ODS. Examples of short-term changes include, but are not limited to:

- A work assignment wherein efficiencies are gained by the employee temporarily working additional or fewer telework days;
- An emergency, weather event or other unscheduled telework that alters the employee's normal telework schedule;
- Employer directed training;
- Employer directed travel;
- Medical related needs;
- Short term Reasonable Accommodation.

A short-term change may require an employee to:

- Telework more days (up to the full pay period), fewer days, or not at all; and
- Report to the ODS more or less than scheduled.

Telework Agreement: A written document (includes electronic format), submitted by the employee, that outlines the terms and conditions, the category type and frequency of the telework arrangement, and subsequently approved by the supervisor.

Unscheduled Telework: Telework that is authorized or required in response to mission requirements, inclement weather or emergency situations.

Section B. Position Identification

1. The Employer and the Union recognize that there may be differences inherent to the nature of the duties and responsibilities of each position.

2. Positions may be identified as ineligible for telework if the duties of the position do not include any portable or administrative work that can be accomplished at an alternative worksite and require a physical presence, access to specialized equipment located at the ODS, or the handling of classified materials.

Section C. Participation

1. Participation in the telework program is voluntary and it is not an employee entitlement. However, after voluntarily entering into a telework agreement, an employee may be required to telework on unscheduled days.

2. All eligible employees requesting authorization to telework must enter into a telework agreement. Requests and supporting documentation for telework may be submitted at any time to the employee's immediate supervisor.

3. Teleworking employees can participate in the variable week schedule, and must sign in and out in accordance with Article 6.

4. Employees are responsible for personal operating costs, site maintenance, and other incidental costs (e.g., utilities) associated with the use of the alternative worksite; except, as provided for in this agreement. The employee does not relinquish any entitlement to reimbursement for appropriately authorized expenses incurred while conducting business for the Employer as provided for by law and regulations.

5. Teleworking employees are covered under the Federal Employees Compensation Act if injured in the course of performing official duties at the alternative worksite.

6. The Employer will not be held liable for damages to the employee's personal or real property during the performance of official duties or while using Employer equipment

at the alternative worksite; except, to the extent the Employer is held liable under the Federal Tort Claims Act or the Military Personnel and Civilian Employees Claim Act.

Section D. Employee Qualifications

1. Eligibility. All employees, regardless of tenure, grade, job series or title are presumed eligible for telework.

2. Suitability. An employee suitable for telework is an employee who has demonstrated personal characteristics and qualifications that are well suited to telework, as determined by the supervisor, including at a minimum:

   a. Demonstrated dependability and the ability to handle responsibility;

   b. A proven record of high personal motivation;

   c. The ability to prioritize work effectively and utilize good time management skills; and

   d. A proven or expected minimum performance rating of "Fully Successful", or equivalent.

   The Employer may make exceptions to these provisions on a case-by-case basis.

3. Permanent Ineligibility. An employee is permanently ineligible for telework if the employee has been officially disciplined, as filed in the employee's OPF or e-OPF, for:

   a. viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties; or

   b. being absent without permission for more than five (5) days in any calendar year.

   If an employee is determined to be permanently ineligible pursuant to this Section D.3, any existing telework agreement may be immediately terminated. If the determination of permanent ineligibility is overturned via an appeals process, the employee will be deemed telework eligible and allowed to resume his/her telework schedule.

4. Denial of Telework. The Employer will not unreasonably deny an employee's telework request. Telework may be denied to ensure adequate on-site staffing at the duty station. If an employee's application is denied, the Employer will state the reasons for the denial in the employee's written notification.

Section E. Telework Agreement

1. The employee's telework agreement must be signed or acknowledged by the employee and approved by the supervisor. A copy or report of approved, denied and/or terminated telework agreements will be provided to the Union upon request.

2. A short-term change to a telework arrangement for medical or personal reasons does not require a new agreement. A permanent change requires a new agreement. All short-term or permanent changes require supervisory approval. Upon request, short term changes of more than 10 workdays will be communicated to the employee in writing.

3. Telework applicants and telework approved employees agree to:

    a. complete telework training prior to executing a telework agreement.

    b. report on work activities planned, assignments accomplished, and materials removed from the official worksite, if directed to do so by their supervisor.

    c. abide by the Employer's standards of conduct while in telework status.

    d. be as available to the Employer, co-workers and customers by phone, E-mail, voice mail, instant messaging or other communications media during their scheduled daily tour of duty as when working at the ODS. Whenever feasible, teleworking employees must forward their office telephone number to the alternative worksite on days they are teleworking. If an employee's work number cannot be forwarded, the employee must place a voicemail greeting on their office phone to include the telephone number where they can be reached when teleworking.

    e. permit the Employer to publish, or otherwise make available, the employee's alternative worksite business telephone/fax number and e-mail address. Publication will be limited to official listings wherein other employee information is typically made available.

    f. allow the Employer to contact them at any time they are on duty at their alternative worksite.

    g. telework (telework-ready employees) on scheduled or unscheduled days:

        (1) if the office is closed; or

        (2) in temporary or emergency situations;

        except, when the emergency impacts the alternate worksite (see Section H), preventing the employee from working.

h. be utilized as emergency or mission critical employees at the discretion of the employer.

i. adopt a proactive approach to ensuring safe alternative worksites and safe work habits.

j. return all government equipment:

(1) within ten workdays of completing or terminating a telework agreement if such equipment is not necessary to perform their duties at the ODS, or

(2) prior to separation from the agency.

Failure to do so may subject the employee to disciplinary action.

k. ensure that government-owned property is used only for authorized purposes. Reasonable care should be used in operating all equipment. The employee is responsible for requesting government-owned or furnished equipment, supplies, and services.

l. comply with current Federal statutes, Departmental regulations, and FSA policy establishing information security and protection responsibilities and protect all government records and data against unauthorized disclosure, access, mutilation, obliteration and destruction.

m. make arrangements for dependent care, as necessary, to ensure an uninterrupted tour of duty. On-site children under age ten will require a caretaker/supervision other than the employee.

n. use a government issued cellular telephone, telephone card, or software when making official long-distance telephone calls from the alternative worksite. In an emergency (e.g. loss of card), employees may be reimbursed for business calls when such calls are required to complete a work assignment.

o. be seated at the ODS pursuant to Article 54 of this Agreement.

Section F. Program Administration

The parties agree the following conditions apply to telework:

1. Priority distribution of telework equipment will be commensurate with the Employer's mission related requirements and security plans. Consideration will be given to the type of equipment the employee needs to accomplish their work. In the event of

limited equipment, distribution will be determined by the earliest Service Computation Date (SCD).

2. When multiple incompatible requests for the same telework day(s) are submitted, the employee with the earliest Service Computation Date (SCD) will get their preference.

3. Employees approved to telework may telework a minimum of one day per week. There is no maximum number of days an employee may telework per week; however, teleworking employees must be scheduled to report to the duty station a minimum of three days per pay period. Also, employees may telework on an ad hoc basis with an approved telework agreement.

4. The Employer has the right, normally with one day notice, to direct employees to report to their ODS on scheduled telework days based on operational requirements. The teleworker may request to telework on an alternate day when they are required to report to the ODS on a regular scheduled telework day.

   If, prior to signing in for the day, sufficient notice is given to permit the employee to travel to the ODS and arrive prior to the beginning of core time, time spent commuting will not be considered hours of work. When notice to report to the ODS is given after an employee commences work at the alternative worksite, time spent commuting will be considered hours of work.

   Mileage to and from the alternative worksite will not be compensated.

5. At the Employers discretion, employees may switch or change their telework day with one day notice.

6. In accordance with the procedures set forth in Article 48, Official time and Union Representatives, employees who have been designated as representatives may use official time, bank time and perform representational duties on behalf of the Union while teleworking. However, Union representatives will not travel on Union related business on official time or bank time, or meet with employees, or other Union representatives, in person while teleworking, except as otherwise provided for in this Agreement.

7. Upon appropriate notice, normally 24 hours and while the employee is on duty, management officials have the right to visit the employee to ensure compliance with their telework agreement (to inspect the home or alternate worksite to ensure that the proposed work space is adequate). The employee may have a Union representative present for a management official's visit (the Union representative is not entitled to mileage).

8. If an employee teleworks because the ODS is closed or they are allowed unscheduled telework, the employee will not be obligated to report to the ODS on an alternate or

"make-up" day, unless there is a business-related need requiring the employee's presence at the ODS.

Section G. Alternative Worksite Provisions

1. Subject to the Employer's right to determine its budget (reference 5 USC 7106), the Employer will make a good faith effort to provide/install equipment, supplies and services required for employees to participate in teleworking and to perform their duties at an alternative worksite. The government retains ownership and control of all such property. The government will not provide office furnishings such as, but not limited to; desks, chairs, bookcases, file cabinets, credenzas, etc.

2. The employee must provide adequate workspace, lighting, telephone service, power, high-speed internet connectivity (including satellite), and operating smoke alarms.

3. The employee will be required to identify the specific locations of the work area at the primary and all approved secondary alternative worksite(s). The Employer may deny secondary alternative worksites outside of the normal commuting area.

4. The servicing and maintenance of government owned equipment is the responsibility of the Employer.

5. Employees are responsible for compliance with local zoning ordinances and community association rules regarding home offices. The Government/Employer will not be liable for pursuing or obtaining any applicable licenses.

Section H. Emergency Situations

An emergency situation is an event, incident, or circumstance that interrupts or may compromise normal daily operations at, or travel to/from, an official or alternative worksite. This may include issues of national security, extended emergencies, inclement weather, travel conditions, civil disruptions, public health emergencies, power outages, or other unique situations which result in an official announcement of an operating status authorizing unscheduled telework. When the use of unscheduled telework is authorized, telework-ready employees must notify their supervisor of their intent to participate.

1. Office Closure. If the Employer ***closes*** the ODS due to an emergency situation, employees scheduled to telework and telework-ready employees will be expected to complete their basic work requirement; except, when the emergency's impact on the alternate worksite prevents the employee from working.

2. Unanticipated Emergency Situations Occurring Prior to the Regular Workday and the ODS is ***open***:

a. Scheduled Core and Ad Hoc Teleworkers. Employees scheduled to telework will be expected to complete their basic work requirement.

b. Telework-ready Employees. If unscheduled telework is authorized, telework-ready employees may choose to complete their basic work requirement at their alternative worksite in lieu of coming to the ODS.

3. Unanticipated Emergency Situations Occurring During the Workday. If the Employer announces that employees at the ODS will be dismissed early:

   a. Scheduled Core and Ad Hoc Teleworkers. Teleworking employees will be expected to complete their basic work requirement.

   b. Telework-ready Employees. If the early dismissal is for **one hour or more** of their basic work requirement, onsite telework-ready employees may:

      (1) be directed to complete their basic work requirement at their alternative worksite;

      (2) request to complete their basic work requirement at their alternative worksite;

      (3) pursuant to b.(1) or b.(2), be directed/authorized by their supervisor to depart the ODS, prior to the early dismissal time, to commute to their alternative worksite to complete their basic work requirement.

   c. If a telework-ready employee is directed, or requests to complete their basic work requirement at their alternative worksite, the normal commuting time will not count towards the fulfillment of their basic work requirement. However, excessive commuting time <u>caused by the emergency situation</u> will count towards the employee's basic work requirement (See Article 11.)

4. Potential for Emergency Situations. If the Employer determines there is a potential emergency situation developing (e.g. unfavorable weather forecast), all scheduled teleworkers and telework-ready employees are expected to prepare to telework for the duration of the anticipated event.

5. If the alternative worksite is affected by an emergency that prevents the teleworking employee from working, but the ODS is not, the employee may be required to report to the ODS or to request leave. At the discretion of the Employer, the Employee may be granted an excused absence depending on the circumstances.

6. If both the ODS and alternative worksite are affected by an emergency that prevents the employee from working, or employees are otherwise dismissed early, the employee may, at the discretion of the Employer, be granted an excused absence.

Section I. Termination of Telework Agreement

This Section I. does not apply to employees determined to be permanently ineligible to telework pursuant to Section D.3 of this Article.

1. General. An employee's telework arrangement may be terminated by either management or by the employee; by giving a two-week advance written notice except in emergency situations.

2. Termination by the Employer. An employee's teleworking arrangement may be terminated by management if one of the following occurs:

   - performance or productivity declines; or, if they received a less than fully successful annual performance rating within the past 12 months; such employee may remain ineligible to reapply for up to 12 months from the date of the documented annual performance rating
   - the employee fails to comply with the terms of this Article or their written agreement,
   - the employee is placed on a performance improvement plan (PIP) or sick leave restriction,
   - the employee is officially disciplined, or has an adverse action taken, as filed in the employee's OPF or e-OPF. If the action is due to conduct issues, the employee may remain ineligible for up to 12 months from the date the discipline or adverse action was effectuated, or
   - the arrangement no longer benefits the organization's needs.

   Telework agreements will not be terminated in lieu of disciplinary or adverse actions.

3. Notice of Termination. The written notice of termination provided by management will include the specific reasons why the telework arrangement is being terminated. The termination of an employee's telework arrangement pursuant to this section is not a disciplinary action.

4. Reapplication. If the situation precipitating the termination of the employee's telework agreement is corrected, or improves significantly the employee may reapply to participate in telework utilizing the criteria established in this Article.

5. Reinstatement. If the situation precipitating the termination of the employee's telework agreement is overturned via an appeals process, the employee will be deemed telework eligible and allowed to resume his/her telework schedule.

Section J. General Contract Provisions

Grievances under this article will be handled according to Article 42. The parties agree that bargaining matters covered by this Agreement are not appropriate for further negotiation during the life of this Agreement, unless by mutual agreement (see Article 45.)

ARTICLE 58: LABOR-MANAGEMENT RELATIONS COMMITTEE

Section A. Purpose

The parties recognize that it is mutually beneficial to meet to discuss matters of general interest. Meetings held pursuant to this article will hereinafter be referred to as Labor-Management Relations Committee (LMRC) meetings.

Section B. Participation

Up to five representatives will receive official time to attend LMRC meetings. The Union will notify the Employer of the names of their representatives, and the Employer will notify the Union of the names of their expected representatives, at least five days in advance of the meeting. For purposes of solving labor management issues, Management will ensure it has representation from all FSA KC office areas impacted by the agenda items. The parties will ensure that their respective representatives have full decision making authority. Meetings of the LMRC are official Agency business.

Section C. Frequency and Scope

1. The LMRC will meet upon submission of written agenda items by either party, but not less than quarterly, unless mutually agreed upon by both parties. If a meeting is scheduled, both parties will submit, to the other party's designee, sufficient description and data on their agenda items to enable the other party to prepare. In addition, upon request of either party one additional LMRC meeting per year will take place. Management has determined that their designee for this purpose will be Chief, Employee and Labor Relations, Kansas City. Items not on the agenda may be discussed by mutual consent.

2. The parties will not consider specific grievances, complaints, or appeals at LMRC meetings. However, this does not preclude the discussion of general personnel policies, practices, and working conditions that might give rise to grievances, complaints or appeals, so that these future problems might be identified for possible preventive action when appropriate.

3. The parties agree that LMRC procedures are not a substitute for notice to the Union as provided for in Article 45 of this Agreement unless supplemental agreements reached are written, assigned a control number and expiration date, and signed by both parties.

Section D. Subject Matter Experts

Each party may, with one-day advance notice, bring in a technical advisor/subject matter expert. Upon mutual agreement, the one-day advance notice may be waived. Absent mutual agreement, only one technical advisor/subject matter expert per side may be present at LMRC meetings at any given time. The advisor will be afforded the same rights as those afforded to LMRC members pursuant to this Article. If the bargaining unit technical advisor/subject matter expert is a warehouse examiner who is required to travel to attend the LMRC meetings, the employee will receive official time, travel and per diem to attend the meetings, not more than twice per calendar year.

Section E. Official Time

Each Union representative will be entitled up to four hours of official time to prepare for each LMRC meeting.

Section F. Meeting Minutes

At the conclusion of each meeting, the Employer will prepare the minutes of the meeting that will include a statement of the agenda item(s) with a brief review of the parties' discussion. These minutes will be forwarded to the Union and any comments will be attached to the minutes for the record.

ARTICLE 59: PERSONAL USE OF GOVERNMENT EQUIPMENT

Section A. General

This Article authorizes the occasional personal use of the Employer's office equipment (personal computers and related peripheral equipment and software, library resources, telephones, facsimile machines, photocopiers, office supplies, Internet connectivity and access to internet services, and E-mail). Employees may use the Employer's equipment only when such use involves minimal or no additional expense to the Employer and does not interfere with official business. The privilege of using Employer office equipment does not create the right to use such equipment. Employees abusing this privilege are subject to all appropriate disciplinary measures including revocation of this privilege.

Section B. Using Equipment and Services

1. The use of office equipment and services by all employees will be in accordance with the requirements of 5 CFR, Part 2635, Subpart G, Sections 704 and 705, and the United States Office of Government Ethics document, Standards of Ethical Conduct for Employees of the Executive Branch. Occasional personal use of Employer equipment will normally take place during the employees' personal time; e.g. on days work is performed, before or after official duty hours, at lunch break, or during authorized breaks.

2. Employees must exercise common sense and good judgement in the personal use of Employer equipment. Employer equipment and official time must not be used to earn outside income or for private gain. The ban on using Employer equipment to support a personal private business also includes employees using Employer equipment to assist relatives, friends, or other persons in such activities. Employees may, however, make limited use of Employer equipment for such things as checking their Thrift Savings Plan or other personal investments, or to seek employment, or communicate with a volunteer charity organization.

3. Misuse or inappropriate personal use of Employer equipment includes, but is not limited to:

    a. the creation, download, viewing, storage, copying, or transmission of sexually explicit or sexually oriented materials; or materials that are illegal, inappropriate or offensive to co-workers or the public, such as remarks that ridicule others, or hate speeches;

    b. any personal use that could cause congestion, delay, or disruption of service to any government system or equipment. For example, greeting cards, video, sound or other large file attachments that can degrade the performance of the entire network. "Push" technology (which sends information and software directly to

user’s desktops without requiring them to request it) on the Internet and other continuous data streams that would also degrade the performance of the entire network;

c. the creation, copying, transmission, or retransmission of chain letters or other unauthorized mass mailings regardless of the subject matter;

d. using Employer systems as a staging ground or platform to gain unauthorized access to other systems;

e. the creation, download, viewing, storage, copying, or transmission of materials related to illegal gambling, illegal weapons, terrorist activities, and any other illegal activities or activities otherwise prohibited, etc;

f. use for commercial purposes or in support of "for-profit" activities or in support of other outside employment or business activity (e.g. consulting for pay, sales or administration of business transactions, sale of goods or services);

g. soliciting or engaging in any outside fund-raising activity, endorsing any product or service, participating in any lobbying activity, or engaging in any prohibited partisan political activity.

h. use for posting agency information to external newsgroups, bulletin boards or other public forums without authority. This includes any use that could create the perception that the communication was made in one's official capacity as a Federal Government employee, unless appropriate Employer approval has been obtained;

i. uses counter to the Employer’s mission or positions;

j. any use that could generate more than minimal additional expense;

k. the unauthorized acquisition, use, reproduction, transmission, and distribution of computer software or other material protected by national and international copyright laws, trademarks or other intellectual property rights;

l. playing games via the Internet;

m. falsely representing yourself as someone else or as acting in an official capacity;

n. providing information about, or lists of other employees without authorization; and/or

o. modifying equipment, including loading personal software or making configuration changes.

4. If an employee requires access to an appropriate internet site blocked by the employer, the employee may submit a request, to the Employer's designee, to have the site "unblocked".

5. Employee equipment use must not result in loss of employee productivity or interference with official duties.

Section C. Minimal Additional Expense

Minimal additional expense means that employee's personal use of Employer office equipment is limited to those situations where the Employer is already providing equipment or services and the employee's use of such equipment or services will not result in any, or at most minimal, additional expense to the government or the use will result in only normal wear and tear or the use of small amounts of electricity, ink, toner or paper. Examples of minimal additional expenses include, making a few photocopies, using a computer printer to printout a few pages of material, making occasional brief personal phone calls, infrequently sending personal E-mail messages, or limited use of the internet for personal reasons.

Section D. Privacy Expectations

Employees do not have a right nor should they have an expectation, of privacy while using any Employer equipment at any time, including accessing the Internet, using E-mail. To the extent that employees wish that their private activities remain private, they should avoid using Employer equipment such as their computer, the Internet, or E-mail. By using Employer equipment, employees imply their consent to disclosing the contents of any files or information maintained or that pass-through Employer equipment.

By using Employer equipment, employee consent to monitoring and recording is implied, including (but not limited to) accessing the Internet and using E-mail. Any use of Employer communications resources is made with the understanding that such use is generally not secure, is not private, and is not anonymous.

Section E. Voice Mail

Management agrees to review the need for voice mail on an individual basis.

ARTICLE 60: COMMUTER TRANSIT SUBSIDY BENEFIT PROGRAM

Section A. Eligibility and Subsidy Payment

1. Eligibility. The Employer will offer a monthly public transportation subsidy, as permitted by statute, for all eligible employees who commute to work by mass transportation or qualified commuter highway vehicle (vehicle).

2. Subsidy. The subsidy will be the actual cost of the employee's mass transit or qualified commuter highway vehicle expenses, not to exceed the statutory maximum. Both parties recognize that the payment of transportation subsidies is dependent on available funds.

3. Eligibility Exceptions.

   (a) An employee who drives, or is a passenger in a privately-owned or leased vehicle and who parks in a federally-subsidized parking area is not eligible to participate in this program. Any government-provided, owned, or leased parking area is considered federally-subsidized.

   (b) The Employer may determine that to promote the efficiency of the Agency operations, selected employees may use federally-subsidized parking areas because of changes in their work schedules or in exigent circumstances. Some participants may request authority to use the facility parking areas on an extremely limited basis. In either of these situations, the impacted participant will remain eligible for the monthly transportation subsidy.

Section B. Definitions

Mass Transportation: Transportation systems, such as buses, operated for the benefit of the general public.

Qualified Commuter Highway Vehicle (vehicle): Any highway vehicle with a legal seat-belted capacity of at least six adults, in addition to the driver.

Section C. Procedures

1. Application. Employee's desiring to participate in the transportation subsidy program must complete Form AD-1147, Public Transportation Benefit Program Application, in advance. The completed form must be submitted to the Employer's designee to determine eligibility one month prior to the need for the subsidy. Subsidy benefits and approvals are not done retroactively. For example, an eligible employee requesting

subsidized bus fares beginning October 1, must submit their application on or before September 1, in order to be sure to receive their bus pass by October 1.

2. Vehicle Operation Reimbursement. To receive reimbursement for actual vehicle operation costs, the employee must apply and receive approval pursuant to paragraph C.1. On the first workday of each month, the employee must complete Form SF-1164, Claim for Reimbursement for Expenditures on Official Business, for claimed subsidies approved for the preceding month. For this program, the employee must print "Transit Subsidy" in block 6 (c) FROM, and "Pay Locally" in block 6 (d) TO, on the SF-1164.

3. Commuting Changes. Employees must submit a new AD-1147 whenever their normal method of commuting changes for more than two weeks. Examples of such changes include driving alone, being on temporary duty at a different worksite (outside the Kansas City commuting area) or being on leave for more than two weeks.

Section D. Program Information

The Employer will inform employees of the availability of the Commuter Transit Subsidy Benefit Program through an "All Employee" memorandum issued whenever changes to the existing program occur.

ARTICLE 61: SURVEILLANCE

Unless the Employer has reasonable grounds to suspect conduct problems, the Employee ID badge Card Readers, whether located at the Parking Lot entrances, outside or inside the 6501 Beacon Drive building, or any Employer offsite building such as the Warehouse building, will not be used for non-security related surveillance or monitoring of employees. Non-security related telephone or camera monitoring of employees may not be used absent reasonable grounds to suspect conduct problems. However, if during an investigation based upon reasonable grounds the Employer finds evidence of alleged misconduct on the part of any employee, the Employer may use the related monitoring information. If a disciplinary or adverse action is taken against an employee based on information obtained through surveillance and/or monitoring activities, the employee will be provided copies of all such information in its original format, upon request.

Upon request, the Employer agrees to negotiate over legally negotiable surveillance/monitoring matters to the extent required by law.

ARTICLE 62: PRECEDENCE AND EFFECT OF LAW AND REGULATION

Section A. Laws and Regulations

In the administration of all matters covered by this Agreement, the Employer, the Union, and employees are governed by existing and future laws and government-wide regulations. The parties recognize their obligation to engage in impact and implementation bargaining, as appropriate, with respect to future laws and future government-wide regulations.

Section B. Agreement Duration

For the duration of this Agreement, it will have the full force and effect of regulations within the bargaining unit. Where existing provisions of U.S. Department of Agriculture regulations, for which there is no compelling need which meets the requirements set forth in 5 CFR § 2424.11, are in conflict with this Agreement, the provisions of this Agreement shall govern unless otherwise specifically stated in this Agreement. During this period, the Agreement will be modified only by the passage of legislation, the issuance of Office of Personnel Management or other government-wide regulations implementing 5 U.S.C. § 2302, the issuance of U.S. Department of Agriculture regulations required by law or appropriate authority or for which there is a compelling need which meets the requirements set forth in 5 CFR § 2424.11, or by mutual agreement of the parties.

Section C. Previous Agreements and Past Practices

This Agreement supersedes all previous agreements and past practices in conflict with this Agreement. Supplemental agreements and past practices not in conflict shall continue unless modified in accordance with law and the terms of this Agreement.

Section D. Subsequent Agreements

The requirements of this Article apply to all subsequent supplemental, implementing, or subsidiary agreements between the parties.

ARTICLE 63: DURATION AND TERMINATION

Section A. Effective Date

This Agreement shall take effect no later than thirty (30) calendar days after execution by both parties unless disapproved by the Secretary of Agriculture pursuant to the provisions of 5 U.S.C. 7114 within thirty (30) calendar days.

Section B. Duration

This Agreement shall remain in effect for five (5) years from its effective date.

Section C. Mid-Term Re-openers

The Employer or the Union may request to reopen up to three (3) Articles of this Agreement for negotiation.

Notice of reopeners must be submitted in writing at least sixty (60) calendar days but not more than one hundred twenty (120) calendar days, prior to the mid-point of this Agreement. The written notice to reopen must identify the proposed Articles to be reopened.

Section D. Renegotiation and Renewal

1. The Employer or the Union may request to renegotiate the Agreement by submitting notice in writing at least sixty (60) calendar days, but not more than one hundred twenty (120) calendar days, prior to the expiration date. In the event the parties renegotiate the Agreement, the current terms will remain in effect until superseded by a new Agreement. In the event that neither party submits a notice to renegotiate, the Agreement will be automatically renewed for periods of one (1) year, except for provisions which may be in conflict with applicable law, rule, or regulation.

2. At a minimum, the following ground rules will apply to the negotiations:

    a. The parties will begin negotiations no later than thirty (30) calendar days prior to the expiration date of this Agreement.

    b. The Employer shall pay full travel and per diem for one (1) warehouse examiner to participate in negotiations for up to five (5) days.

    c. The parties shall meet within fifteen (15) days following the notice in Section C to negotiate additional ground rules, as necessary.

Section E. Disapproval by the Secretary of Agriculture

1. If the Secretary of Agriculture disapproves any negotiated language, the Union is free to petition the Federal Labor Relations Authority to challenge the decision or to reopen negotiations over the topic within ten (10) days. Otherwise, unaffected portions of the Agreement shall take effect in accordance with Section A of this Article.

2. Upon any disapproval, the parties will negotiate further pursuant to the ground rules governing the negotiation of this Agreement.

Appendix A [Blank]

Certification of Health Care Provider

1. Employee's Name:	2. a. Patients Name (If different): 2. b. Relationship to Employee:

3. Date(s) Seen By Provider:

4. a. Diagnosis (layman's terms preferred):	4. b.This condition is best described as: **Acute_____ Chronic_____**

5. Estimated Duration of Condition:

6. Will this condition require multiple visits/treatments? **Yes_____ No_____**

7. A "Serious Health Condition" is an illness, injury, impairment, or physical or mental condition that involves: inpatient care (i.e., an overnight stay) or continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition. Some examples include examination and treatment for things such as, heart attack, heart conditions, cancers, back conditions requiring therapy or surgery, kidney dialysis, physical therapy, strokes, severe nervous disorders, injuries caused by serious accident on or off the job, clinical depression, recovery from major surgery, final stages of a terminal illness, Alzheimer's disease, pregnancy, childbirth, miscarriages, and complications or illnesses related to pregnancy.

A serious health condition does **not** include things such as routine physical, eye, or dental examinations, absence because of an employee's use of an illegal substance (unless the employee is receiving treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider), the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease.

Would you describe this condition as a "Serious Health Condition"? **Yes_____ No_____**

ITEMS 8-10 COMPLETE IF PATIENT IS EMPLOYEE

8. Release to Return to Work (date):

9. a. Upon release, will the employee be able to work: **_____ Full-time _____ Part-time _____ None**

9. b. If other than full-time, when will employee be able to resume full-time duties:

10. Other Restrictions/Comments:

ITEMS 11-12 COMPLETE IF PATIENT IS EMPLOYEE'S FAMILY MEMBER

11. Does the patient require assistance for basic medical or personal needs or safety, or for transportation? **Yes_____ No_____**

12. a. Does the patient require care: **Full-time_____ Part-time (daily)_____ Intermittently (not daily)_____ Self-care_____**

12. b. If care (other than self-care) is required, estimate duration of care:

CERTIFICATIONS

Signature of Provider:	Date:
Address:	Type of Practice Telephone Number:
Employee Signature:	Date:

Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division

DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003
Expires: 5/31/2018

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

_____

Check if job description is attached: ☐

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

   Probable duration of condition: _____

   Mark below as applicable:
   Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?
   ___No____Yes. If so, dates of admission:

   _____

   Date(s) you treated the patient for condition:

   _____

   Will the patient need to have treatment visits at least twice per year due to the condition?____No____Yes.

   Was medication, other than over-the-counter medication, prescribed?____No____Yes.

   Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
   ____No_____Yes. If so, state the nature of such treatments and expected duration of treatment:

   _____

2. Is the medical condition pregnancy?____No____Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

   Is the employee unable to perform any of his/her job functions due to the condition:_____No____Yes.

   If so, identify the job functions the employee is unable to perform:

   _____

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

   _____

   _____

   _____

   _____

   _____

   _____

   _____

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery?____No_____Yes.

   If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition?____No_____Yes.

   If so, are the treatments or the reduced number of hours of work medically necessary?
   ___No_____Yes.

   Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

   _____

   Estimate the part-time or reduced work schedule the employee needs, if any:

   _____ hour(s) per day;_____days per week from_____through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions?_____No_____Yes.

   Is it medically necessary for the employee to be absent from work during the flare-ups?
   ____ No_____Yes . If so, explain:

   _____

   _____

   Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency :_____times per_____week(s)_____month(s)

Duration:_____hours or____day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

_____

_____

_____

_____

_____

_____

_____

Signature of Health Care Provider **Date**

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.**

The following representatives of the National Treasury Employees Union (Union) and the Farm Service Agency (Employer) hereby enter into this Agreement the 13 day of February, 2018.

FOR THE UNION

Anthony M. Reardon
National President, NTEU

Steven Payne
Chief Negotiator, NTEU

Nancy Dudley
Negotiation Team Member, NTEU

Bradley W. Hall
Negotiation Team Member, NTEU

Mary Munoz
Negotiation Team Member, NTEU

Demetrius Rios
Negotiation Team Member, NTEU

FOR THE EMPLOYER

Gregory M. Borchert
FSA Kansas City, Chief Negotiator

David Simmons
FSA Kansas City/ HR

Katie Collins
FSA Kansas City/FMD

David G. Stropes
FSA Kansas City/ITSD