

COLLECTIVE BARGAINING AGREEMENT

BETWEEN



AFGE Local 236, Fort Worth, Texas
AFGE Local 3147, Washington, D.C.
AFGE Local 3354, Kansas City, Missouri

AND



United States
Department of Agriculture
Pegasys Financial Services

Effective August 1, 2022

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DEFINITIONS AND ACRONYMS

Section 1 – Definitions

Day – means calendar day, unless otherwise specified

Employee – means bargaining unit employee

Service Computation Date – means the leave service computation date, which is found on an employee's Standard Form - 50, Notification of Personnel Action, unless otherwise specified

Statute – means the Federal Service Labor-Management Relations Statute found at Title 5, United States Code, Chapter 71

Section 2 – Acronyms

CBA – Collective Bargaining Agreement

CFR – Code of Federal Regulations

DM or DR – Departmental Manual or Departmental Regulation

EAP – Employee Assistance Program

EEO – Equal Employment Opportunity

EO – Executive Order

FECA – Federal Employees' Compensation Act

FLRA – Federal Labor Relations Authority

FLSA – Fair Labor Standards Act

MSPB – Merit Systems Protection Board

OCFO – USDA Office of the Chief Financial Officer

ODS – Official Duty Station

OHRM – USDA Office of Human Resources Management

OIG – Office of the Inspector General

OPF – Official Personnel Folder, referred to as eOPF when maintained electronically

OPM – Office of Personnel Management

OSC – Office of Special Counsel

SCD – Service Computation Date

SF – Standard Form

U.S.C. – United States Code

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

Section 1 – Parties to the Agreement. The Parties to this Collective Bargaining Agreement (CBA or Agreement) are the U.S. Department of Agriculture (USDA), Office of the Chief Financial Officer (OCFO), Pegasys Financial Services (PFS), hereinafter known as the “Agency,” “Employer,” or “Management” and the American Federation of Government Employees (AFGE), AFL-CIO, hereinafter known as the “Union.”

Section 2 – Purpose and Authority. This Agreement sets forth the respective roles and responsibilities of the Parties and states the policies, procedures and methods that provide the working relationships between the Parties. This Agreement is entered under the authority of Title 5 United States Code (U.S.C.), Chapter 71.

Section 3 – Unit of Recognition. The unit of recognition covered by this Agreement is the unit certified by the Federal Labor Relations Authority (FLRA) in Case No. WA-RP-15-0024 on July 2, 2015 and modified in Case No. WA-RP-18-0062 on November 16, 2018. Management recognizes the American Federation of Government Employees, AFL-CIO, as the exclusive representative of all employees (hereinafter sometimes referred to as “employees” or “bargaining unit employees”) in the bargaining unit defined below. A copy of the FLRA certifications are at Appendix A.

Section 4 – Definition of the Bargaining Unit. This Agreement covers all employees of the USDA OCFO Pegasys Financial Services, and excludes all employees of the OCFO National Finance Center, management officials, supervisors, and employees described in 5 U.S.C. 7112 (b)(2), (3), (4), (6) and (7).

ARTICLE 2: GOVERNING LAWS, REGULATIONS AND POLICIES, PREVIOUS AGREEMENTS AND PAST PRACTICES

Section 1 – Governing Laws, Regulations and Policies. In the administration of all matters covered by this Agreement, the Parties and bargaining unit employees are governed by existing or future laws, Executive Orders, and the regulations of appropriate authorities, including policies set forth in Title 5 Code of Federal Regulation, any Government-wide rules or regulations, any published Agency policies and regulations in existence at the time this Agreement was approved and subsequently published Agency policies and regulations, or those authorized by the terms of a controlling agreement at a higher Agency level. Implementation of future laws, Executive Orders and/or regulations will be bargained by the Parties to the extent required by law.

Section 2 – Previous Agreements and Past Practices. This Agreement shall be the sole agreement between the Parties, which supersedes all previous agreements signed by the Parties. Upon approval, this Agreement will supersede and cancel all previous formal and informal labor agreements, including any past practices, and will serve as the sole Agreement between the parties.

ARTICLE 3: EFFECTIVE DATE, DURATION, RENEGOTIATION, REOPENER AND DISTRIBUTION OF THE AGREEMENT

Section 1 – Effective Date and Duration. This Agreement shall become effective 31 days after signing and will remain in full force and effect for five (5) years from its effective date.

Section 2 – Joint Training. The Parties agree to conduct joint training on this Agreement with employees and supervisors within 60 days of the effective date. The timeframe for conducting the training may be extended upon mutual agreement of the Parties. The training method (onsite and/or VTC), format/materials and schedule will be determined by the Parties based on the availability of funds and personnel.

Section 3 – Mid-Term Reopener. Mid-term negotiations may be initiated by either Party by giving written notice to the other within the 30-day period after the initial two-year anniversary date of this Agreement. The anniversary date is calculated from the effective date of this Agreement. Each Party may request to amend, supplement or renegotiate up to ten (10) articles contained in this Agreement; however, more articles may be reopened by mutual consent of the Parties. The notice will include a list of articles to be opened and a brief description of the issues and/or concerns. The Parties will work in good faith to begin ground rules negotiations within 14 calendar days after the latest notice is received. The existing articles will remain in effect until the new articles are effective.

Section 4 – Renegotiation and Rollover. If either Party wishes to renegotiate this Agreement, it must give written notice to the other not more than 120 nor less than 60 days prior to the expiration date. The notice will include a list of articles to be opened. The Parties will work in good faith to begin ground rules negotiations within 30 calendar days after the latest notice is received. The existing Agreement will remain in effect until a new Agreement has become effective. If neither Party serves notice that it wishes to renegotiate this Agreement, it shall automatically continue in effect for additional one (1) year periods, subject to the provisions of this Article.

Section 5 – Other Changes During the Term of the Agreement. Except as specified in this Article, the provisions of any article in this Agreement may only be reopened consistent with Article 8 of this Agreement.

Section 6 – Distribution. Management will post a copy of this Agreement to the USDA internet and will send an email with the link to all bargaining unit employees within 30 days of the effective date. Copies may be printed from the electronic version, if desired.

ARTICLE 4: EMPLOYEE RIGHTS

Section 1 – Right to Join or Assist a Labor Organization. As provided in 5 U.S.C. 7102, each employee has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee will be protected in the exercise of such right. Except as otherwise provided under the Statute, this includes the right to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities. This also includes the right to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under the Statute.

Section 2 – Right to Representation. As provided in 5 U.S.C. 7114, an employee is entitled to be represented by a Union representative during any examination of the employee by a representative of the Agency in connection with an investigation if the employee reasonably believes the examination may result in disciplinary action against the employee, and the employee requests representation. These are commonly referred to as Weingarten Rights and Management will ensure employees are informed of these rights annually.

Section 3 – Employee Rights

- A. The Union has not waived any of its statutory rights nor any statutory rights of its employees by entering into this Agreement. Employees have the rights contained in Chapter 71 of the Federal Service Labor-Management Relations Statute (FSLMRS). Nothing in this Agreement is to be construed as waiving any rights under the Statute.
- B. An employee who does not understand an instruction/order communicated to him/her by a management official has the right to request clarification of that instruction/order. A supervisor's order must be complied with once given whether or not the employee believes those instructions to be consistent, fair, or reasonable. An employee who concludes that a supervisor's instruction(s)/order(s) are not consistent, fair, or reasonable has the right to consult with the union and/or pursue his/her dissatisfaction through the negotiated grievance procedure or other appropriate authority.
- C. In accordance with 5 U.S.C. 7116(a), no employee will be subjected to intimidation, coercion, harassment or retaliation by management officials.

Section 4 – Right to Union Representation

- A. Employees have a right to the representation and assistance of the Union. Employees may contact or meet privately with their Union Representative.

- B. The Union has the right to be present during any discussions or meetings being formal involving bargaining unit employees.

Section 5 – Use of Government Equipment and/or Facilities. Employees may use Agency/Government equipment and/or facilities to access communications provided on the Pegasys Financial Services (PFS) employee intranet, and/or for limited personal use (e.g. telephones, e-mail, internet, fax, and copiers). Use will be in accordance with applicable agency regulations and policies, to include but not limited to the following:

- A. Such use will not adversely affect the performance of official duties by the employee or of any other employee.
- B. Such use reasonably could have been done during non-duty hours. Whenever possible, Employee use of Government equipment and/or facilities will be carried out during official breaks, lunch periods, and other non-work periods.
- C. Such use involves minimal or no expense to the Government, does not interfere with the Agency's operation, and does not violate Government ethics rules.
- D. Employees must refrain from using Government equipment or facilities for activities that are inappropriate or offensive to co-workers or to the public. Examples of prohibited activities include, but are not limited to, use of sexually explicit material or material that ridicules others on the basis of race, creed, religion, color, sex, handicap, national origin or sexual orientation.
- E. Employees cannot use Government equipment and/or facilities to run their own or to perform work for a personal or private business.
- F. Employees are allowed to use their government equipment to access the internet for personal use during breaks and lunches.

Section 6 – Whistleblower Protection. Employees are protected by the Whistleblower Protection Act, as amended and the Agency will make information about the Act available as appropriate.

Section 7 – Standards of Ethical Conduct. Employees will complete required ethics training as prescribed by the Agency. Employees should direct questions to the USDA Office of Ethics. Employees will have the right to pursue their private lives without interference by the Agency or the Union as long as their behavior does not adversely impact their government employment.

Section 8 – Employee Indebtedness. The Parties agree that all employees are expected to pay promptly all just financial obligations, including amounts owed on the employee’s government-issued travel charge card. A just obligation is one which the employee acknowledges as being just, one which has been reduced to a judgment by court, or one which has been imposed by law. In the event of a dispute as to the validity of a debt between an employee and a creditor, the Agency will not undertake to determine the validity of the disputed debt.

ARTICLE 5: MANAGEMENT RIGHTS

Section 1 – As provided in 5 U.S.C. 7106, Management retains the right to:

- A. Determine the mission, budget, organization, number of employees, and internal security practices of the Agency;
- B. Hire, assign, direct, layoff, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
- C. Assign work, make determinations with respect to contracting out, and determine the personnel by which Agency operations shall be conducted;
- D. With respect to filling positions, make selections for appointments from among properly ranked and certified candidates for promotion or any other appropriate source; and
- E. Take whatever actions may be necessary to carry out the Agency mission during emergencies.

Section 2 – Nothing in the Statute or this Agreement shall preclude the Parties from negotiating:

- A. At the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
- B. Procedures which Management will observe in exercising any rights in Section 1; or
- C. Appropriate arrangements for employees adversely affected by the exercise of any rights under Section 1 by such Management officials.

ARTICLE 6: UNION RIGHTS, RESPONSIBILITIES AND REPRESENTATION

Section 1 – Union Rights. The Union's rights are provided for in 5 U.S.C. 7114 and further clarified in this article. The Union is the exclusive representative of the employees in the PFS bargaining unit and is entitled to act for and negotiate collective bargaining agreements covering all employees in the bargaining unit. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to Union membership. The Union retains the right to designate its representatives on all matters in accordance with this Agreement and the Statute.

- A. The Union President(s) will notify the Labor Relations Officer in writing via email of the name(s) and contact information of their respective Vice President(s) and designated representatives for PFS. The Union will promptly notify Management in writing via email of any changes to its designated representatives.
- B. For the purposes of using official time in representing the members of the PFS bargaining unit, Management will recognize elected/appointed union officials in each of the three PFS locations (Fort Worth, Kansas City and Washington DC) who is a member of the bargaining unit. Union representatives who are members of the PFS bargaining unit shall be entitled to the use of official time, subject to Management approval, under the provisions of this Agreement. Union representatives who are not members of the PFS bargaining unit will not be entitled to the use of official time under the provisions of this Agreement.
- C. In addition to the officers, stewards and business agents of the Union, Management agrees to recognize respective AFGE National officers.
- D. Soliciting employees for union membership is not permitted in PFS work areas while on duty time. Any such solicitation can only occur in break areas when employees are on break, lunch or in a non-work status (i.e., before or after work).

Section 2 – Use of Official Facilities. The Union will be provided access to premises occupied by PFS employees to meet with Management, Union officials or employees during working hours. Union representatives and/or participants must be in a non-duty status if the facilities are being used for solicitation of membership dues or other internal Union business. The Union agrees to notify Management when Union representatives and/or officials who are not PFS employees and/or do not normally have routine access to the Agency premises will be onsite. Such notice should be as soon as possible after the Union schedules the visit or is made aware of the visit. Any such visitors the Union brings to the Agency shall comply with the local visitor's policy at each location.

Section 3 – Formal Discussions

- A. The Union has the right to represent an employee or group of employees at any formal discussion between one or more Management representatives and one or more employees in the bargaining unit or their representatives, concerning any personnel policy or practices or other general condition of employment. Management will notify the Union of formal discussions in writing via email or phone call as soon as possible.
- B. Individual performance counseling sessions and routine informational staff meetings that may include reminders of policies are examples of meetings that do not qualify as formal discussions.

Section 4 – Grievances. The Union has the exclusive right to represent employees under the negotiated grievance procedure covered in Article 22 of this Agreement.

Section 5 – Investigative Interviews. The Union has the right to represent an employee during any examination of the employee by a representative of the Agency in connection with an investigation if the employee reasonably believes the examination may result in disciplinary action against the employee, and the employee requests representation. This is not limited to formal investigations and includes any meetings between a supervisor/management official and an employee, when the remaining criteria also exist.

Section 6 – Issuance of Final Decision Notices. The Union shall be given the opportunity to be present when Management issues a notice of final decision on a disciplinary and/or adverse action to an employee who has designated the Union as a representative.

Section 7 – Restraint. Union officials and representatives performing duties in accordance with this Agreement and the Statute will not be subject to unlawful interference, restraint, coercion, reprisal, or discrimination because of performing those duties.

Section 8 – Official Time

- A. Consistent with 5 U.S.C. 7131(a) and (c), Union representatives who are members of the bargaining unit will be allowed official time for the following representational functions when they are otherwise in a duty status:
 - 1. Negotiation of a collective bargaining agreement, including attendance at impasse proceedings; or
 - 2. As determined by the Federal Labor Relations Authority (FLRA), when participating for,

or on behalf of, a labor organization in any phase of proceedings before the FLRA.

- B. The use of official time under 5 U.S.C. 7131(d), (to include the purposes/reasons and amounts) will be consistent with laws (e.g., the Statute) and government-wide regulations. Following are some examples of appropriate purposes under these authorities:
1. Attend formal discussions between one or more representatives of the Agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment;
 2. Attend an examination of a bargaining unit employee by a representative of the Agency in connection with an investigation if the employee reasonably believes the examination may result in disciplinary action against the employee, and the employee requests representation;
 3. Meet with Management representatives on matters associated with representation of bargaining unit employees;
 4. Handling grievances and other complaints;
 5. Meet with bargaining unit employees on matters associated with personnel policies, practices or other general conditions of employment;
 6. Communicate with new employees and provide an orientation package; and
 7. Other representational functions permitted by statute or government-wide regulations.
- C. Union representatives will request official time from their immediate supervisor using the Request for Official Union Time form at Appendix B or including similar information from the form in the body of an email. The second-level supervisor will be copied on the email to facilitate a timely response in the event the supervisor is unavailable. Union representatives and employees shall identify the purpose of their request as specifically referenced in paragraphs A or B above, as applicable.
- D. Requests will normally be submitted via email and/or form as soon as possible, but generally at least one (1) workday in advance. Exceptions will be made for either no-notice or short-notice situations beyond the Union representative's control, e.g., emergency situations where the Union's presence is needed to diffuse a workplace conflict involving an employee. In such situations, the Union representative will make a reasonable attempt to personally inform their first-level supervisor or a Management official in their chain of command before leaving their work site, but in any event, will leave a message informing their supervisor of the no-notice or short-notice situation and their anticipated time of return. The Union

representative will then submit their official time request at the earliest possible opportunity, but no later than immediately upon return to their work site.

- E. Management will review the request and respond via email as soon as possible after receipt of the request. If the request is being delayed or denied, the reason will be included with the response. Requests that are occasionally submitted with either no notice or short notice beyond the Union representative's control will not be denied solely on that basis. Union representatives will contact the employee's supervisor and get permission prior to entering a work area that is not their own. Union representatives meeting with employees will report to the supervisor in charge upon arrival in and departure out of the work area. Union representatives shall notify their immediate supervisor upon return to their work site.
- F. If the amount of time needed exceeds the amount originally requested, the Union representative will contact their supervisor as soon as possible when the need for more time is realized, and request approval for the additional time. This contact can be by phone, email or in person, and will be followed up via email if that is not the method used. Management will respond to such requests as quickly as possible, using the procedures previously identified for the initial request.
- G. To ensure proper reporting, Union representatives will record approved official time in the WebTA system using one of the following transaction codes:
 - 1. 35 (shows as Union Contract Negotiations in the system) for term negotiations, i.e., negotiating a collective bargaining agreement (contract);
 - 2. 36 (Base/Midterm Negotiations) for midterm negotiations, i.e., interim agreements, MOAs and impact and implementation bargaining—any negotiation separate from the contract itself;
 - 3. 37 (Base/Labor-Management) for general labor/management situations, i.e., meetings with management and/or employees, preparing information requests, union training, etc.—anything that doesn't fit into the other three categories; and/or
 - 4. 38 (Base/Grievances/Appeals) for work associated with dispute resolution, to include FLRA proceedings (i.e., unfair labor practices, representational petitions, etc.), MSPB appeals, EEO complaints, grievances, etc.
- H. If future system updates result in changes to the timekeeping system or the above transaction codes, the Parties agree to reopen only this portion of the article for appropriate negotiations regarding the changes.

Section 9 – Information Requests. This Section does not apply to requests for information under the Freedom of Information or Privacy Acts. The Union may request, and Management will provide, information consistent with 5 U.S.C. 7114(b)(4). Management will provide the requested information within 10 workdays of the request at no cost to the Union. If more time is needed, Management will communicate this to the Union.

Section 10 – Employee Rosters and Listings. Management will provide the Union an alphabetical roster of bargaining unit employees semiannually. The roster will include the name, organizational location, duty title, position series and grade of each bargaining unit employee. A separate telephone listing for each PFS location will be sent to the Union along with this roster. The Union will be notified monthly of bargaining unit employees who have 1) onboarded and 2) separated and/or have moved to positions outside of the bargaining unit.

Section 11 - Training. Union representatives may request official time to attend training sessions of mutual interest to the Union and Management, which are sponsored by an entity/organization other than Management, i.e., the Union, OPM, FMCS, FLRA, etc. Such requests will be submitted by the Union President or Vice President to the PFS Director and Labor Relations Officer normally at least ten (10) workdays in advance. The request must include a copy of the agenda, the dates and location of the training, a specific description of the subject matter for each training session (if not already included with the agenda), the start and end times of each session, names of the representative(s) who are requesting to participate in the training, and the amount of official time being requested for each representative. If Management is sponsoring, organizing and/or offering training that would be of mutual interest to the Parties, official time will be granted for Union representatives to participate.

ARTICLE 7: UNION DUES WITHHOLDING

Section 1 – Purpose. This article prescribes the procedures for eligible employees who are members of the Union to pay union dues through voluntary allotments from their compensation.

Section 2 – Certification and Remittance Procedures

- A. The Local Union President or any Local officer who has submitted proper notification to the Servicing Personnel Office (or its designee) is authorized to make the necessary certification of a completed SF-1187, “Request for Payroll Deductions for Labor Organization Dues.”
- B. The amount of dues certified on the SF-1187 by the authorized Union representative shall be the amount of regular dues, exclusive of initiation fees, assessment, back dues, fines, and similar charges and fees. One standard amount for all employees or different amounts of dues for different employees may be specified.
- C. Dues will be remitted by electronic funds transfer (EFT) each pay period to the bank account designated by the Union.

Section 3 – Employee Coverage and Responsibilities

- A. To be eligible to make a voluntary allotment for union dues, an employee must:
 - 1. Be an employee of the PFS bargaining unit;
 - 2. Have a regular net salary, after other legal and required deductions, sufficient to cover the amount of the authorized allotment for dues
- B. To initiate a voluntary allotment for union dues, the employee shall obtain an SF-1187 from the Union and submit the completed form to the designated Union representative.
- C. The employee and Servicing Personnel Office have a mutual responsibility to assure continuation of an employee’s allotment for union dues when the employee is assigned or promoted to another position within the PFS bargaining unit.
- D. To revoke a voluntary allotment of union dues, the employee shall complete an SF-1188, “Cancellation of Payroll Deductions for Labor Organization Dues,” or a memorandum and submit the document to the designated Union representative. Employees may submit an SF-1188 or revocation notice at any time after one year following the initial dues withholding assignment. It is the employee’s responsibility to ensure timely submission of a revocation form/request.

Section 4 – Union Responsibilities. The Union will:

- A. Inform and educate its members on the voluntary nature of the system for allotment of union dues, including the conditions under which the allotment may be revoked;
- B. Distribute SF-1187's to its members;
- C. Inform the Servicing Personnel Office (or its designee) of changes in the certification and/or remittance procedures;
- D. Forward properly executed and certified SF-1187's to the Servicing Personnel Office (or its designee) on a timely basis;
- E. Forward an employee's revocation request (SF-1188 or memorandum), to the Servicing Personnel Office (or its designee) as soon as possible to ensure it can be processed consistent with the effective dates in Section 8 of this article;
- F. Inform the Servicing Personnel Office (or its designee) of the name of any employee who has been expelled from or ceases to be a member in good standing in the Union as soon as possible, but no later than the pay period after the date of such a determination; and
- G. Inform the Servicing Personnel Office (or its designee) of any change in the amount and/or formula for membership dues.

Section 5 – Servicing Personnel Office Responsibilities. The Servicing Personnel Office (or designee) will:

- A. Upon receipt of a properly certified SF-1187, annotate the date it was received, confirm the employee's eligibility for dues withholding and process the form so deductions will be effective as outlined in Section 8 of this article. If the date received is not clearly annotated or documented, the SF-1187 will be considered received by the Servicing Personnel Office the workday following the date it is signed by the employee. If the Servicing Personnel Office fails to process or is unable to process the SF-1187 within the timeframe identified in Section 8, the Union will be promptly notified and provided the reason for the delay along with the anticipated pay period it should be processed. If the Servicing Personnel Office fails to provide such notice and processing of the SF-1187 is delayed for more than two pay periods beyond the timeframe identified in Section 8, Management will be responsible for paying the Union any dues or fees associated with the late processing of the form;

- B. The Servicing Personnel Office and employee have a mutual responsibility to assure continuation of an employee's allotment for union dues when the employee is assigned or promoted to another position within the PFS bargaining unit;
- C. Notify the employee and the Union when it has been determined an employee is not eligible for an allotment, along with the reasons for the decision;
- D. Upon receipt of certification from the designated Union representative, process new amounts for dues withholding, provided the amount and/or formula for withholding has not been changed during the past 12 months;
- E. Discontinue allotments when required by OPM rules and regulations; and
- F. Upon receipt from the Union of a properly executed SF-1188 or memorandum, annotate the date it was received, confirm the timeliness of the submission and process the form so the revocation will be effective as outlined in Section 8 of this article. If the Servicing Personnel Office fails to process or is unable to process the SF-1188 within the timeframe identified in Section 8, the Union will be promptly notified and provided the reason for the delay along with the anticipated pay period it should be processed. If the servicing Personnel Office fails to provide such notice and processing of the SF-1188 is delayed for more than two pay periods beyond the timeframe identified in Section 8, Management will waive collection from the Union of the overpayment as long as the requirements of 5 U.S.C. 5584(a) are met, and will be responsible for refunding the erroneous withholdings to the employee. If the form/memorandum is received directly from the employee, provide the respective Local a copy of the document within 72 hours after receipt; no additional action will be taken until the form/memorandum is subsequently submitted by the Union.

Section 6 – Servicing Payroll Office Responsibilities. The Servicing Payroll Office will:

- A. Withhold and stop union dues deductions each pay period consistent with the effective dates in Section 8 of this article;
- B. Remit union dues withheld each pay period by EFT to the bank account designated by the Union;
- C. Provide a listing via electronic means to the AFGE National Office on a biweekly basis. The listing shall be sorted by the respective Locals and shall show the name of each employee from whose pay dues were withheld, the last four (4) digits of the employee's Social Security number, the amount withheld, the code of the employing agency, and the number of the Local to which each employee belongs. Each listing shall include a summary for each

respective Local showing the number of employees for whom dues were withheld, total amount withheld for all employees and the net amount remitted.

Section 7 – Termination of Allotments. The Servicing Personnel Office will terminate an allotment:

- A. When an employee ceases to be a member in good standing of the employee organization;
- B. If the employee organization loses exclusive recognition for the bargaining unit;
- C. If the employee is reassigned or promoted from the unit for which the Union has been accorded exclusive recognition; or
- D. When the employee is separated from the Federal service.

Section 8 – Effective Dates. The effective dates for actions under this article are as follows:

- A. New requests for union dues allotments will be effective no later than the first full pay period after receipt of the SF-1187 by the Servicing Personnel Office.
- B. Upon receipt of changes in the amount and/or formula for dues, the new withholding amounts will start at the beginning of the following pay period or the date requested by the Union, whichever is later.
- C. Upon timely receipt of an SF-1188 or revocation notice, revocations for employees will be effective as soon as administratively feasible following receipt of the form. This should generally be no later than the end of the following pay period after receipt of the form/notice.
- D. Termination of dues withholding based on the Union's loss of exclusive recognition for the covered bargaining unit will be effective the beginning of the first full pay period following the Servicing Personnel Office's (or its designee's) receipt of the notice that recognition has been withdrawn.
- E. Termination of dues withholding based on separation or movement out of the bargaining unit will be effective at the end of the pay period during which the employee is separated or assigned to a position not included in the bargaining unit.

Section 9 – Back Pay Award. Union dues will be deducted from an employee's back pay award when the employee has an allotment for union dues in effect at the time of the action giving rise to the back pay, and the dues were not previously withheld for the period of back pay.

ARTICLE 8: MID-TERM NEGOTIATIONS

Section 1 – General

- A. The Union reserves the right to bargain over subjects not covered by articles in this Agreement in accordance with Section 7114(b)(1) through (5) of the Federal Service Labor-Management Relations Statute. The Parties agree the provisions of this Agreement constitute the procedures and appropriate arrangements applicable to matters covered by the Agreement.
- B. There will be no further bargaining during the term of this Agreement on matters covered by the Agreement unless mutually agreed otherwise. However, should any articles and/or sections of this Agreement be nullified or otherwise affected by Federal statute (law) or government-wide rules or regulations implementing 5 U.S.C. 2302 after the effective date of this Agreement, either Party may reopen only the articles/sections nullified or those that specifically address the matter covered by the law, rule or regulation.

Section 2 – General Bargaining Procedures

- A. Management will provide notification to the Union with regards to any changes in working conditions. Such notice will include a clear statement of the change being made, the employees/organization(s) being covered by the change, and the planned effective date. The notice will also include copies of any changes to any policies or operating procedures that are being modified because of the change.
- B. The Union will have up to ten (10) workdays to respond in writing via email to the notice and provide proposals for negotiating the proposed change. The Union may submit a written request via email for additional information or a briefing to clarify or determine the impact of the proposed change within five (5) workdays of receipt of the notice.
- C. Face-to-face bargaining will commence within five (5) workdays of receipt of proposals which are appropriate for negotiation.
- D. No unilateral changes will be made until negotiations have been completed, including impasse procedures, except in cases of overriding exigencies related to the necessary functioning of the Agency. In such an event, Management will make reasonable efforts to notify the Union prior to meeting with employees to meet their bargaining obligation. In rare and extraordinary circumstances, delayed notification and post-implementation bargaining may be necessary.
- E. The Parties may alter any of the above timeframes through mutual agreement. A request for

an extension must be received prior to the expiration of the initial timeframe.

- F. The Parties agree to be represented at negotiations by duly authorized representatives prepared to discuss and negotiate on the proposed change. In addition, the Parties agree to notify one another at the outset of negotiations concerning any limitation or restriction on a negotiator's authority to reach full agreement.
- G. If the Parties are unable to reach an agreement regarding negotiable items and are otherwise at an impasse, assistance will be requested from the Federal Mediation and Conciliation Service within five (5) workdays following face-to-face bargaining. The Parties will meet with the mediator for up to three (3) full workday sessions. The Parties may mutually agree to additional time for mediation. If no agreement is reached through mediation efforts, either Party may invoke the services of the Federal Service Impasses Panel (FSIP) within five (5) workdays of the last mediation session. Prior to taking such action, the Party seeking to invoke the services of the FSIP will provide notice to the other of its intention to take such action. The Parties will use established FSIP procedures to resolve the impasse.
- H. Management will notify the Union of any issues of non-negotiability. The Parties will make every reasonable attempt to resolve negotiability disputes through discussion and possible rephrasing of proposals. The Union may make a written request for a formal allegation of non-negotiability at any time. Upon such request, Management will provide the Union with a written allegation of non-negotiability. The Union may challenge the Agency's allegation of non-negotiability through appropriate procedures.

ARTICLE 9: HOURS OF WORK, OVERTIME AND ALTERNATIVE WORK SCHEDULES

Section 1 – Hours of Work

A. The tour of duty is the timeframe in which an employee must complete his or her basic work requirement, which for PFS employees is between 6:00 a.m. and 6:00 p.m. All employees must have a pre-established and approved tour of duty and may select either a basic work schedule, compressed work schedule or flexible work schedule. Form AD-2001, Designation of Tour of Duty, will be completed by all employees to request their desired work schedule. At a minimum, office coverage must be provided from 8:00 a.m. until 4:00 p.m., during which time customer service and technical assistance must be available. Employees may be asked and/or directed to adjust their work schedule to meet office coverage requirements or accommodate office meetings and training needs. Management reserves the right to assign work, establish and change the tours of duty of employees, and approve, disapprove or change employees' work schedules when necessary to meet the business needs of the Agency. Management will give employees a reasonable advance notice before changing their work schedule, which may be a short time frame in emergency or unforeseen situations.

1. **Arrival and Departure Times.** All work schedules must begin and end on quarter-hour increments. All employees (regardless of work schedule) must be present or on a scheduled lunch period or approved absence between 9:00 a.m. and 3:00 p.m. Employees may request an arrival time between 6:00 a.m. and 9:00 a.m. and the scheduled workday will end between 3:00 p.m. and 6:00 p.m., depending on the arrival time. Employees who request a schedule with 8-hour days will not be able to begin their workday before 6:30 a.m.
2. **Lunch Period.** The minimum lunch period for PFS employees is 30 minutes and is required if an employee works more than a 5-hour workday. The lunch period must be scheduled and taken between 11:00 a.m. and 2:00 p.m. Employees cannot depart early by claiming a lunch period outside of the lunch band.

B. Schedule Changes

1. **Employee-Initiated Changes.** Employees may request a change to their scheduled tour of duty up to 6 times per leave year. Employees requesting a work schedule change must complete a new Tour of Duty Form. Previously approved schedules will remain in effect until supervisory approval is received for a requested change and an effective date is established.
 - a. The Tour of Duty Form must be submitted to the supervisor no later than close of

business on the Tuesday before the start of the proposed pay period covered by the new schedule. It is the employee's responsibility to ensure the supervisor's actual, timely receipt of the request.

- b. Supervisor shall approve or disapprove the requested schedule no later than close of business on the Thursday before the start of the proposed pay period the employee requested the new schedule to be effective. If a work schedule request is disapproved, the specific reasons must be provided in writing to the employee on the work schedule form or an attachment.
- c. Conflicts. If more than one employee submits a new tour of duty request on the same day to be effective for the same pay period that will create inadequate office coverage, undue delays or interruptions to Agency business operations, or the failure, delay, or interruption in completing a critical mission of the Agency, the supervisor should attempt to resolve the conflict by discussing with the affected employees. If the discussions do not resolve the conflict, the supervisor will approve or disapprove the requests by giving priority to the employee with seniority based on the service computation date on their most recent SF-50. Employees with approved tour of duty schedules are not impacted by new requests.

- 2. Management-Initiated Changes. A supervisor may, after giving at least one pay period notice, make a temporary or permanent change to an employee's work schedule (including scheduled days off). In cases of emergency or of compelling need, notification may occur in less time.

Section 2 – Overtime. Overtime work will be compensated in accordance with applicable laws and regulations. The Parties agree the need for overtime, the scheduling of overtime work, the nature of the work to be performed, the specific skills required, the priority of work to be performed and the number of and identity of employees to work overtime are to be determined by Management.

- A. Overtime may only be worked at the direction of the supervisor if approved in advance by a Division Director (or Acting Division Director). Additionally, any hours worked prior to 6:00 a.m. or after 6:00 p.m. must be overtime or compensatory (comp) time, not credit hours.
- B. Absent extenuating circumstances, Management will provide employees reasonable notice when scheduling them to work beyond their normal tour of duty.
- C. Management will ensure that overtime assignments are equitably distributed among qualified employees who currently perform the work. If more employees are needed, Management

will then consider qualified employees who have previously performed the work and equitably distribute the overtime work to them accordingly. If more employees are still needed, Management will then consider employees with sufficient qualifications and experience to capably perform the overtime work and equitably distribute the overtime work to them accordingly.

Section 3 – Compensatory (Comp) Time. Comp time may only be worked at the direction of the supervisor if approved in advance by a Division Director (or Acting Division Director). Comp time is accrued in quarter-hour increments and may be used in lieu of any other forms of paid leave with prior approval of a supervisor on an hour-for-hour basis. Comp time must be used within 26 pay periods after the pay period during which it was earned. If an FLSA-covered (non-exempt) employee has comp time that has not been used within 26 pay periods, or if an FLSA-covered employee transfers or separates from the Agency before using earned comp time, the employee must be paid for the unused comp time based on the employee's rate of pay at the time the comp time was earned. Employees not covered by FLSA (exempt) will be paid for unused comp time after 26 pay periods, or upon transfer or separation from the Agency if funds are available.

Section 4 – Religious Compensatory Time

- A. To the extent that modifications in work schedules do not interfere with the efficient accomplishment of the PFS mission, an employee whose personal religious beliefs require that he/she abstain from work at certain times of the workday or workweek are permitted to work alternative work hours, so the employee can meet the religious obligation. The hours worked in lieu of the normal work schedule do not create any entitlement to premium pay (including overtime pay), even if the employee works more than 40 hours per week or 8 hours per day for this purpose.
- B. Employees must submit a written request for an adjusted work schedule in advance to their supervisor via email. The request must specifically state the adjusted work schedule is for religious purposes and the employee should provide acceptable documentation of the need to abstain from work.
- C. An employee's request for time off should not be granted without simultaneously scheduling the hours during which the employee will work to make up the time.
 - 1. This compensatory time may be earned before or after using it. However, if used first, it must be earned back no later than the following pay period. If earned first, it must be used no later than the following pay period.

2. If an employee has not performed work within the required time frames to make up for a previous absence granted for a religious observance, the employee must take paid leave, request leave without pay, or be charged absent without leave, if appropriate. In addition, if there is not sufficient work available for the employee to perform within the required timeframes to make up for a previous absence granted for a religious observance, the employee must take paid leave or request leave without pay.

Section 5 – Alternative Work Schedules. PFS supports the use of AWS programs and will attempt to accommodate participation in these programs to the maximum extent possible, taking into consideration work requirements and staffing levels. Participation places a great deal of responsibility on employees to be available for meetings and meet other work requirements as they arise. Employees must get prior approval to participate in AWS programs. AWS programs encompass two different work schedule variations: compressed work schedules (CWS) and flexible work schedules (FWS). Each of these represents a different kind of adjustment to the traditional fixed schedule of 8 hours per day, 5 days per week, which begins and ends at the same time each day.

A. Definitions

1. Alternative Work Schedule (AWS) – includes both flexible work schedules (FWS) and compressed work schedules (CWS).
2. Basic Work Requirement – the number of hours, excluding overtime hours, an employee is required to work or account for by charging leave, credit hours, excused absence, holiday hours, compensatory time off, or time off as an award.
3. Compressed Work Schedule (CWS) – a type of AWS that for a full-time employee, has an 80-hour biweekly basic work requirement that is scheduled for less than 10 workdays. The available CWS options for PFS employees are a 5/4-9 or 4/10 schedule.
4. Core Hours – the designated hours that are within the tour of duty during which an employee covered by a FWS must be present for work unless on approved leave or a scheduled lunch period. The core hours for PFS employees are 9:00 a.m. to 3:00 p.m.
5. Credit Hours – the hours within a FWS that an employee elects to work which are more than his or her basic work requirement to vary the length of a workweek or workday. There is no legal authority for credit hours under a CWS.
6. Flexible Hours – the times during the workday, workweek, or pay period within the tour of duty during which an employee covered by a FWS may choose to vary his or her times

of arrival to and departure from the work site consistent with the duties and requirements of the position. The flexible hours for PFS employees are 6:00 a.m. to 9:00 a.m. and 3:00 p.m. to 6:00 p.m.

7. Flexible Work Schedule (FWS) – a type of AWS that for a full-time employee, has an 80-hour biweekly basic work requirement that allows an employee to adjust their schedule within Agency-established limits. The only available FWS option for PFS employees is maxiflex.
 8. Lunch Band – the band of time that a lunch period may be scheduled. The lunch band for PFS employees is between the hours of 11:00 a.m. to 2:00 p.m.
 9. Maxiflex Schedule – a type of FWS that contains core hours on fewer than 10 workdays in the biweekly pay period and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within limits established by the organization (PFS).
 10. Overtime – For employees on a fixed or flexible schedule, work in excess of the established number of hours on a specific day is considered overtime, if ordered and approved in advance.
- B. Employees on an AWS may not schedule more than 9 hours in a workday (except for those on a 4/10 CWS), or work more than 10 hours in a workday using credit hours. Any work of more than 10 hours in a workday (other than those on a scheduled 4/10 CWS) may only be accomplished on approved overtime or comp time.
- C. Attending Training or on Travel to a Temporary Duty Location. When attending training or on travel to a temporary duty location, an employee on an AWS may be required to change to a traditional fixed schedule (8 hours a day and 40 hours a week) or another schedule that conforms to the training schedule or operations at the travel location during the affected pay period(s).
- D. Compressed Work Schedules (CWS). Compressed work schedules fulfill the basic work requirement of 80 hours in less than 10 workdays. Employees on a CWS have a fixed schedule—arrival and departure times cannot be adjusted, and the earning/use of credit hours is not permitted.
1. CWS Options. The available CWS options for PFS employees are a 5/4-9 or 4/10 schedule. On the 5-4/9 CWS, employees work eight 9-hour days and one 8-hour day

each pay period, with a scheduled day off (AWS day). On the 4/10 CWS, employees work four 10-hour days each week of the pay period, with an AWS day each week. Specific days/hours scheduled, and AWS days are a matter of joint discussions between the respective supervisor and employee; however, approval of a CWS and/or specific AWS days is at the supervisor's discretion. Supervisors may need to limit the number of employees in a work unit on such a schedule, or the number of employees with a specific AWS day, to ensure sufficient manning in support of Agency operations.

2. Absences. Any absences must be accounted for by appropriate and approved leave (i.e., annual or sick leave), accumulated compensatory time off, or previously-approved time off as an award. For example, if an employee's scheduled tour of duty is 8:00 a.m. – 5:30 p.m., and the employee reports to work at 8:30 a.m., the employee is required to take leave for the ½ hour they were delayed in arriving. There is no flexibility on a CWS for the employee to "make up" the ½ hour later that day or at any other time during the pay period.
 3. Changes. At the request of an employee, supervisors may approve a change to the AWS day during a pay period, subject to work demands. An employee may request a change in the CWS scheduled tour of duty up to 6 times per leave year.
 4. Holidays. A full-time employee on a CWS who is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive Order is entitled to their rate of basic pay for the number of hours scheduled for that day. If a holiday falls on the employee's scheduled AWS day, an "in lieu of" holiday is designated, and the employee is excused from work and entitled to their rate of basic pay for the number of hours scheduled for that day.
 5. Overtime. For a full-time employee under a CWS program who is exempt from the FLSA, overtime hours are all officially ordered and approved hours of work more than the CWS. For a full-time employee who is covered by the FLSA (non-exempt), overtime hours also include any hours worked outside the CWS that are "suffered or permitted."
- E. Flexible Work Schedules (FWS). Flexible work schedules have a basic work requirement of 80 hours in a biweekly pay period. When working on a FWS, employees must be present during core hours or account for that time with an approved absence, i.e., leave, comp time, etc. Employees may vary their starting and stopping times each day within established flexible hours. Employees may also earn/use credit hours to vary the number of hours worked on a given workday or each week.
1. FWS Options. The only available FWS option for PFS employees is maxiflex. With the

concurrence of their supervisor, an employee establishes a work schedule, so the supervisor knows when to expect the employee to generally be available for work. Employees may adjust their starting time daily within the flexible hours of 6:00 a.m. to 9:00 a.m., and the end of their workday would adjust accordingly between 3:00 p.m. and 6:00 p.m. (based on the starting time). Employees may also work/earn credit hours to vary the number of hours worked on a given workday or the number of hours worked each week. Employees may not schedule more than 9 hours in a workday or work more than 10 hours in a workday using credit hours. Supervisors may require that an employee provide notice when they will not be arriving within one hour of their anticipated time of arrival or are planning to leave more than one hour before their scheduled time of departure.

2. Credit Hours. Credit hours are any hours within a FWS that are more than an employee's basic work requirement, that the employee elects to work to vary the length of a work week or a workday. Employees must inform their supervisors in advance of their intent to earn credit hours, including the work they plan to perform and approximate time unless mitigating circumstances prevail; however, supervisors have the right to deny the earning of credit hours if there is no assigned work that may be performed during that time. Employees and supervisors may mutually agree on alternate arrangements for providing notice regarding the earning of credit hours on a continuing basis.
 - a. Employees may earn credit hours only when working within the established flexible time bands (6:00 a.m. and 6:00 p.m.) and cannot work more than 10 hours in a scheduled workday using credit hours. Credit hours are earned in 15-minute increments and must be recorded daily to ensure Agency compliance with overtime regulations. It is permissible for an employee to use leave and accrue credit hours in the same pay period. Credit hours may not be earned on non-workdays.
 - b. Employees may only carry over 24 credit hours from one pay period to the next or from one leave year to the next. Any balance of credit hours more than 24 hours in a pay period will be forfeited if they are not used by the end of the pay period.
 - c. The use of accumulated credit hours must be scheduled and approved in advance like any other absence from work. The employee will be released from work upon such a request unless there are work-related reasons.
 - d. Employees may not routinely earn and use credit hours in a manner that effectively creates a work schedule which is otherwise inconsistent with the terms of this Agreement. For example, an employee scheduled from 6:30 a.m. – 3:00 p.m. may not routinely earn credit hours from 6:00 a.m. – 6:30 a.m., then use credit hours from

2:30 p.m. – 3:00 p.m., to create a schedule of 6:00 a.m. – 2:30 p.m. (which is inconsistent with established core hours). This does not prevent the occasional and non-recurring earning and use of credit hours during the times shown in this example.

3. Changes. An employee may request a change to their FWS up to 6 times per leave year. Individual work schedules and changes to the schedule must be approved by supervisors in advance.
4. Holidays. A full-time employee on a FWS who is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive Order is entitled to their rate of basic pay for 8 hours.
 - a. If the number of hours scheduled for that day is less than 8 hours, the employee will need to work with their supervisor in advance of the holiday and identify an 8-hour day on their schedule that pay period which they will swap for the shorter day scheduled on the holiday.
 - b. If the number of hours scheduled for that day exceeds 8 hours, the employee will have the choice to either:
 - 1) work with their supervisor in advance of the holiday and identify an 8-hour day on their schedule that pay period which they will swap for the longer day scheduled on the holiday, or
 - 2) keep their schedule “as is” and take annual leave, comp time or credit hours on the holiday to make up the difference between the 8 hours holiday pay they receive and the hours they are scheduled.
5. Overtime
 - a. If an employee is ordered to work overtime, accrual of credit hours may not be substituted for the overtime work performed.
 - b. Any hours worked prior to 6:00 a.m. or after 6:00 p.m. must be at the direction of the supervisor and consistent with overtime/comp time procedures.
 - c. If management orders/directs an employee on a FWS to work more hours than they are scheduled to work on a specific day, and those hours do not exceed 8 hours in a day or 40 hours in a week at the time they are performed, management may permit or require the employee to:

- 1) take time off from work on a subsequent workday for an amount equal to the number of extra hours ordered;
- 2) complete his/her basic work requirement as scheduled and count the extra hours ordered as credit hours; or
- 3) complete his/her basic work requirement as scheduled, compensating the employee at their basic rate of pay for any hours of work equal to or less than 8 hours in a day or 40 hours in a week, and at an overtime rate for hours of work ordered more than 8 hours in a day or 40 hours in a week.

ARTICLE 10: TELEWORK

Section 1 – Governing Directives. Telework in PFS will be governed by the Telework Enhancement Act of 2010 as well as relevant laws, government-wide regulations, Departmental and Agency policies and/or regulations. In the event of any conflict between this Article and Departmental/Agency policies or regulations, the terms of this Article shall govern.

Section 2 – Eligibility

- A. To participate in telework, employees must satisfy all the requirements established by applicable laws, rules, regulations, policies and procedures, as amended.
- B. New employees (including existing employees in a new position) may not telework until they have completed all the Management-established training for their respective position or until the supervisor is confident the employee has sufficient skills to independently work from an alternative worksite.

Section 3 – Shared Understandings

- A. The appropriateness of the type/category and amount of telework suitable for eligible employees is a determination reserved for Management. Management will determine the frequency of telework participation based on the nature of the position, job requirements and mission criteria. Employees may be permitted to telework up to four (4) days per week and will normally be required to be in the office at least one (1) day per week.
- B. Employees may request to telework on a regular (scheduled) or unscheduled (situational) basis. On a case-by-case basis, the employee and the supervisor may mutually agree to change the established schedule of the employee to meet situational requests. Supervisors will consider business needs and frequency when determining whether an additional in-office day will be needed when unscheduled telework is approved.
- C. Management has the right under subsection 7106(a) of the Statute to exercise its best judgment, taking into account business- and mission-related considerations as to:
 - 1. How teleworking employees shall be trained, the standards and criteria by which it decides whether or not a telework employee has been trained adequately;
 - 2. The information it will collect for the purpose of evaluating the security, efficiency, productivity, of teleworking and the means by which it will collect such information;

3. The standards and criteria by which it will decide whether a satisfactory practice of teleworking in any functions or position has been achieved;
4. The changes, adjustments, etc., it thinks must be made in order to achieve a satisfactory practice of teleworking in any function or position.

Section 4 – Procedures

- A. Management will ensure new employees are provided links to the Departmental and/or Agency's telework policies, regulations and telework agreement form (AD 3018) within their first week of reporting for duty. Supervisors will also advise new employees during their onboarding of any job-related training and/or performance expectations that must be met before they can submit a request to telework. When new employees submit requests to telework, Management will train them on how to connect and use the Virtual Private Network (VPN) technology, network communicator and virtual softphones, and provide basic troubleshooting techniques.
- B. With the advance approval of their supervisor (or designee), employees may telework any day(s) between Monday thru Friday, and only on Saturday and Sunday with prior approval.
- C. When a normally scheduled telework day falls on a holiday, employees may request an unscheduled telework day, in lieu of their regularly scheduled telework day, in order to telework on a different day within the same pay period.
- D. When an employee is required to report to the official duty station (ODS) on a regularly scheduled telework day, the employee may request to telework an unscheduled day in the same pay period. The supervisor (or designee) shall approve/disapprove of such a request based on business needs.
- E. Management shall give fair and equitable consideration to all employees who apply to telework. If there are conflicting telework schedule requests, Management shall grant employee requests by seniority, utilizing the employees' service computation date on their SF-50, with the most senior employees receiving approval before other employees.
- F. When Management requires an employee to report to their ODS on a day when the employee is already teleworking, that employee will receive no more than two (2) hours to arrive at their ODS. Such travel time shall be compensable as hours of work. Mileage for a privately-owned vehicle between the telework location and ODS will not be reimbursable.
- G. When an employee with an approved telework schedule transfers from the scheduled

approving authority of one supervisor to that of another, the new supervisor (or designee) may adjust the telework schedule considering the desires of the employee, telework schedules by other employees in the new organizational unit, and the requirements of the organization. If the new supervisor (or designee) can accommodate the employee's original telework schedule in the new organization without disruption to the existing telework schedule of the other employees or negatively affecting workload or other business needs, etc., the new supervisor may consider doing so.

- H. Supervisors shall notify employees with critical work needs which may preclude them from performing telework at certain times during the year.
- I. In certain temporary situations, such as when an employee is recovering from an injury or illness and where the medical condition does not preclude the employee from teleworking, Management may permit the employee to telework provided the employee submits a medical certificate from his/her health care provider to their supervisor, Branch Chief or Director. The medical certificate shall be written on the official letterhead of the health care provider and shall contain, but not limited to the following information:
 - 1. The reason for the incapacitation (diagnosis/prognosis) of the illness/injury;
 - 2. The expected duration of the incapacitation;
 - 3. A statement regarding the amount of time in each day the employee may telework; and
 - 4. The name, address, telephone number and original signature of the health care provider.

Section 5 – Equipment and Supplies

- A. Exercising its best judgment, considering PFS business/mission-related priorities and other similar considerations, Management will provide government-owned laptops for employees to use when teleworking. Management retains ownership and control of all such property. Teleworking employees will be responsible for transporting such property between their ODS and telework location and for complying with all requirements.
- B. Any supplies provided by PFS for performing telework will be basic expendable supplies routinely used in the workplace.

Section 6 – Modifying, Suspending or Terminating Telework Agreements. When Management decides to suspend, modify or terminate an employee from the telework program, Management shall provide sufficient notice in writing via email to the affected employee in advance to allow

the affected employee to make necessary arrangements and shall indicate the reason(s) for the modification, suspension or termination of the telework agreement. The employee will need to submit an updated telework agreement in such situations.

- A. If Management modifies, suspends or terminates the employee's participation for business needs, the employee may ask for reconsideration once the business needs have changed or ended.
- B. If Management modifies, suspends or terminates participation for reasons associated with the employee's performance or conduct, the employee may re-apply for participation in the telework program after 30 days from the effective date of the modification, suspension or termination, provided the employee has corrected the basis for the modification, suspension or termination.

Section 7– Early Dismissal/Late Arrival. If the Federal Government or the USDA Secretary grant employees an early dismissal/late arrival associated with Executive or Agency Orders, i.e., early excusal prior to a holiday, the early dismissal/late arrival shall be granted to employees performing telework. However, when the early dismissal/late arrival is specifically related to the ODS, i.e., power outage, plumbing problems, late arrival due to weather, etc., it will not be granted to employees performing telework.

Section 8 – Disruption of Services at the Telework Location

- A. If the employee has difficulty logging into the system or if there is a disruption of services at the telework location and the employee cannot continue to work due to loss of contact with the ODS, the employee must notify his/her immediate supervisor, Branch Chief or designee by telephone within one (1) hour of such difficulty. The employee shall then have one (1) hour from that notice to regain connectivity. If at the end of that one (1) hour the employee has not regained connectivity, Management shall offer the employee the option of reporting to the ODS or requesting leave for the remainder of the workday.
- B. Although Management shall not normally consider an employee's commute time to and from the ODS as duty time, whenever an employee must come to work on a previously-scheduled telework day and the return to work is due to technical difficulties, Management shall consider up to two (2) hours of the employee's commute time to the ODS as duty time.

ARTICLE 11: LEAVE

Section 1 – Governing Directives. All leave actions will be governed by laws, federal regulations, rules and policies.

Section 2 – General

- A. Leave will be requested, approved and charged in 15-minute increments. Employees will not be required to perform their duties for any portion of the approved leave period.
- B. Leave requests will be submitted to the employee's supervisor or other designated official, and approval must be received prior to taking the leave. If the supervisor is unavailable and/or does not have a designee, requests should be submitted to the next level supervisor (or another management official, as needed, in the employee's chain of command). Unless otherwise required by Statute, regulation or policy, leave may be requested via email, phone, the automated time and attendance system or any other method the supervisor deems acceptable. However, employees must record all leave requests in the automated time and attendance system in a timely and proper manner.

Section 3 – Annual Leave

- A. Use of accrued annual leave is a right of the employee, subject to supervisory approval and the needs of the Agency (e.g. workload, office coverage). Employees should request annual leave as far in advance as possible, so Management can plan staffing needs for efficient operation. In the event of an emergency where advance approval is not possible, requests for annual leave shall be made by the employee to the supervisor or designee via telephone, email or text as soon as possible, but normally not later than two (2) hours after the start of the employee's scheduled tour of duty. To permit the efficient scheduling of work and provide adequate coverage, requests should be for genuine emergencies and held to a minimum.
- B. Management will solicit projected annual leave schedules from employees in January each year to assist in planning and assigning work. Employees should submit projected leave requests for the year by the end of January, with emphasis on requests of more than 32 consecutive hours, as well as those that will cumulatively represent a majority of "use or lose" leave that will be earned through the year. Management will tentatively approve projected requests by the end of February each year. Employees are highly encouraged to submit their projections to reduce the chance of later requests being denied due to the need to ensure adequate staffing around those who have submitted projected leave that was previously approved.

- C. Annual leave will be granted on an equitable basis and Management will make a reasonable attempt to satisfy the leave requests of employees. When a conflict occurs involving two or more employees requesting extended leave, an attempt will be made to resolve it between the employees involved or to determine if other acceptable coverage is available. If this fails to resolve the conflict, the earliest date of leave request shall prevail. If both leave requests are submitted on the same date, the employee with the earlier service computation date shall be granted the leave.
- D. Employees will attempt to use leave throughout the year to prevent excessive use of “use or lose” leave at the end of the year. Employees should take positive action before the beginning of the third full pay period prior to the end of leave year to schedule leave or reschedule canceled leave to avoid situations where they approach the end of the leave year with a significant amount of annual leave that must be used or forfeited.
- E. Management will make every effort to honor annual leave requests that were previously approved. If approved annual leave must be cancelled, the supervisor will make every effort to approve rescheduled leave as requested by the employee. Every effort will be made to accommodate employees who desire annual leave or compensatory time during holiday seasons and on religious holidays.
- F. At its discretion, Management may advance annual leave to an employee in an amount not to exceed the amount the employee would accrue within the leave year. Before granting advanced annual leave, the supervisor should consider such matters as the expectation of return to duty, the need for the employee's services, and the benefits to the Agency of retaining the employee. Annual leave should not be advanced when it is known (or reasonably expected) the employee will not return to duty, e.g., when the employee has applied for disability retirement.

Section 4 – Sick Leave

- A. The appropriate reasons for and limits on the use of sick leave will be consistent with regulations found at 5 CFR 630.401, as amended.
- B. To the extent possible, employees will obtain advanced approval for leave needed for medical, dental, or optical examinations or treatment, to care for a family member, or for funeral or adoption purposes. In the event of an illness or urgent need for care where advance approval is not possible, requests for sick leave shall be made by the employee to the supervisor or designee via telephone, email or text as soon as possible, but normally not later than two (2) hours after the start of the employee's scheduled tour of duty.

- C. When requesting more than three (3) consecutive workdays of sick leave, the employee may be required to submit medical certification or other acceptable evidence. The supervisor may consider/accept an employee's self-certification as to the reason for such an absence in extenuating circumstances and for limited time frames (generally less than a week). "Medical Certification" means a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient is receiving professional treatment, and the time when the employee is expected to return to full or limited duty.
- D. An employee will not be required to furnish a medical certificate for sick leave for periods of three (3) consecutive workdays or less unless a supervisor has reason to suspect abuse of sick leave. In such cases, the supervisor must provide written notification to the employee describing the reasons for suspecting abuse and stating that medical certification will be required to support the use of all future sick leave. The supervisor may rescind this requirement when he/she believes the employee's attendance/leave usage has improved and must review the requirement at least annually. The employee may request reconsideration of this requirement at any time.
- E. Advanced sick leave is a privilege afforded by Management; the employee has no right or entitlement to this leave. Limits on how much sick leave may be advanced (depending on the reason for the sick leave) are prescribed in 5 CFR 630.402(a), which must be followed when approving such requests. Employees are encouraged to consider the Voluntary Leave Transfer Program when facing a medical situation that would cause financial hardships. A request for advanced sick leave shall be made by the employee in writing along with a medical certificate certifying the nature/seriousness of the condition and the estimated date of return to duty. Advanced sick leave must be approved prior to the effective date except in an extreme emergency as determined by Management. Before granting advanced sick leave, the supervisor should consider such matters as the expectation of return to duty, the need for the employee's services, and the benefits to the Agency of retaining the employee. Sick leave should not be advanced when it is known (or reasonably expected) the employee will not return to duty, e.g., when the employee has applied for disability retirement. The maximum amount of advanced sick leave an employee may have to their credit at any one time is 240 hours.

Section 5 – Leave Without Pay

- A. General. Leave without pay (LWOP) is a temporary non-paid leave status that may be requested by employees in lieu of annual or sick leave. Employees cannot demand LWOP as a matter of right except when a disabled veteran needs medical treatment, a period of military service is required, employees make a request under the Family and Medical Leave Act, or as

otherwise provided in law and regulation. Management retains the right and has full discretion to approve or disapprove all other requests for LWOP, taking into consideration workload/mission impact and/or the employee's previous leave usage.

- B. Requests. All requests for LWOP must be made in advance in writing to the immediate supervisor. The request must include a brief explanation of the reasons for which it is to be used, the amount being requested, and the expected return to duty date. Except in an emergency, an employee may not commence using LWOP without prior written approval. Failure to comply with this requirement may result in the employee being placed in an absence without leave (AWOL) status, which may become the basis of a disciplinary action.

Section 6 – Family and Medical Leave. The Family and Medical Leave Act (FMLA) provides covered employees who have completed at least 12 months of service with entitlement to leave without pay (LWOP), not to exceed 12 administrative workweeks during any 12-month period, for certain family or medical needs. This includes the birth of a child of the employee and care of such child; the placement of a child with the employee for adoption or foster care; the care of a spouse, child, or parent of the employee who has a serious health condition; a serious health condition of the employee that makes the employee unable to perform the essential functions of their position; or any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. Subject to OPM's regulatory requirements, an employee may elect to substitute certain types of paid leave for any or all of the period of LWOP taken under the FMLA. The requirements and procedures outlined in 5 CFR 630.1201-1213, as amended, will be followed for FMLA requests.

Section 7 – Voluntary Leave Transfer Program. Employees may donate and receive leave for medical emergencies using the Voluntary Leave Transfer Program consistent with the provisions of 5 CFR 630 Subpart J and procedures prescribed by the servicing Human Resources Office.

Section 8 – Court Leave

- A. Pursuant to applicable laws and regulations, administrative leave will be granted to an employee, if not on LWOP, who is summoned before a court to serve as a juror or act as a witness on behalf of a Federal, state, or local government. If an employee is summoned by a court as a witness for a private party, annual leave or LWOP must be used by the employee.
1. When an employee is called as such a witness or juror, the employee will notify his/her supervisor as soon as possible and provide a copy of the subpoena or summons. Upon completion of service, the employee will submit documentation of the dates the employee served as a witness or juror. The administrative leave will be recorded in the time and

attendance system and the related documentation from the court will be attached.

2. Management will provide written request to be excused for an employee whose services are required at the job site. If such request is not acceptable to the court, Management will grant court leave.
3. If an employee is excused from court service with sufficient time to enable the employee to return to duty for at least three (3) hours of the scheduled workday, the employee shall return to duty unless granted appropriate leave by Management.

B. Employees on court leave must reimburse the Agency for any fees paid for service as a juror or witness. However, monies paid to jurors or witnesses which are classified as “expenses” (e.g., transportation, mileage, tolls, parking) do not have to be reimbursed to the Agency.

Section 9 – Military Leave. Full-time employees whose appointments are not limited to one year are entitled to specified amounts of military leave for active duty, active duty training and inactive duty training in accordance with 5 U.S.C. 6323 and other related regulations.

Section 10 – Leave for Bone Marrow or Organ Donation. Consistent with 5 U.S.C. 6327, employees shall be provided with up to seven (7) days of paid leave in a calendar year to serve as a bone marrow donor and up to 30 days of paid leave a year to serve as an organ donor. This is a separate category of leave in addition to annual and sick leave.

Section 11 – Administrative (Admin) Leave. The requirements, procedures and limitations identified in DR 4060-630-002, “Excused Absence/Administrative Leave,” as amended, will apply to all employees.

- A. Admin leave is the authorized absence of employees from duty without loss of pay and without charge to the employee’s leave. Admin leave is granted to employees for reasons determined to be in the Government’s interest. Employees on administrative leave are not acting within the employer/employee relationship and are not deemed to be subject to the control or responsibility of USDA. Admin leave is distinguishable from an excused absence, which is granted to an employee who is performing or participating in officially sanctioned government activities not within the scope of their regular duties.
- B. Following are specifics related to common uses of admin leave (taken from the above-referenced DR):
 1. Blood Donations. With advance supervisory approval, employees who volunteer as blood donors (without compensation) may be authorized up to four (4) hours of admin

leave on the day the blood is donated for recuperation purposes. This time is in addition to the time required to travel to and from the blood center and to give the blood.

Compensated blood donors are required to take annual leave or leave without pay for any period of absence resulting from making the blood donation.

2. Voting. Employees may be granted up to four (4) hours of admin leave on election day or during early voting to vote in Federal, State, county, municipal, Tribal, territorial, and Federal special Congressional elections, in referendums on any civic matter in their community, or to serve as a non-partisal poll worker or non-partisan observer if such absence would not seriously interfere with mission essential operations. If granted, the admin leave shall be based upon the employee's scheduled tour of duty for that day.
3. Tardiness and Brief Absences. Employees may be granted admin leave for a period not to exceed one (1) hour for occasional tardiness when the supervisor determines the cause of the tardiness to be reasonable and non-recurring, i.e., unanticipated traffic delays. However, employees are expected to make every reasonable effort to report to work on time.

Section 12 – Weather and Safety Leave. Consistent with the requirements and procedures in 5 U.S.C. 6329(c) and 5 CFR 630 Subpart P, employees will be granted paid leave when weather or other safety-related conditions prevent them from safely traveling to or safely performing work at an approved location due to an act of God, terrorist attack, or other applicable condition. Such leave will be recorded in the Agency time and attendance system as a category of leave separate from other types of leave.

ARTICLE 12: POSITION CLASSIFICATION

Section 1 – Governing Directives. All position classification actions will be governed by laws, federal regulations, rules and policies, including DR 4020-511-001, “Position Classification,” as amended, and this Agreement.

Section 2 – Position Descriptions

- A. The purpose of a position description is to describe officially, for pay and classification purposes, the predominant skills and duties of a position. A position description need not list every duty an employee may be assigned, but usually reflects only those major duties that are regular and recurring, as well as series and grade controlling. If a term such as “other duties as assigned” or its equivalent is used, it will normally refer to other incidental work assignments or tasks that are reasonably related to the functions within the scope of the position. However, this will not preclude Management from assigning unrelated work to an employee on an irregular basis when determined to be in the Government’s best interest.
- B. Management agrees to provide each new employee with a current copy of his/her position description upon appointment, reassignment, or detail and thereafter when changes are made. The Union shall be furnished copies of any bargaining unit employee’s position description, upon request.
- C. Regardless of the content of a position description, nothing in this Article or Agreement will affect the statutory right of Management to assign work. When Management makes changes to the duties included in a bargaining unit employee’s position description, the Union will be notified prior to implementing the change.

Section 3 – Classification

- A. The Parties agree to the principle of equal pay for work of equal value and the classification of duties and responsibilities assigned to employees by Management is necessary to assure appropriate compensation.
- B. Management will make every effort to ensure all positions are properly classified within a reasonable timeframe and to place the position in the series that most appropriately reflects the responsibilities and duties performed by the employee.
- C. In accordance with law and regulation, employees may grieve reductions in grade, pay, or loss of promotion potential that result from a classification decision following procedures in Article 22 of this Agreement.

Section 4 – Classification Reviews and Appeals

- A. An employee who believes they are performing recurring duties outside the scope of their current position description should discuss it with the immediate supervisor. The employee may request these duties be documented and the position description updated with these duties. In lieu of contacting their supervisor, the employee may contact the servicing Human Resources (HR) office or may grieve the accuracy of the position description following procedures in Article 22 of this Agreement.
1. The supervisor may agree to add the additional duties to the position description and the new position description will be submitted to the servicing HR office for review/audit.
 2. If the supervisor does not agree to add the duties, the employee may submit a written request for review/audit, through their supervisor, to the Agency's servicing HR office or the employee may grieve the accuracy of the position description following procedures in Article 22 of this Agreement.
 3. A classification determination will be completed in accordance with the applicable HR procedures. A copy of the classification review/audit results will be made available to the employee and/or their Union representative upon request.
 4. The Union may be present as an observer during position reviews/audits conducted by Agency HR officials.
- B. If the employee disagrees with the classification of the position or the results of any review/audit accomplished, the employee may file a classification appeal with either the Agency HR office (if applicable), the USDA Office of Human Resources Management (OHRM) or OPM.
1. Employees may elect to bypass the Agency HR appeal process (if applicable) and file an appeal directly to OHRM in accordance with procedures outlined in DR 4020-511-001. Decisions issued by OHRM are final unless the employee files a subsequent appeal to OPM no later than 15 days following the date of the OHRM decision. If the employee does not file a subsequent appeal with OPM, the OHRM decision shall be implemented.
 2. General Schedule (GS) employees may elect to bypass the OHRM process and file an appeal directly to OPM in accordance with OPM procedures. All OPM decisions are final – there is no further appeal process.
 3. Management agrees that work will not be reassigned for the purpose of avoiding

reclassification during a classification appeal.

Section 5 – Effective Date of Reclassification. If Management reclassifies an employee's position to a higher grade and the employee is eligible for non-competitive promotion to the higher grade, the implementing personnel action will become effective as soon as possible but no later than four (4) pay periods following the reclassification action.

ARTICLE 13: PERFORMANCE MANAGEMENT

Section 1 – Governing Directives

- A. Except as provided in this Article, performance management activities will be carried out in accordance with the requirements and procedures identified in USDA DR 4040-430, “Employee Performance and Awards,” as amended, and consistent with applicable laws, Executive Orders, federal regulations, rules and policies.
- B. The Union will be notified and provided the opportunity to bargain, consistent with law, over any change to the Agency performance management system.

Section 2 – General. Performance management is a joint process involving continuous communication between employees and supervisors concerning requirements and/or job expectations, performance necessary to achieve them, and progress in terms of meeting stated objectives. Communication shall include ongoing feedback about the level and quality of performance, as well as appropriate training and development opportunities to improve performance.

Section 3 – Definitions

- A. Critical element - An element of a performance plan that must be done successfully in order for the organization to complete its mission. It is of such importance that failing to attain a fully successful level of performance for the element would result in a determination that an employee’s overall performance rating would be “Unacceptable.”
- B. Performance standard - The performance thresholds, requirements and/or expectations an employee must meet for an element to be appraised at a specific level of performance. Performance standards must include credible performance measures and typically describe results, outcomes, goals, and accomplishments.
- C. Performance measures - Defined indicators within performance standards used to determine how well the employee produced or provided products or services. They are criteria that are observable and/or demonstrable, and may gauge quality, quantity, timeliness, cost effectiveness, and/or manner of performance.
- D. Performance appraisal - The formal process under which performance is reviewed and evaluated against performance elements and standards.
- E. Rating period - The period for which a performance plan must be established, performance monitored, and a rating of record prepared. The Agency’s rating period is October 1 through

September 30 of each year.

- F. Opportunity Period – The period of time for an employee to demonstrate acceptable performance in a critical element(s) previously determined to not be at the Fully Successful level.

Section 4 – Performance Plans

- A. Performance plans will normally be established and communicated in writing to employees within 30 days of the beginning of each rating period, or within 15 days of the employee's assignment to a new position or detail for more than the minimum appraisal period.
- B. Performance elements and standards will be established for each position which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the position. Supervisors will utilize the official position description in developing the critical elements. Supervisors will define each element's standards at the appropriate level(s) as prescribed by the DR.
- C. Employees will be given the opportunity for participation in the development of the performance plan and should be encouraged to do so.
 - 1. Participation and development of the plan may be accomplished by use of the following options or a combination of the options:
 - a. The employee and the supervisor discuss and develop the draft performance standards together;
 - b. The employee comments on draft performance standards provided by the supervisor.
 - 2. If the employee and supervisor cannot agree on the employee's performance plan, the supervisor has the final authority to establish the performance plan and will explain in writing to the employee the reason(s) for his/her decision. An employee may note disagreement with the performance standards on the form. The performance plan is effective when it has been approved by the supervisor and given to the employee. It is understood that the application of the performance standards can be grieved, but not the standards themselves.
- D. Performance plans may be modified at any time.

Section 5 – Progress Reviews

- A. Supervisors will conduct a formal progress review with their employees on a quarterly basis which will be documented on the prescribed form. The review is intended to ensure performance elements and standards are appropriate and provide an assessment of current performance. If there are potential issues with an employee not meeting any of their performance measures, the supervisor will identify the specific measure(s) during the review. The employee may submit written comments concerning the progress review to include specific, objective written information concerning work assignments completed during the review period that will be included on or attached to the prescribed form. If an employee believes they have not had an opportunity to perform any specific measure(s) in their performance plan, they will identify the measure(s) during the progress review. Any comments from the employee or supervisor for each quarter will be annotated on the form before the respective review is signed. Management will provide the employee with a copy of their quarterly review with both the employee and supervisor's signatures as well as any comments that it may contain.
- B. Supervisors and employees may meet on a more frequent basis and are encouraged to have ongoing dialogue and feedback throughout the year regarding performance, accomplishments, work unit goals, or training and development opportunities and needs. If an employee requests additional progress reviews, the supervisor will coordinate with the employee in an effort to meet as requested, taking into consideration leave schedules, priority workload, etc.
- C. If a supervisor determines there are potential issues/concerns with an employee meeting their performance expectations at any time during the rating period, they will document and address those issues/concerns with the employee before the employee's performance falls below the Fully Successful level for any element on the performance plan.

Section 6 – Annual Performance Rating

- A. At the end of the rating cycle, employees must be given the opportunity to provide documentation on their accomplishments, addressing their performance and contributions for the rating period. Employees are encouraged to maintain this information throughout the year and submit it within the appropriate timeframes, which will assist their supervisor in more fully evaluating their performance.
- B. When preparing the annual rating, the supervisor will complete a narrative assessment as prescribed by the DR. The supervisor will make appropriate allowances for work-related factors beyond the employee's control which may have made it difficult to meet the standards for a particular element.
- C. The supervisor must review the approved rating with the employee. The employee's

signature serves as certification the discussion took place but does not necessarily signify the employee's agreement with the rating. If this discussion cannot take place or the employee refuses to sign, the supervisor must document the reason for not having the employee's signature.

- D. If the supervisor leaves their position within 90 days prior to the end of the rating period, he/she will prepare and issue the annual rating. If this does not occur, the second-level supervisor will prepare and issue the annual rating.

Section 7 – Unacceptable Performance. The following procedures apply to employees who have successfully completed a probationary period.

- A. At any time during the appraisal period an employee's performance is determined to be less than Fully Successful in a critical element of their performance plan, the supervisor will present the employee a written opportunity period. The opportunity period will afford the employee an opportunity to demonstrate acceptable performance prior to initiation of any demotion or removal action based upon unacceptable performance under 5 U.S.C. Chapter 43. Such a period should be no more than 90 days, except when Management determines in its sole and exclusive discretion that a longer period is necessary to provide sufficient time to evaluate the employee's performance.
- B. During the opportunity period, the supervisor will monitor the employee's performance and meet with the employee as necessary to discuss work assignments and performance and provide feedback to the employee. The feedback will be documented in writing, with a copy provided to the employee. These meetings should normally be on a weekly basis with limited exceptions and may be less frequent based on the circumstances. The employee may also request a meeting with the supervisor at any reasonable time. If requested by the employee, local union representation shall be allowed at the weekly meetings; however, the primary communications during these meetings should be between the supervisor and employee.
- C. If the employee demonstrates acceptable performance during the opportunity period, which is sustained for one year following the beginning of the opportunity period, then again becomes unacceptable on a critical element, the employee will be provided with another opportunity period. However, if performance becomes unacceptable within a one-year period, a new opportunity period is not needed before initiating a demotion or removal action based on unacceptable performance.

Section 8 – Performance-Based Actions for Unacceptable Performance. If the employee does not demonstrate acceptable performance during the opportunity period or acceptable performance is not sustained for one year after the start of the opportunity period, Management

may propose a demotion or removal action. An employee whose demotion or removal is proposed is entitled to an advanced proposed notice, the opportunity to respond, representation, consideration of medical conditions (if any) and a final written decision consistent with the provisions of 5 CFR Part 432.

ARTICLE 14: AWARDS AND RECOGNITION

Section 1 – Governing Directives. All awards and recognition will be governed by laws, federal regulations, rules and policies. The types of awards as well as the requirements and procedures identified in DR 4040-430, “Employee Performance and Awards,” as amended, will apply to all employees, along with the provisions of this Article.

Section 2 – General

- A. It is USDA’s policy to recognize organizational, individual, and group performance that exceeds performance and/or public service expectations, especially that which contributes to the core values, mission, and goals of the Department. Actual awards and recognition will be commensurate with the purpose and intent of the award granted, provide for special acknowledgement of the accomplishments, and given as close to the time of achievements as possible.
- B. Awards will be granted to individuals or groups in a fair, equitable and objective manner without discrimination, based on merit and within applicable budget limitations. All employees whose current rating is at least Fully Successful are eligible for monetary and time off awards. Employees who were on leave restriction within the 52 weeks prior to the award effective date may be considered for a time off award on a case-by-case basis.

Section 3 – Administering the Employee Recognition Program

- A. The Agency will determine the types of work, projects, and other accomplishments of PFS employees that should be recognized under the Employee Recognition Program.
- B. The Agency will strive to devise appropriate ways to recognize employee accomplishments, to include the use of monetary and time off awards. Informal recognition may also be used to acknowledge performance or an accomplishment that benefits the Agency but does not merit a monetary, time-off, or honorary award. Informal recognition includes non-monetary awards of nominal value (generally \$35 or less), which may be purchased with public funds for appropriate use in the public sector.

Section 4 – Awards and Recognition Criteria

- A. Award Justifications. All awards and recognition require written justification to support the accomplishments being recognized. Any employee may nominate another employee or management official for an award but may not nominate themselves or anyone in their supervisory chain, except in the context of a formal OCFO award program.

- B. Confidentiality of Award Nominations. Documentation supporting recommendations for recognition is confidential information and is available only to those involved in the award decision process and other officials on a need-to-know basis. As a rule, recommendations are not to be discussed with nominees or with anyone not involved in the decision process until the award has been approved within the appropriate chain of command.
- C. Post-employment and Posthumous Awards. Awards may be granted to former employees or to their legal heirs or estate if the contribution recognized by the award was made during their employment with the Department.

Section 5 – Types of Awards

- A. Career Service Award – a non-monetary recognition of career service that includes both length of Federal service and retirement recognition.
 - 1. Length of Service Recognition. Awards recognize employees for time based on their length of service to the government. In computing eligibility, employees shall receive credit for total Federal service including civilian and all honorable military service credited to their SCD for leave purposes. Recognition includes a certificate and either a lapel pin or charm (or equivalent) or commemorative challenge coin (of comparable value to a lapel pin or charm). This is presented starting with 5 years of service through 50 years of service, at 5-year intervals.
 - 2. Retirement Recognition. The Agency will consider providing honorary or non-monetary recognition of the employee's efforts in support of USDA's mission (or other agency if the career includes Federal employment outside of USDA). The Agency may also present a retirement certificate to the employee.
- B. Achievement Award – a lump sum cash award that recognizes specific accomplishments that are in the public interest and have exceeded normal job requirements. Award amounts can be \$100 or more depending on the achievements being recognized, according to the Measurable or Non-Measurable Benefits Scale included in the applicable Appendix of the DR. These awards may be for individual or group contributions and employees may receive more than one Achievement Award within one performance year. Examples of accomplishments include, but are not limited to:
 - 1. Making a contribution involving a difficult or important project or assignment that positively impacts its progress and/or outcome;
 - 2. Creating a knowledge management product to document the materials and processes for

carrying out a significant job function;

3. Ensuring the mission of the work unit is accomplished during a challenging period by successfully completing additional work or a special project assignment while continuing to perform primary responsibilities;
4. Displaying initiative and skill in successfully completing an assignment or project before the deadline, to the benefit of the program, staff or customer; or
5. Using personal initiative and creativity in making improvements in projects, activities, programs or services.

C. **Rating-Based Award** – a cash award based solely on an employee’s rating of record assigned at the end of the appraisal period. Rating-based awards are intended to recognize sustained levels of successful performance over the course of the rating period and are not authorized in a two-tier rating system. Employees who receive a rating of record of no less than “Fully Successful” in other than a two-tier rating system may be eligible for a rating-based award.

1. Rating-based awards should normally be given within 90 days of the end of the performance appraisal cycle. An employee may be granted no more than one rating-based award for the same appraisal cycle.
2. The granting of a rating-based award is discretionary on the part of Management and not an employee entitlement.

D. **Quality Step Increase (QSI)** – an increase to an employee’s rate of basic pay from one-step or rate of the grade of the position to the next higher step of that grade or next higher rate within the grade. The purpose of a QSI is to provide recognition of sustained high-quality performance that is expected to continue and faster-than-normal progression through the step rates of the General Schedule (GS) pay system. Unlike other forms of recognition, QSI’s permanently increase an employee’s rate of basic pay.

1. To be eligible for a QSI, an employee must:
 - a. be at the full performance level of their position and below the top step of the pay scale;
 - b. have performed in the same grade and type of position for at least 18 months before the end of the appraisal cycle;
 - c. have received a rating of record of at least Fully Successful for at least the three most

- recent performance years (or the two most recent if a new Federal employee);
- d. have achieved accomplishments that contributed substantially to the organization's goals, commensurate with the classification of their position; and
 - e. not have received a QSI within the preceding 104 consecutive calendar weeks.
2. A QSI does not change the effective date of the employee's normal within-grade increase (WGI) except when the QSI places the employee in the fourth or seventh step. In this case, the employee would enter a prescribed longer waiting period. When a WGI and QSI are effective on the same day, the WGI should be processed before the QSI to avoid situations where the QSI may place the employee in a longer waiting period.
 3. An employee may not receive a QSI if he/she has received a rating-based award based on the rating of record for the same appraisal cycle.
- E. Suggestion Award – an award based on submission of a proposal that results in a savings or an improvement to the Agency, Department and/or Federal government.
1. The Parties agree to encourage employees to submit suggestions. The USDA Employee Suggestion Form (AD-287) must be used to submit suggestions and will be made readily available to employees. Suggestions will be considered in a fair and equitable manner and will receive orderly and timely processing.
 2. An employee may be eligible for an appropriate award if his/her suggestion is approved. Recognition may be monetary or non-monetary and will be determined in conjunction with the Measurable and Non-Measurable Benefits Scale.
 3. If the suggestion is rejected, the reason for the rejection shall be in writing and provided to the employee.
- F. Time-off Award (TOA) – an excused absence granted to an employee as an individual or member of a group without charge to leave or loss of pay. Time-off awards may be granted to individuals or groups of employees and can be awarded to recognize the same types of accomplishments as monetary awards. A TOA may be granted along with other forms of awards, as long as the total value of the awards given reflects the value of the contribution being recognized and together are consistent with the Measurable and Non-Measurable Benefits Scale.
1. Full-time employees may be granted up to 80 hours of time-off during a leave year, but not more than 40 hours for a single achievement. A written justification is required to

document any TOA.

2. Use of Time-off Awards

- a. A TOA may only be taken after it has been entered in the personnel and payroll systems.
- b. Employees may carry over up to 80 hours of TOA at the end of each leave year. Any hours in excess of 80 are forfeited. If forfeited, no other award or compensation may be substituted.
- c. If an employee moves within USDA, the gaining Mission Area, Agency or Staff Office will honor an unused TOA granted by the losing organization. Unused TOAs are not transferrable outside of USDA unless the departing employee makes a special arrangement with the gaining agency and they agree to honor the TOA.
- d. If an employee is incapacitated while using his or her TOA, the period of incapacitation may be recorded as sick leave, and the time-off rescheduled for another time (subject to the previously referenced 80-hour limitation).

G. Non-monetary Awards – a means to recognize contributions instead of or in addition to monetary and time off awards. The limitation of expenditures for non-monetary awards is \$250 on any one item, with different limitations based on the level of recognition.

Section 6 – Reports. By the end of November each calendar year, the Agency will provide the Local Union President (or designee) a report of individual cash awards granted to their respective bargaining unit employees for the previous fiscal year. The report will reflect the name, title, series, grade, award type and amount.

Section 7 – Budgetary Considerations. The Agency retains the right to withhold or defer the payment of awards based on budgetary considerations. The Union will be notified as soon as the Agency knows there are budgetary restraints that impact the Agency’s recognition program.

ARTICLE 15: WITHIN-GRADE INCREASES

Section 1 – Governing Directives. All within-grade increase (WGI) actions will be governed by laws, federal regulations, rules and policies.

Section 2 – Granting Within-Grade Increases

- A. Employees will be granted a WGI in accordance with Agency and Department regulations if the performance rating of record is at or above fully successful (or equivalent).
- B. If an employee was rated at or above fully successful on the most recent rating of record and performance in any element falls below fully successful before the WGI is due, a more current rating of record must be prepared. This may require the supervisor to prepare a new off-cycle rating of record before the end of the appraisal period to document the appropriate level of performance at the time the WGI is due.

Section 3 – Notification Requirements for Denial of WGI

- A. When a supervisor concludes an employee is performing below fully successful and will not be granted a WGI, the supervisor will notify the employee in writing via email as soon as possible, but at least 15 days in advance of the scheduled WGI effective date. The notice will include the element(s) and standard(s) the employee is performing below fully successful, examples of performance that did not meet expectations, and information as to what needs to be done to bring the performance to fully successful. The notice will advise the employee of their right to request reconsideration of the negative determination from the appropriate Management official.
- B. Once a WGI has been denied, a supervisor may approve it at any time thereafter once the employee is determined to be performing at an acceptable level of competence, but Management must consider the employee's performance at least every 52 weeks after the denial.

Section 4 – Reconsideration

- A. An employee may request reconsideration of a negative determination by submitting a notice in writing via email to the second-level supervisor. The request must be submitted no more than 15 days after receiving the notice of determination and should include the reasons the determination should be reconsidered.
- B. Management will issue a decision on the reconsideration request in writing via email no more than 15 days from the date the employee's written request for reconsideration is received.

1. If a reconsideration decision indicates an employee is eligible for a WGI, it will be made retroactive with pay to the original effective date.
 2. If the negative determination is sustained upon reconsideration, the notice will include the reasons for the decision and the employee's right to file a grievance or appeal to the MSPB (Merit Systems Protection Board) consistent with law, rule and/or regulation.
- C. Neither the substantive or procedural aspects of the negative determination may be grieved until a reconsideration decision has been issued or was not issued when due.

ARTICLE 16: MERIT PROMOTION

Section 1 – Policy

- A. Merit promotion actions involving bargaining unit positions will be conducted in accordance with the USDA Merit Promotion Plan as outlined in DR 4030-335-002, “Merit Promotion and Internal Placement,” except as specifically modified by this Agreement.
- B. The Agency agrees to identify, evaluate, qualify and select the best qualified candidates available without discrimination including disability, race, color, national origin, age, sex (including gender identity, sexual orientation, and pregnancy), marital status, familial or parental status, political affiliation, religion, labor organization affiliation or non-affiliation, protected genetic information, whether all or part of an individual’s income is derived from any public assistance program, retaliation for exercising rights with respect to the categories enumerated above (where retaliation rights are available), or other non-merit factors.

Section 2 – Vacancy Announcements

- A. All vacancies for bargaining unit positions which are to be filled competitively through USDA’s Merit Promotion Plan, and training requiring competitive procedures, will be announced and posted electronically on OPM’s website (usajobs.gov). Management will provide the Union and employees with a link to vacancy announcements. If an employee has mandatory placement rights as a result of a settlement agreement or judgement, Management will inform the Union when any applicable PFS recruitment request (as determined by the agreement or judgement) is submitted to the Human Resources (HR) Office.
- B. Vacancy announcements will include at a minimum:
 - 1. Statement of nondiscrimination;
 - 2. Announcement number and posting and closing dates;
 - 3. Position number(s); title(s), series and grade(s);
 - 4. Number of anticipated vacancies to be filled;
 - 5. Description of promotion potential, if any;
 - 6. Any selective placement factors;

7. When using an automated recruitment system, each factor/question used to determine the basic eligibility and/or best-qualified candidates will be included on each announcement. If a position is not announced using an automated system, a summary of criteria to be used by the evaluation panel (including the relative weights of knowledge, skills, abilities, and other characteristics) to rank candidates will be stated on the announcements;
 8. Geographic and organizational location;
 9. Whether or not relocation expenses will be paid;
 10. Summary of the duties of the position;
 11. Summary of eligibility and qualification requirements;
 12. Permanent or temporary nature, and, if temporary, the duration and if the promotion may be made permanent;
 13. Name and telephone number of the Human Resources Specialist to contact for information relating to the announcement;
 14. Special working conditions, such as tour of duty, travel requirements, expected overtime, etc;
 15. Bargaining unit status of the position;
 16. Statement about the position being subject to investigation;
 17. Telework eligibility;
 18. Reasonable accommodation statement.
- C. Announcements shall be posted for at least five (5) workdays before the closing date and will not open or close on a weekend or Federal holiday.
- D. Open continuous announcements and announcements for standing registers may be used.
- E. Reposting. If a vacancy announcement has been posted and any information is later found to be in error or subsequently changed, (i.e., area of consideration, duty station, grade change, career ladder of the position), or if there is a change in the factors by which the candidates will be evaluated, the announcement must be reposted citing the change and whether or not

the original applicants need to refile in order to be considered. Posting time and distribution shall be the same as the original vacancy announcement.

- F. Cancellation. Notice of cancellation of vacancy announcements will be communicated in the same manner as the announcements and will include the reason for cancellation.

Section 3 – Area of Consideration. The minimum area of consideration for covered positions shall normally be at least Agency-wide. The area of consideration may be less than Agency-wide in certain situations as referenced in the DR.

Section 4 – Application Requirements

- A. It is the applicant's responsibility to prepare and provide all appropriate application materials required of the vacancy announcement. An employee may request a reasonable amount of time to access his/her Official Personnel Folder, view vacancy announcements, obtain information from the Human Resources Office regarding application procedures, and submit, but not prepare, his/her application package.
- B. Employees must submit all required forms by the closing date and time identified in the announcement in order to be considered.

Section 5 – Rating and Ranking Procedures

- A. To be eligible for promotion or placement, candidates shall meet the minimum qualification standards prescribed or approved by OPM and selective placement factors identified as essential for successful performance by the closing date and time of the announcement. Candidates shall provide employment-related information to be considered for the vacancy position.
- B. A job analysis must be conducted to determine the competencies required for the position. This may include the knowledge, skills, abilities, and other characteristics and (if applicable) selective factors required to identify the best-qualified candidates for the position to be filled.
- C. Qualified candidates competing for promotion shall be rated to determine their possession of the competencies required to be referred to the selecting official. A rating guide shall be based on a job analysis to identify the competencies needed for successful job performance. Competencies will differentiate superior candidates from other employees or applicants. There are two (2) review methods for the rating and ranking of candidates under Merit Promotion, accomplished by either of the following:

1. HR Specialist or Subject Matter Expert(s) (SMEs); or
2. Merit Promotion Panel, at the request of the selecting official in collaboration with the Human Resources Specialist, as follows:
 - a. In consultation with HR, the selecting official will assemble a panel consisting of three (3) or five (5) SMEs who occupy positions at a grade level not lower than the full performance level of the position being filled and who will not be supervised by the selected candidate.
 - b. Individual members of the ranking Panel will individually rate each applicant. The Panel will rank the candidates in score order. The best-qualified candidates are those applicants who receive the highest scores in the evaluation process. Candidates whose scores are tied will be ranked the same. Each member's rating shall become part of the vacancy case file/record.
 - c. The Panel will submit the list of the best-qualified applicants to the HR Specialist.
- D. Certificates with the names of applicants determined to be best qualified will be issued by the HR Specialist to the selecting official in a timely manner. The candidates will be listed in alphabetical order on the certificates; scores will not be provided to the selecting official.
- E. Eligibility/qualifications of the applicants will be evaluated from the application package submitted. An employee who applies for a position and is not found eligible/qualified will be notified through the automated system.

Section 6 – Selection Procedures

A. Interviewing

1. The selecting official has the option of using an interview panel for interviewing best-qualified candidates who are referred. If the selecting official decides to interview any best-qualified candidate in the merit promotion selection process, all candidates will be interviewed.
2. Interviewer(s) will ask valid job-related interview questions that allow for an objective evaluation of the candidate's competencies as they relate to the position being filled.
3. The interviewer(s) may use a structured interview to evaluate candidates.

- B. Interviews conducted via telephone or videoconference are encouraged for candidates outside the local area.
- C. The selecting official has the right to select or not select any candidates referred. If no candidate is selected after all interviews are completed, Management will provide the Union a reason for not selecting any of the candidates, upon request.
- D. Employees not selected for a position will normally be notified through the automated system after a selection has been approved. Employees will be given the opportunity to speak to the selecting official regarding their non-selection. Upon the employee's request, the employee will be advised by the selecting official of his/her strengths and weaknesses as a candidate for the position and how the employee may improve chances for future promotion.

Section 7 – Priority Consideration

- A. For Involuntarily-Demoted Employees. Employees who are involuntarily demoted in USDA without personal cause or who are in grade retention status are entitled to consideration for re-promotion before using the competitive procedures. This applies to positions at the employee's former grade or at any intervening grades that are to be filled under competitive procedures. The right to this consideration does not apply to a position with promotion potential higher than that of the position held at the time of the change to the lower grade. The selecting official must justify in writing any non-selection under this section.
- B. Employees are entitled to priority consideration whenever reconstruction of a promotion action shows the employee would have appeared on a promotion certificate, except for some error (i.e., wrong qualification determination, failure to consider, improper rating, failure to follow competitive procedures, etc.). The employee shall be entitled to one bonafide consideration (if qualified) for the type (i.e., same occupational family, grade, and geographic area) of position previously applied for under competitive procedures and was not referred. A priority consideration certificate will be forwarded to the selecting official prior to issuing a competitive certificate. If selected on the basis of advance consideration, the employee is promoted or reassigned non-competitively. If the employee refuses consideration, the employee forfeits entitlement to the advance consideration. If no priority consideration candidate is selected, the selecting official must provide job-related justification for the non-selection.

Section 8 – Information on Promotion Actions

- A. Upon completion of the selection process, the Union may request the information used by the

Agency to make the selection. The Agency will provide the requested information consistent with the requirements of law.

- B. Upon a written request to the HR Office, an employee will be provided any of the following information on each vacancy for which they applied:
1. Whether the employee meets minimum requirements;
 2. What points were awarded in each category;
 3. Employee's overall score;
 4. What the best-qualified list cutoff score was;
 5. Whether or not the employee was on the best-qualified list; and/or
 6. The name of the employee selected for the vacancy.

ARTICLE 17: DETAILS, TEMPORARY PROMOTIONS AND REASSIGNMENTS

Section 1 – General. Details, temporary promotions and reassignments are options available to Management for filling temporary or permanent staffing needs to accomplish the work of the Agency.

Section 2 – Details

- A. A detail is the temporary assignment of an employee to a different position or to different duties for a specific timeframe, after which the employee returns to his/her regularly assigned duties. Officially, an employee remains in his/her position of record during a detail.
1. Supervisors shall document any detail of more than 30 days using a form SF-52, Request for Personnel Action, and appropriate supporting attachments. Supervisors shall document details of less than 30 days in writing with a copy to the employee, specifying the position information and duties performed during the detail.
 2. Management will provide reasonable advance notification of all details to the local Union President or designee. The notification should be sent as soon as practicable. If the detail is for more than 30 days, the notice should be sent at least 10 work days prior to the employee being detailed. For short-notice and/or details of less than 30 days, any impact bargaining should occur as promptly as possible; however, the Parties recognize it may be necessary and/or appropriate for bargaining to occur after the detail is effective.
 3. An employee who is detailed to a classified position for more than 90 days will be furnished a performance plan for the detail position within the first 15 days. If the detail supervisor is not the employee's official supervisor, an interim performance rating for the detail period will be prepared and communicated to the employee then given to the official supervisor within 15 days of the end of the detail for consideration when completing the annual rating of record.
 4. For details of 90 days or less, formal performance elements and standards are not required, but the detail supervisor will document and communicate performance expectations to the employee in writing. If the detail supervisor is not the employee's official supervisor, an advisory assessment of the employee's performance for the detail period will be prepared and communicated to the employee then given to the official supervisor within 15 days of the end of the detail for consideration when completing the annual rating of record.
 5. Management will consider an employee's personal concerns related to a detail

assignment, especially when the detail involves extended time away from the official duty station.

6. Details will not be used to circumvent competitive procedures or give an unfair competitive advantage to an employee detailed to a higher-graded position.

B. The following procedures shall apply when Management is directing non-competitive details:

1. Management will determine the qualifications (i.e., knowledge and experience) required for the detail and which employees possess those qualifications.
2. For details of more than 30 days, Management may solicit employees for volunteers.
 - a. When responding to a solicitation, employees will need to include their specific knowledge and/or experience which they believe qualifies them for the detail.
 - b. If the solicitation results in a single volunteer who meets the qualifications, they shall be selected.
 - c. If more than one volunteer meets the qualifications, seniority will be the selection criteria. Seniority shall be based on the service computation date on the employee's SF-50.
 - d. Selection of volunteers as indicated above may be precluded by additional factors such as, but not limited to, impact on accomplishing the mission and recency of prior details and/or temporary promotions.

C. Details to Positions at the Same Grade. Competitive merit promotion procedures do not usually apply when a detail is to a position at the same grade level. However, if the detail position has known promotion potential greater than the employee's present position and the detail is for more than 120 days, the merit promotion procedures must be used.

D. Details to Higher-Graded Positions

1. Competitive merit promotion procedures must be used for details to higher-graded positions of more than 120 days. This does not prevent an employee from being detailed for less than 120 days while the position is being advertised.
2. Management will process a temporary promotion for employees detailed to a higher-graded position for more than 30 days, unless the employee does not meet the minimum qualification standards prescribed by OPM for the position, funding is not available or if

there is a hiring freeze. The temporary promotion should be initiated at the earliest date Management becomes aware the detail is expected to exceed 30 consecutive days. This provision may not be circumvented by rotating an employee in and out of a detail position.

Section 3 – Temporary Promotions

- A. Competitive merit promotion procedures do not apply to temporary promotions of less than 120 days. However, employees must meet the minimum qualification standards prescribed by OPM for the position before they can receive a temporary promotion.
- B. Unless otherwise excepted by regulations, competitive merit promotion procedures must be used when an employee will be detailed or temporarily promoted for more than 120 days to a higher-graded position, or to a position at the same grade with higher promotion potential. All prior service of the employee during the preceding 12 months in a non-competitive temporary promotion or detail to a higher-graded position or position with higher promotion potential counts toward this 120-day limitation.
- C. A temporary promotion may be made permanent without further competition if the temporary promotion was originally made under competitive procedures and the fact that it might lead to a permanent promotion was made known to all potential candidates, i.e., statement included in the vacancy announcement.
- D. Management will consider offering opportunities for temporary promotions on a rotating basis to qualified employees, when feasible.

Section 4 – Reassignments

- A. For purposes of this Article, a reassignment means a change of an employee from one position to another while serving continuously within the Agency, without promotion or demotion. Because they are permanent, all reassignments will be documented in the employee's electronic Official Personnel Folder (eOPF).
- B. Management has the right to reassign employees to positions with the same pay, grade, and promotion potential, and will determine the method in which employees will be identified and reassigned consistent with law, regulation and the provisions of this Article. The decision to reassign employees will be based on Management considerations that are deemed to be in the best interest of the Agency. The request of an employee seeking reassignment shall be entitled to prompt and fair consideration. Reassignment to a position with higher promotional potential requires the use of competitive merit promotion procedures.

Reassignments shall not be used as punishment, harassment, or reprisal.

1. Succession Planning. This process will be used when Management reassigns employees based on extended position tenure or to minimize a single or limited source of knowledge. Management will typically seek to initiate 2-3 such reassignments each in October/November and April.
 - a. When making placements, consideration will be given to the following:
 - 1) Mission-impact factors, such as workload priorities, existing vacancies and/or loss of subject-matter expertise.
 - 2) Employee-specific factors, such as duration in current position, prior positions held, proficiency and opportunity for development.
 - b. Training on the new position may begin before the effective date to provide an opportunity for phased learning and effective workload management.
2. Critical Vacancies. This process will be used when Management reassigns an employee to accomplish critical work and recruiting to fill the vacancy is not a viable option or a less feasible option. When identifying employees for potential placement, consideration will be given to the following:
 - a. Employee-specific factors, such as past experience, similar duties in current position, proficiency and duration in current position.
 - b. Mission-impact factors, such as workload priorities, impact of resulting vacancy and balanced distribution of knowledge.
 - c. Management may solicit employees for volunteers.
 - 1) When responding to a solicitation, employees will need to include their specific knowledge and/or experience which they believe qualifies them for the reassignment.
 - 2) If the solicitation results in a single volunteer who meets the qualifications, they shall be selected.
 - 3) If more than one volunteer meets the qualifications, seniority will be the selection criteria. Seniority shall be based on the service computation date on the

employee's SF-50.

- 4) Selection of volunteers as indicated above may be precluded by additional factors such as, but not limited to, impact on accomplishing the mission and recency of prior reassignments.
- C. When implementing a decision to reassign an employee, Management will give written notification of the reassignment and reasons to the local Union President (or designee) and employee via email prior to the effective date consistent with the procedures in Article 8 of this Agreement. The Union has the right to be present at any meetings Management has with an employee concerning a pending reassignment action. Management will take into consideration any personal and/or family hardship the employee indicates would result if a change in duty station is involved.

ARTICLE 18: PROBATIONARY EMPLOYEES

Section 1 – General. The purpose of a probationary period is for Management to have the opportunity to determine the fitness of a new employee for continued employment, and terminate that employee without formal procedures if he/she fails to demonstrate acceptable performance or conduct.

Section 2 – Termination for Unsatisfactory Performance or Conduct

- A. Management may terminate a probationary employee at any time prior to the completion of the probationary period based on work performance or conduct that fails to fully demonstrate fitness or qualification for continued employment. If that occurs, Management will issue the employee a written notice that includes the reason(s) for the termination and the effective date of the action. The employee has no right to reply to this notice. The effective date of such a termination must be before the employee has completed the probationary period.
- B. Probationary employees facing termination are permitted to resign their position in lieu of termination prior to the effective date of the termination.

Section 3 – Termination for Pre-Employment Conditions. When Management proposes to terminate a probationary employee for reasons based in whole or in part on conditions arising prior to their appointment, the employee is entitled to the following:

- A. Advance written notice of proposed adverse action stating the reasons for the proposed action;
- B. A reasonable amount of time to file a written response to the proposed action; and
- C. A written final decision stating the reasons for the action, and delivered to the employee on or prior to the effective date. The final notice shall inform the employee of the right to appeal to the Merit Systems Protection Board (MSPB) and the time limit for filing the appeal.

Section 4 – Grievance and Appeal Rights. A probationary employee may not file a grievance regarding their termination for any reason under the terms of this Agreement. In limited situations as permitted by law, rule and regulation, a probationary employee may appeal their termination to the MSPB. If the employee believes their termination is based on discrimination, they may file an EEO complaint.

ARTICLE 19: FURLOUGH

Section 1 – General

- A. Furloughs will be implemented in accordance with applicable Statutes, regulations and this Article. The procedures in this Article apply to furloughs of less than 30 days, whether for non-emergency (i.e., lack of work or funds) or emergency (i.e., lapse in appropriations, act of God, etc.) reasons. Procedures for furloughs of more than 30 days are covered in Article 20, Reduction-in-Force and Transfer of Function.
- B. Non-emergency furloughs will be implemented only if their necessity cannot reasonably be abated through other means, such as hiring freezes, reduction in travel or training that is not critical to the Agency mission, or reduction of contracts with consultants and contractors, and all other expenses that are not critical to the mission of the Agency.

Section 2 – Union Notification

- A. Non-Emergency Furlough. Management will provide the Union a written notice via email that includes the reason for the furlough, the organizational elements affected by the furlough and the estimated number of days and employees to be furloughed. Management will submit a draft of the employee furlough notice to the Union for comment prior to distributing it to employees.
- B. Emergency Furlough. When Management becomes aware of the need for an emergency furlough, it will provide the Union with as much notice as possible, including the reason for the furlough, the organizational elements affected by the furlough and the estimated number of employees to be furloughed. To the extent possible, Management will submit a draft furlough notice to the Union for awareness and/or comment prior to distributing it to employees.

Section 3 – Notice to Employees

- A. Non-Emergency Furlough. Management will provide a written notice (and the opportunity to answer) to each employee who will be affected by the furlough as far in advance as possible, but not less than the minimum notice required by Statute or regulation. The notice may be issued electronically and will contain all the information required by Statute or regulation, including, as applicable, an explanation of why the employee is being furloughed if every employee in his/her competitive level and competitive area is not being furloughed. If the number of furlough days is not known in advance, Management will provide employees with an updated furlough notice as soon as possible after the exact number of furlough days becomes known.

- B. Emergency Furlough. Advance written notice to employees with an opportunity to answer is not required for furloughs due to unforeseeable circumstances, such as equipment breakdown, act of God, or sudden emergencies requiring the immediate curtailment of activities. When Management is made aware of the need for an emergency furlough, it will provide employees potentially affected by such a furlough with as much notice as possible, including written information addressing their rights, benefits, and obligations. This notice may be issued electronically and if that occurs, employees must provide an email acknowledgement of receipt.

Section 4 – Procedures for Non-Emergency Furloughs

- A. In situations when less than all employees in a competitive level and competitive area are being furloughed, Management will ask employees for any volunteers to be placed in a leave without pay (LWOP) status.
1. Management reserves the right not to accept a voluntary request for LWOP from any employee for work-related reasons.
 2. If there are insufficient volunteers to mitigate the need for the furlough, employees will be selected for furlough based on their reduction-in-force (RIF) service computation date (SCD), starting with the most recent SCD. Employees not furloughed must be qualified to perform the duties that will continue to be performed during the furlough period.
 3. If there are more than enough volunteers to preclude the need for the furlough, employees will be placed in a LWOP status based on their RIF SCD, with the employee having the earliest RIF SCD being given the first right of refusal.
- B. To the extent possible, Management will permit employees to submit a schedule identifying their preferences for taking the necessary number of days off. These schedules will be accommodated as much as possible, taking into consideration workload and staffing requirements. In the event of scheduling conflicts among equally qualified employees where workload and staffing requirements are equivalent, the employee with the earliest RIF SCD will be granted his/her request.

Section 5 – Emergency Furloughs

- A. Employees Exempt and Excepted from a Lapse in Appropriations Furlough
1. Employees are “exempt” from furlough if they are not affected by a lapse in appropriations. This includes employees who are not funded by annually-appropriated

funds.

2. Employees are “excepted” from furlough if they are funded through annual appropriations and perform work that, by law, may continue to be performed during a lapse in appropriations. Excepted employees include those who are performing emergency work to protect the health and safety of human life, the protection of property or performing certain other types of excepted work (e.g., necessary to begin the shutdown of other activities).
 3. Employees who are funded through annual appropriations but not designated as excepted are barred from working during a shutdown, except to perform minimal activities as necessary to execute an orderly suspension of agency operations related to non-excepted activities. These employees will be furloughed.
- B. Only employees designated as exempt, excepted and those notified as required for shutdown activities will report for duty on the first day of an emergency furlough. Management shall minimize the number of non-excepted employees required for shutdown activities.
- C. Shutdown activities for non-excepted employees are limited to those required to secure files, records and equipment, cancel upcoming meetings, update email and voice mail out-of-office messages, complete time and attendance records, and otherwise prepare to preserve work.
1. Employees must report to the office if performing any of the shutdown activities requires them to be physically present; however, supervisors may allow employees to perform shutdown activities remotely (telework). Employees without an existing telework agreement may conduct shutdown activities from a remote location if the nature of the employee’s shutdown activities can be completed in approximately 15 minutes. Except for the email and voice mail messages, employees may perform these tasks in advance of the potential furlough to minimize their shutdown time and responsibilities.
 2. Employees not scheduled to work or report to the office on the first day of an emergency furlough (i.e., on leave, an AWS day off, or scheduled to telework) should make prior arrangements with their supervisor for completion of shutdown activities.

Section 6 – Absence and Leave

- A. General. Any days associated with a shutdown furlough will not be counted against an employee’s 12-week leave entitlement under the Family and Medical Leave Act (FMLA).
- B. Non-Emergency Furlough. Employees may not use paid leave on scheduled furlough days

during a non-emergency furlough.

- C. **Emergency Furlough.** When an employee is designated to be furloughed due to a lapse in appropriations, all approved paid leave is cancelled. Cancelled leave is not forfeited and may be used later in accordance with law and regulation.
1. Excepted employees may not use paid leave during a furlough due to a lapse in appropriations; they must be placed in a furlough status any time they are not performing work.
 2. Employees will be given every opportunity to reschedule cancelled annual leave. Employees who make reasonable efforts to reschedule any “use or lose” leave but are denied an opportunity to do so will be entitled to request restoration of any forfeited leave consistent with the exigency of the public business criteria in leave regulations. If regulatory requirements are met, Management will approve restoration requests under these circumstances.

Section 7 – Employee Compensation During Lapse of Appropriations

- A. Employees who are required to report for duty during a lapse of appropriations will be fully compensated in accordance with law and regulation.
- B. Employees who are furloughed because of a lapse in appropriations will be retroactively paid if appropriations are approved that specifically authorize retroactive pay.

Section 8 – Miscellaneous

- A. To the extent that Management has information available on contact points for unemployment compensation and other benefits to which employees being placed on furlough may be entitled, it will be provided to affected employees.
- B. **Outside Employment.** Employees may engage in outside employment during a furlough if the work does not pose a conflict of interest with their official USDA duties. Employees must continue to comply with the ethics regulations governing engaging in outside employment or activities (5 CFR Parts 2635 and 8301) during a furlough.
- C. Employees will continue to be covered under the Federal Employees Health Benefits (FEHB) program, which includes their health, vision, and dental benefits. This coverage continues even if the Agency does not make the premium payment on time due to the furlough.
- D. Timelines and deadlines in this Agreement that are not otherwise established by Statute will

be extended by the number of days of a furlough.

ARTICLE 20: REDUCTION-IN-FORCE AND TRANSFER OF FUNCTION

Section 1 – Governing Directives. Except as otherwise provided for in this Article, a reduction-in-force (RIF), transfer of function, or furlough of more than 30 days shall be administered pursuant to 5 CFR Part 351 and all other applicable laws, Executive Orders, rules and regulations. The requirements and procedures in DR 4030-330-002, “Special Selection Priority Programs,” as amended, will apply to all employees.

Section 2 – General. Management will make a reasonable effort to minimize the adverse impact of a staff reduction on affected bargaining unit employees.

Section 3 – Definitions. For the purpose of this Article, the following terms are defined in law and regulations and are included for informational purposes.

- A. Reduction-In-Force (RIF) - When the Agency releases a competing employee from his/her 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 rights or restoration rights, or reclassification of an employee’s position due to erosion of duties when such action will take effect after the Agency has formally announced a RIF in the employee’s competitive area and when the RIF will take effect within 180 days.
- B. Transfer of Function - 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 areas affected) or the movement of the competitive area in which the function is performed to another commuting area is known as a transfer of function.
- C. Reorganization - A reorganization is the planned elimination, addition, or redistribution of functions or duties in an organization or activity.
- D. Competitive Area - An area in which employees compete for retention is known as a competitive area. A competitive area must be defined solely in terms of the organizational units and geographical location, and must include all employees within the competitive area as defined.
- E. Competitive Level - Positions in a competitive area that are in the same grade (or occupational level) and classification series that are so alike in qualification requirements, duties, pay schedules, and working conditions that Management may reassign the incumbent of one position to any other position in the level without undue interruption are known as competitive level.

Section 4 – Notice to Union. When it is anticipated that a RIF affecting bargaining unit employees will be necessary, Management will provide notice to the Union to the maximum extent possible, normally not less than 15 days prior to issuing the notice to employees. The Union notice should include the action to be taken, the reasons for the action, the locations and positions to be impacted, and effective date. A copy of the initial retention register will be provided with the notice. The Union acknowledges the confidential nature of this information and will not distribute or share it with anyone other than Union officials with a specific need-to-know.

Section 5 – Notice to Employees. Management will provide affected employees at least 60 days specific written notice prior to the effective date of a RIF, unless otherwise prescribed by regulation or the Agency receives approval from OPM for a shorter period. The content of the notice shall comply with OPM regulations, to include the following:

- A. A statement that the employee may be released from his/her competitive level;
- B. The approximate effective date of the action;
- C. The employee's competitive area, competitive level, subgroup, and service date;
- D. The place where the employee may inspect the regulations and records pertinent to the employee's case;
- E. Grade and pay retention information;
- F. The employee's appeal and representation rights under the negotiated grievance procedure if an action is taken;
- G. Contact information for retirement and other relevant benefits questions.

Section 6 – Mitigation Actions

- A. Pre-RIF
 - 1. The Parties will regularly remind employees to review their Official Personnel Folders and Statements of Earnings and Leave to ensure their records are accurate, since RIF retention service credit determinations and computations concerning severance pay and retirement are based on that information. Employees must contact their servicing Human Resources Office to update and/or correct their records.

2. Employees in positions the Agency has identified as surplus will be given consideration for reassignment to vacant positions within the competitive area before other sources are considered. At the employee's request, consideration will be given to vacant PFS positions outside the competitive area.
3. Upon request, Management will advise affected employees as to what types of training might increase opportunities for placement in vacant positions. Such training will be provided as Management deems appropriate to the extent permitted by government-wide regulation and available training funds.

B. Post-RIF Notice

1. Management will waive non-mandatory qualification requirements for employees who have been released from a competitive level when Management can reasonably determine the employee could successfully perform the duties of the vacant position within 90 days.
2. For employees who receive a notice of separation, Management will take actions consistent with the CFR to assist with placement in other federal agencies, state and local government, and in the private sector.
3. The programs and procedures identified in DR 4030-330-002, "Special Selection Priority Programs," as amended, will apply to all employees identified for separation because of RIF. This includes the USDA Career Transition Assistance Plan (CTAP), Reemployment Priority List (RPL), Interagency Career Transition Assistance Plan (ICTAP) and any other relevant programs that become available through Executive Order or Government-wide regulations during the life of this Agreement.
4. When an employee cannot be placed in a position within the commuting area and Management offers the employee a position with a duty location in another geographic area, the employee shall be entitled to payment for and/or reimbursement of appropriate relocation expenses to the extent permitted by law and government-wide regulations.

Section 7 – Retention Registers. After the initial submission to the Union, Management will provide weekly email updates as needed if information changes that will result in a bargaining unit employee receiving a revised RIF notice. Management will provide the Union a copy of the final retention register within five workdays after the RIF effective date.

ARTICLE 21: DISCIPLINARY AND ADVERSE ACTIONS

Section 1 – Guiding Principles

A. Management may take a disciplinary or adverse action only for such cause as will promote the efficiency of the service. Management agrees that actions taken against bargaining unit employees will be for a just and sufficient cause consistent with applicable laws and Agency regulations.

B. In selecting penalties for employee misconduct, Management will consider the following Douglas Factors, as applicable:

1. 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 or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee's past disciplinary record;
4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties;
6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. Consistency of the penalty with any applicable agency table of penalties;
8. The notoriety of the offense or its impact upon the reputation of the agency;
9. 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;
10. The potential for the employee's rehabilitation;
11. 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

12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Section 2 – Definitions. For the purposes of this Article:

- A. A “disciplinary action” is a letter of reprimand.
- B. An “adverse action” is a suspension of any duration, involuntary reduction in grade or pay, or removal. Although a furlough of 30 calendar days or less is defined as an adverse action in 5 U.S.C. Chapter 75, the procedures for that action are covered in Article 19 of this Agreement. An adverse action does not include:
 1. A suspension or removal under 5 U.S.C. 7532 (National Security);
 2. A reduction-in-force action under 5 U.S.C. 3502;
 3. The reduction in grade of a supervisor or manager who has not completed a probationary period under 5 U.S.C. 3321(a)(2) if the reduction is to the grade held immediately before becoming a supervisor or manager;
 4. A reduction in grade or removal under 5 U.S.C. 4303 (unsatisfactory performance, which is covered in Article 13 of this Agreement);
 5. An action imposed by the Merit Systems Protection Board (MSPB) under 5 U.S.C. 1215;
 6. An employee serving under an initial trial or probationary period; or
 7. Any other statutory or regulatory exclusion not specifically mentioned above.
- C. A "reprimand" is a formal disciplinary action issued to an employee in writing that records an instance of misconduct.
- D. A "suspension" is the involuntary placement of an employee in a temporary non-duty, non-pay status for disciplinary reasons.

Section 3 – Reprimand. A reprimand shall describe the misconduct or other deficiency giving rise to the reprimand and provide notice that failure to correct the conduct or deficiency, or future misconduct may result in more severe disciplinary or adverse action. Material used by

Management to support a reprimand will be made available to the employee and/or the Union representative upon request, subject to the Privacy Act requirements. A reprimand shall be retained in the employee's Official Personnel Folder for one year from the date of issuance. After six (6) months, upon the request of the employee, the supervisor will review the employee's circumstances and consider removing the reprimand from the employee's OPF.

Section 4 – Suspension of 14 Days or Less

- A. When proposing such an action, the employee will be given ten (10) days advance written notice stating:
1. the specific reason(s) for the proposed suspension;
 2. the employee has seven (7) days to respond orally and/or in writing and may submit affidavits or other documentary evidence in support of their response; additional time may be granted on a case-by-case basis;
 3. the official to whom the reply should be sent;
 4. the employee has the right to review the material that is relied on to support the reason(s) for the proposed action, subject to the Privacy Act requirements, and is entitled to a reasonable amount of official time to do so; the employee must request and obtain supervisory approval for the use of official time in advance; and
 5. the employee has the right to Union or other representation.
- B. Management will issue a final decision in writing at the earliest practicable date after receipt of the oral and/or written reply, or the expiration of the reply period. The decision notice will inform the employee of the reasons and specifications that are sustained, the effective date (if any), and the right to file a grievance using the negotiated grievance procedure (if applicable). The Union shall be given the opportunity to be present when Management issues the notice, if the employee has designated the Union as a representative.
- C. Copies of relevant notices, replies (including summaries of oral replies), final decisions, and supporting documentation will be maintained by the Agency and will be made available to the employee and/or the Union representative upon request, subject to the Privacy Act requirements.

Section 5 – Suspension of more than 14 Days, Involuntary Reduction in Grade or Pay, and Removal

- A. When proposing these actions, the employee will be given 30 days advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, or statute or regulations mandate a different timeframe or provide for other exceptions. The notice shall state:
1. the specific reason(s) for the proposed action;
 2. the employee has 14 days to respond orally and/or in writing and may submit affidavits or other documentary evidence in support of their response; additional time may be granted on a case-by-case basis;
 3. the official to whom the reply should be sent;
 4. the employee has the right to review the material that is relied on to support the reason(s) for the proposed action, subject to Privacy Act requirements, and is entitled to a reasonable amount of official time to do so; the employee must request and obtain supervisory approval for the use of official time, in advance; and
 5. the employee has the right to Union or other representation.
- B. Management will issue a final decision in writing at the earliest practicable date after receipt of the oral and/or written reply, or the expiration of the reply period. The decision notice will inform the employee of the reasons and specifications that are sustained, the effective date (if any), and the right to file an appeal to the Merit Systems Protection Board (MSPB) or a grievance using the negotiated grievance procedure (if applicable), but not both. The Union shall be given the opportunity to be present when Management issues the notice, if the employee has designated the Union as a representative.

Section 6 – Alternative Discipline. Alternative discipline processes and agreements will comply with Agency guidelines and are voluntarily entered on the part of the employee. An employee who is being provided the option to enter into an alternative discipline agreement shall be given a reasonable amount of time to review all material Management is relying upon for the potential disciplinary/adverse action prior to deciding.

ARTICLE 22: GRIEVANCE PROCEDURES

Section 1 – Purpose. This article sets forth a mutually acceptable method for prompt and equitable resolution of grievances.

Section 2 – Grievance Definition. A grievance is defined as any complaint:

- A. By any bargaining unit employee concerning any matter relating to the conditions of employment; or
- B. By the Union concerning any matter relating to the conditions of employment of any bargaining unit employee; or
- C. By any bargaining unit employee, the Union, or Management concerning:
 - 1. The effect, interpretation, or claim of breach of the collective bargaining agreement; or
 - 2. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 3 – Matters Excluded

- A. This negotiated grievance procedure shall apply to all matters except:
 - 1. A violation of 5 U.S.C. Chapter 73, Subchapter III, relating to political activities; or
 - 2. Retirement, life insurance, health insurance, or employment benefits (i.e. TSP, FEDVIP, FLTCP); or
 - 3. A suspension or removal for national security reasons; or
 - 4. Any examination, certification or appointment; or
 - 5. Classification of positions which does not result in the reduction in grade or pay of any employee; or
 - 6. Content of performance work plans; or
 - 7. Non-selection from among a group of properly ranked and certified candidates for non-bargaining unit positions; or
 - 8. Letters regarding proposed disciplinary or adverse actions; or
 - 9. Those excluded by Executive Order; or

10. Termination of a probationary employee during the probationary period.

Section 4 – Employee Grievance Procedures

- A. The following procedures are established for the resolution of employee-initiated grievances; however, nothing in this Article shall be construed to address, or in any way limit, employee's right to representation throughout the grievance process.
- B. Management acknowledges the Union must be given the opportunity to be present during any formal discussion between Management and a grievant regarding any grievance processed under this Article, regardless of whether the Union is representing the employee for the grievance.
- C. **Step 1.** Any grievance shall be submitted by the grievant and/or the Union representative, if any, to the lowest level Management official having authority to resolve the grievance; most often, this will be the immediate supervisor, or designee. The grievance will contain the grievant's name and contact information, subject/issue(s) and requested relief. The grievance will be presented to the appropriate Management official in person or via email within 30 calendar days of the incident that gave rise to the grievance or within 30 calendar days of the date the grievant became aware of the incident, or anytime if the act or occurrence is of a continuing nature. If the Union representative changes, the Union will inform the Management official or designee.
 - 1. The Management official will contact the representative (or grievant if the employee is representing him/herself) within ten (10) workdays of receipt of the grievance in order to schedule a mutually acceptable date and time for the Step 1 meeting. However, if additional time is needed by the employee and/or Union representative prior to holding the grievance meeting, a reasonable extension may be granted if requested in writing to the Management official with an explanation as to why additional time is needed. If the grievant is representing him/herself, the Management official will provide notice to the Union President/Vice President of the date and time of the grievance meeting. The purpose of the Step 1 meeting is to gather facts and details surrounding the dissatisfaction, clarify any perceived violation of the contract, law, rule, or regulation, and discuss the requested relief. In all grievance meetings, the Union is entitled to have present the same number of representatives as the number of Management representatives.
 - 2. The Management official may attempt to resolve the grievance at the Step 1 meeting or may choose to research the facts/evidence presented, consult with other individuals, or research the contract, law, rules, or regulations. Either way, a written decision will be

issued within ten (10) workdays of the grievance meeting. A reasonable extension to provide a written decision may be granted if requested by the Management official prior to the lapse of the ten (10) workday timeframe and an explanation is provided as to the reason for the extension. If resolution is reached during the Step 1 meeting, the written decision letter will stipulate the facts presented, the requested relief, and the resolution reached.

- D. **Step 2.** If the grievance is not satisfactorily resolved at the Step 1 level, it shall be presented by the grievant and/or representative to next level Management official; most often, this will be the Branch Chief, or designee. The Step 2 grievance must be filed within ten (10) workdays from the date of receipt of the Step 1 written decision. The grievant and/or representative will provide a written statement describing why the grievant and/or representative is dissatisfied with the Step 1 decision, the issues remaining unresolved, the requested relief and whether a meeting with the Step 2 Management official is desired.
1. If the grievant and/or representative requests a Step 2 meeting, or if the Management official requires additional information regarding the grievance, requested relief and/or dissatisfaction with the Step 1 decision and the grievant and/or representative agrees to meet, the Management official will contact the grievant and/or representative within ten (10) workdays of receipt of the grievance in order to schedule a mutually acceptable date and time for a meeting. If the grievant is representing him/herself, the Management official will provide notice to the Union President/Vice President of the date and time of the grievance meeting.
 2. The Management official will complete his/her inquiry/analysis of the facts presented and issue a written decision within ten (10) workdays following the grievance meeting, or receipt of the Step 2 grievance if no meeting is held. A reasonable extension to provide a written decision may be granted if requested in writing by the Management official and an explanation is provided as to the reason for the extension.
- E. **Step 3.** If the grievance is not satisfactorily resolved at the Step 2 level, it shall be presented by the grievant and/or representative to next level Management official; most often, this will be the Division Director, or designee. The Step 3 grievance must be filed within ten (10) workdays from the date of receipt of the Step 2 written decision. The grievant and/or representative will provide a written statement describing why the grievant and/or representative is dissatisfied with the Step 2 decision, the issues remaining unresolved, the requested relief and whether a meeting with the Step 3 Management official is desired.
1. If the grievant and/or representative requests a Step 3 meeting, or if the Management official requires additional information regarding the grievance, requested relief and/or dissatisfaction with the Step 2 decision and the grievant and/or representative agree to

meet, the Management official will contact the grievant and/or representative within ten (10) workdays of receipt of the grievance in order to schedule a mutually acceptable date and time for a meeting. If the grievant is representing him/herself, the Management official will provide notice to the Union President/Vice President of the date and time of the grievance meeting.

2. The Management official will complete his/her inquiry/analysis of the facts presented and issue a written decision within ten (10) workdays following the grievance meeting or receipt of the Step 3 grievance if no meeting is held. A reasonable extension to provide a written decision may be granted if requested in writing by the Management official and an explanation is provided as to the reason for the extension. The Step 3 decision is final unless the Union timely invokes arbitration in accordance with Article 23 of this Agreement.

F. Expedited Grievances. Steps 1 and 2 of the negotiated grievance procedure will be waived for grievances of adverse actions under 5 U.S.C. 7512 and actions based on unacceptable performance under 5 U.S.C. 4303. Grievances involving these actions must be filed with the Step 3 Management official (normally the Division Director or designee) within 30 calendar days after the employee's receipt of the decision notice.

Section 5 – Union and Management Grievances

Grievances between Management and the Union for the reasons specified in Section 2C of this Article will be submitted to the other party within 30 calendar days of the alleged violation, or upon becoming aware of the alleged violation. The grievance will indicate the specific circumstances of the situation, the alleged violation, the remedial action sought and whether the filing party requests a meeting. A reasonable extension may be granted for filing the grievance if requested in writing via email by the filing party prior to the lapse of the 30-calendar day timeframe and an explanation is provided as to the reason for the extension. The appropriate filing/receiving parties will be the PFS Director or designee, and AFGE Local Presidents or designee. The receiving party will contact the filing party to schedule a date and time to discuss the grievance within ten (10) workdays of receipt of the grievance. The receiving party will provide a written response to the filing party via email within ten (10) workdays from the date of the meeting. A reasonable extension may be granted for providing the response if requested in writing via email to the filing party prior to the lapse of the 10-workday timeframe and an explanation is provided as to the reason for the extension. The decision of the receiving party is final unless the filing party timely invokes arbitration in accordance with the provisions of Article 23 of this Agreement. Failure to meet the timelines specified or have the time limits extended disqualifies the alleged violation from being processed under these procedures.

Section 6 – Group Grievances. Group grievances may be processed as an individual grievance if it is determined the issues and circumstances are substantially the same in all aspects. If a group grievance is processed, all grievants must be identified on the Step 1 grievance submission and are bound to process the grievance throughout the procedure as a group.

Section 7 – Conclusion of the Grievance Process. When a grievance decision is accepted, or the grievance is terminated by the Union/grievant at any step, it will be deemed settled in its entirety, and no further action will be taken regarding the grievance.

Section 8 – Time Limits. All time limits herein may be reasonably extended and shall be made a matter of record. When the Union or an employee is the grievant, failure of Management to observe the time limits for any step in the grievance procedure will entitle the employee or the Union to advance the grievance to the next step. Failure of the Union, the employee or the employee's representative to observe the time limits provided for herein, shall constitute termination of the grievance. When Management is the grievant, failure of the Union to observe the time limits for any step in the grievance procedure will entitle Management to advance the grievance to the next step.

Section 9 – Threshold Issues (Grievability/Arbitrability). In the event the respondent should declare an issue to be non-grievable, the original grievance shall be considered amended to include that issue. Threshold issues should be raised by the receiving party no later than the final written decision. Should arbitration be invoked, and the receiving party believes the case is not arbitrable, the receiving party will notify the filing party or designee in writing via email of such and the specific reasons for such determination. A copy will be provided to relevant parties designated for the case. Should the filing party decide to pursue the matter, a list of arbitrators will be requested by the filing party and an arbitrator will be jointly selected using the methods described in Article 23 of this Agreement. This jointly-selected arbitrator will first hear the sole threshold issue in a separate hearing. The receiving party will pay for the arbitrator's costs associated with the hearing on the threshold issue(s). Processing the merits of the case will be held in abeyance until the threshold issue has been resolved. If the threshold issue is settled in favor of the filing party, the hearing will then continue to address the merits of the case with the same arbitrator.

Section 10 – Data Requests. When an information request pursuant to 5 U.S.C. 7114 (b)(4) is filed in conjunction with a grievance, the Union representative will utilize the PFS Data Request Form contained at Appendix D or include pertinent information from the form in the body of an email to make the request to the Labor Relations Specialist or designee. After receipt of such a request, the time limit for the next action in the grievance process will be extended equal to the amount of time reasonably required for Management to provide the information. If, based on a review of the request, the Labor Relations Specialist cannot determine whether there is an obligation to provide the information or data, the Labor Relations Specialist will request the

Union clarify their request.

ARTICLE 23: ARBITRATION

Section 1 – Notice to Invoke Arbitration. Arbitration may be used to settle unresolved issues arising from grievances filed under Article 22 of this Agreement. A notice to invoke arbitration shall be made in writing via email by the Union President/designee or the PFS Director/designee to the opposing party within 30 days after receipt of the written decision rendered in the final step of the grievance procedure. The Parties agree the authority of the arbitrator is to decide only those issues raised during the grievance process.

Section 2 – Arbitration Procedures

- A. Within 14 days from invoking arbitration, the invoking party will request the Federal Mediation and Conciliation Service furnish both parties a list of seven (7) impartial persons qualified to act as arbitrators. An informational copy of this request will be sent to the opposing party. Within 30 days from receipt of the list, the Parties will meet to mutually agree upon one arbitrator. If the Parties cannot agree, each Party will strike one name from the list and the remaining individual shall be the duly-appointed arbitrator. The invoking party will contact the selected arbitrator for a list of possible hearing dates and provide an informational copy to the opposing party. Upon receipt of possible hearing dates, the invoking party will contact the opposing party to coordinate a mutually-agreeable hearing date. The invoking party will notify the selected arbitrator of the selected hearing date. The invoking party will act with due diligence to ensure the arbitration hearing is conducted within a reasonable period. The arbitration hearing will normally be conducted not more than 90 days from the date the arbitrator was selected. Should the invoking party require information or data pursuant to 5 USC 7114(b)(4), the PFS Data Request Form at Appendix D will be submitted to the Labor Relations Specialist no later than 10 workdays from the date the arbitrator is selected. If the requested information/data is found to comply with 5 USC 7114(b)(4), the 90-day timeline to hold the arbitration hearing will not commence until three (3) workdays from the date the requested information/data is received by the Union representative. This extension applies only to the first data request and not any subsequent data requests filed on the same issue. The arbitrator's decision shall be binding on the Parties, unless either Party files an exception to the award in accordance with regulations prescribed by the Federal Labor Relations Authority (FLRA).
- B. If the Parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate submission and the arbitrator shall determine the issue(s) to be heard.
- C. The arbitration hearing will be held on the Agency's premises during the regular day shift hours of the basic workweek, if possible. All employees in the hearing shall be in duty status during the number of hours they would normally be at work and in accordance with law and Government-wide rules and regulations. The Parties will mutually agree on a case-by-case

basis to appropriate arrangements to ensure all employees needed for the hearing are available and able to participate on duty time without unduly interfering with workload demands.

- D. The arbitrator will be requested by the Parties to render a decision as quickly as possible. The date, which appears on the award, shall be the date the award is mailed.
- E. The arbitrator's fees and related expenses (including a transcript requested by the arbitrator) shall be shared equally by the Parties.
- F. If the Parties mutually agree to a verbatim transcript of the arbitration hearing, the cost will be shared equally by the Parties. If the Parties don't agree, the costs for any transcript will be the responsibility of the requesting party.

ARTICLE 24: PERSONNEL RECORDS

Section 1 – Employee Official Personnel File (OPF)

- A. The Electronic OPF (eOPF) is an electronic version of the paper OPF, which employees have “read-only” access to via the USDA intranet. Employees will be provided duty time and may use government equipment to access USDA and any other web sites where their official records are located. Employees are encouraged to maintain electronic copies of documents from their eOPF; however, they will be permitted to print a limited and reasonable number of copies of such records using government equipment. If employees choose to furnish OPF documents to the Union, the Union will be responsible for ensuring they are properly secured and confidentiality is maintained.
- B. Employees may submit a request to the servicing Human Resources office to update information in their personnel files, including information regarding work experience, training, etc. Management will be available to assist employees in this matter.

Section 2 – Supervisor’s Record of Employee

- A. Supervisors may maintain records, files and/or notes on their employees on such matters as emergency locator information, time and attendance records, training, award, and promotion histories, and other matters pertinent to carrying out their personnel management responsibilities. The information contained in these files shall not be used in any disciplinary, adverse, or performance-based action unless the information is provided to the employee as required under Government-wide regulations.
- B. To the extent the supervisor maintains employee records, files and/or notes containing information that is not a duplicate of material contained in the official files maintained by the servicing Human Resources office, such records (other than reports of an ongoing criminal investigation), shall be made available upon request to the respective employee. These records, files and/or notes are confidential and may only be released to authorized individuals consistent with applicable laws, OPM rules and regulations and this Agreement (e.g., for official use only and with a demonstrated need-to know). Personal notes a supervisor may keep as a memory jogger are not considered records and are not releasable to employees, unless relied upon by the supervisor in taking a formal disciplinary or adverse action.

ARTICLE 25: EMPLOYEE DEVELOPMENT AND TRAINING

Section 1 – Governing Directives. All employee development and training actions will be governed by laws, federal regulations, rules and policies, including DR 4040-410, “Creating Individual Development Plans,” as amended, and this Agreement.

Section 2 – General

- A. The Parties agree that training and development of employees is a matter of importance. Management is responsible for identifying present and future organizational training needs and will make every reasonable effort to provide training and development to all employees, including, but not limited to, training necessary to carry out all requirements of their job within a reasonable length of time after entering a new position. In addition, new employees will be provided an overview of the PFS mission. All employees will receive periodic written notification regarding training opportunities.
- B. The Parties recognize the choice of subject matter, areas of training and methods, assignment of training priorities, and the selection of employees to be trained are the exclusive right and responsibility of Management, which will be carried out in accordance with applicable laws, regulations, and this Agreement. When Management determines that participation in or completion of specific training courses is mandatory, the Union will be notified in advance via email, including the subject matter and affected employees. This notice does not apply to training mandated by the Department or higher-level authority, i.e., Civil Rights, travel card, annual Security Awareness, etc.
- C. The Parties recognize each employee is responsible for applying reasonable effort, time, and initiative to increase their potential through training, career- and self-development. The Parties will encourage employees to take advantage of training and educational opportunities that develop their knowledge, skills and abilities, enhance work efficiency and provide needed skills for advancement.
- D. When attending training, an employee may be required to change to another work schedule that conforms to the training schedule. When Management requires an employee to attend job-related training courses which will require a change in work schedule or location, Management will make every reasonable effort to notify the employee two weeks prior to the training.
- E. Training requests, documentation of completed training, and individual development plans (IDPs) will be processed and maintained through an Agency-administered Learning Management System, which is currently AgLearn.

Section 3 – Selection for Training

- A. Selection for training opportunities shall be carried out in a fair and equitable manner:
 - 1. Based on the needs of the organization;
 - 2. Within Agency budgetary limitations, and
 - 3. Consistent with equal employment opportunity guidelines, affirmative action goals, staff development goals and applicable statutory or regulatory provisions.
- B. Selection for training that will primarily prepare employees for advancement, or would fulfill specific qualification requirements for a position with known promotion potential, will be made using competitive promotion procedures, including those contained in Article 18, Merit Promotion.
- C. Employees in career-ladder positions who have not yet reached the full performance level shall not be required to compete for training which Management deems is necessary for their accession to the full performance level of the position.
- D. Dependent upon the availability of funds and consistent with organizational training priorities, Management may make available to employees the opportunity to participate in training related to PFS mission and goals, although not necessarily related to duties the employee is currently performing.

Section 4 – IDPs

- A. Management has the responsibility to ensure employees have an IDP and will use the IDPs to determine appropriate training and developmental activities. Supervisors shall discuss with employees training needs and opportunities that would help them perform the duties of their current position, improve skills and competencies and provide career development opportunities.
- B. Employees should work with their supervisor to develop an IDP to identify training requests related to the performance of duties in their current position, as well as opportunities for career development that address their immediate needs and long-range career goals. OPM conferences and training courses which will assist an employee's development may be included in an IDP, such as training conferences sponsored by Blacks in Government (BIG), Federally Employed Women (FEW), League of United Latin American Citizens (LULAC), Federal Asian Pacific American Council (FAPAC), and others.

- C. The supervisor's approval of an IDP does not commit the Agency to obligate funds for training and/or courses contained within an IDP.
- D. Unscheduled discussions concerning an employee's training needs and career development opportunities may be initiated by the employee or supervisor at any time separate from the process to develop an IDP.

Section 5 – Payment of Tuition and Related Expenses

- A. Payment of tuition expenses will be contingent upon the availability of funds. Employees who wish to have tuition and related expenses paid by the Agency must submit their request and be approved in advance of the registration date. Employees must complete the Standard Form (SF) 182, "Request, Authorization, Agreement and Certification of Training," and provide a copy of the course description along with documentation of tuition, books, and any other related expenses.
- B. For tuition and related expenses to be paid for by the Agency, employees must:
 - 1. Have at least 1 year of current continuous civilian service prior to the course start date;
 - 2. Submit evidence of the successful completion of the course. Successful completion of the course means receipt of course credit. The Agency will take action to collect reimbursement of paid tuition and related expenses if an employee fails to successfully complete the course.

ARTICLE 26: SAFETY AND HEALTH

Section 1 – General

A. Management Responsibilities

1. It is Management's responsibility to provide a safe and healthful workplace by establishing and maintaining an occupational safety and health program in accordance with Section 19 of the Occupational Safety and Health Act, Executive Order (EO) 12196, and the Basic Program Elements for Federal Employee Occupational Safety and Health Programs (29 CFR 1960). Management will ensure compliance with applicable laws, rules, regulations, along with this Agreement.
2. Management will make reasonable efforts to work with all persons, entities, or organizations which own and/or control work space to which PFS employees are assigned to ensure safe and healthy working environments/conditions are maintained.
3. Management shall post information regarding relevant safety awareness programs and the provisions and procedures for elimination of safety and health hazards in a prominent location (preferably on an official bulletin board or in a common area). The information will include the name, phone number and email address of the designated individual(s) to contact for safety and health matters.

B. The Parties agree to cooperate in a continuing effort to avoid and reduce the possibility of and/or eliminate injuries and occupational illnesses in all areas under Management's control.

C. Employees will comply with occupational safety and health standards, orders and regulations applicable to their positions.

Section 2 – Unsafe or Unhealthy Working Conditions

- A. All employees are encouraged to report any unsafe or unhealthy working conditions to their immediate supervisor or other Management official as soon as any such conditions come to their attention. There will be no restraint, interference, coercion, discrimination or reprisal directed against any employee for filing a report of unsafe or unhealthy working conditions, for participating in Agency occupational safety and health program activities, or because of the exercise by such employee on their or another's behalf of any right afforded by Section 19 of the Occupational Safety and Health Act, EO 12196, or 29 CFR 1960.
- B. Management will investigate the reported conditions as soon as practicable and take reasonable and necessary steps to eliminate identified safety and health hazards.

Management will ensure a timely response is made to an employee's report of hazardous conditions. Whenever such conditions cannot be readily abated, Management shall inform the Union of the conditions, a timetable for abatement and a plan/schedule of interim steps to protect employees. Interim steps may include notifications, warnings, relocation of employees, information to employees exposed to hazardous conditions, and/or any other steps that would be necessary/appropriate under the circumstances.

- C. Employees will not be unreasonably required to continue working in a situation determined to pose a threat of imminent danger or significant health hazard as determined by the appropriate authorities.

Section 3 – On-the-Job Injury or Illness. Employees who are injured or develop an occupational illness in the performance of their duties shall immediately report the injury/illness to their supervisor or another Management official. The supervisor/manager will refer the employee for any necessary medical care as permitted by applicable laws, rules and regulations, and will consult with the servicing Human Resources (HR) office for relevant guidance, as needed. Management will provide information to the employee on how to contact the servicing HR Office for advice and guidance on filing a claim under the Federal Employees' Compensation Act (FECA). Management shall cooperate in promptly processing all paperwork regarding FECA claims.

Section 4 – Emergency Procedures

- A. Each PFS location shall have an Occupant Emergency Plan (OEP). The Union will be afforded an opportunity to comment and provide input regarding the plan.
- B. If there is an emergency in an office or work area, the first concern is for the employees and Management will take necessary precautions to guarantee the safety of employees. Should it become necessary to evacuate the building, Management will ensure all work areas are notified without undue delay to ensure prompt and orderly evacuation. Employees will promptly evacuate without undue delay upon receiving such notification. Management will ensure employees are informed of the safety area where they are to report until they can re-enter the building. Employees ordinarily will not be readmitted until it is determined there is no longer any danger to the evacuated personnel. Management will make such a determination in consultation with relevant expert resources based on the specific circumstances. Expert resources may include, but are not limited to, the Federal Protective Service, local police and/or fire departments, appropriate health authorities, etc.
- C. Management agrees to maintain first aid supplies at each location which will be reasonably accessible to all employees.

Section 5 – USDA Smoking Policy. Smoking, having a lighted tobacco product, or using electronic nicotine delivery systems (i.e., e-cigarettes) is prohibited within any interior space owned or leased by PFS (or leased by GSA for use by PFS), or within 25 feet of any entrance and air intake ducts to these spaces. Use of these products/items is also prohibited in any vehicle owned or leased by the Government.

Section 6 – Agency Safety and Health Records/Reports. Management will maintain records required by the Occupational Safety and Health Act and the Agency's safety and health program and make copies of the records available to the Union unless prohibited by law. Management will provide the Union copies of reports from safety inspections or safety and/or health-related tests of the PFS workplace, i.e., air quality tests, water tests, etc., upon receipt from the agencies/entities that conducted the inspections/tests.

Section 7 – Office Equipment and Furniture. Upon request, employees shall be provided with the manufacturer's safety information and assistance in the proper adjustment of chairs and equipment in relationship to posture and work surfaces. When Management provides new or replacement seating for workstations, the seating provided shall be ergonomically appropriate and adjustable.

Section 8 – Onsite Security. Management will ensure employees have access to information for contacting on-site security personnel at each PFS location. Management will continue to utilize appropriate security measures for accessing/securing each PFS worksite consistent with USDA regulations and requirements.

ARTICLE 27: EMPLOYEE ASSISTANCE PROGRAM

Section 1 – Governing Directives. Operation and use of the Employee Assistance Program (EAP or Program) will be governed by laws, federal regulations, rules and policies, including DR 4430 792 1, Employee Assistance Program as amended and this Agreement.

Section 2 – Program Objectives. The goal of the EAP is to develop and maintain a healthy and productive workforce and empower employees to resolve personal problems that impact or may impact work performance in the quickest, least restrictive, most convenient and cost-effective manner possible. The Parties support the objectives to assist employees whose conduct and/or performance is or may be adversely affected by personal concerns including, but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional or other personal issues. The EAP is free of charge and open to employees and their immediate family members.

Section 3 – Purpose. This program is established to provide counseling and assistance to employees who are confronted with a variety of personal problems which would be helped by the intervention of a trained counselor. This program will provide a method to deal with these problems while also properly recognizing the employee's right to privacy and the Agency's need to maintain a productive workforce.

Section 4 – Notice to Employees. Management agrees to assist employees by providing information about the EAP and encouraging them to use it as needed. An annual notification shall be sent via email, including a statement of the purpose of the program and the telephone number of program counselors along with any associated website, if available. The Agency shall post a copy of the notification on official bulletin boards, if available, or in PFS work areas.

Section 5 – Participation

- A. Employees requesting EAP services will not be denied an opportunity to contact the EAP and Management will not take any action against an employee for seeking assistance through the Program. However, participation in the Program will not prevent Management from proposing and taking conduct and performance-based actions.
- B. Participation in the EAP will be strictly confidential, unless the employee signs a waiver releasing this confidentiality. Information about an employee's visit to the EAP will not be released to Management without the employee's written consent, regardless of the nature of the referral, except in very limited situations. Confirming the employee attended an EAP session when the employee uses the Program during work hours, and releasing information to medical personnel in a medical emergency are two examples of such situations.
- C. Employees are on official duty when they meet with the EAP, provided they obtain prior

consent from their supervisor. The impact of the employee's absence on the workplace will be considered by the supervisor in making this determination. In an emergency, supervisory approval may be obtained after using the EAP.

- D. The supervisor may allow the employee up to one (1) hour (or more as necessitated by travel time) of excused absence for each counseling session, not to exceed six (6) sessions, during the assessment/referral phase. Thereafter, absences during duty hours for rehabilitation or treatment at community resources must be charged to the appropriate leave category in accordance with law and leave regulations.
- E. Confirmation of attendance during duty hours will be provided to Management by the EAP consistent with confidentiality requirements referenced above. If an employee does not want their supervisor to know of their attendance, they must arrange for appointments outside of normal duty hours or while on an appropriate type of leave. Requests for sick leave must still meet the regulatory requirements and an employee may be required to provide administratively acceptable evidence in support of such a request.

Section 6 – Supervisory Referrals

When a supervisor observes significant changes in an employee's behavior, conduct and/or performance through daily job contact, he/she should normally discuss their concerns with the employee. Based on the discussion, the supervisor may suggest the employee seek assistance from an EAP counselor or other responsible individual who can offer the employee confidential services that are available.

Section 7 – Relationship to Disciplinary Actions

The use of the EAP is not intended to shield employees from corrective action. However, the Agency may choose to hold a formal disciplinary action under 5 U.S.C. Chapter 75 in abeyance if an employee is participating in the EAP to address issues which have a nexus to the underlying misconduct.

ARTICLE 28: EQUAL EMPLOYMENT OPPORTUNITY (EEO)

Section 1 – EEO Program. Within their respective areas of responsibility, both Parties will fully support the EEO Program. The Parties will cooperate in providing equal opportunity for employment, training, and promotion and will not discriminate because of race, sex (including sexual harassment), color, religion, sexual orientation, age (40 years of age and over), national origin, marital status, genetic information, political affiliation, parental status, non-disqualifying disability, union activity, labor organization affiliation or non-affiliation, gender, pregnancy, any other non-merit based factor, unless specifically designated by statute as a factor that must be taken into consideration when awarding such benefits, or retaliation for exercising rights with respect to the categories enumerated above, where retaliation rights are available.

Section 2 – EEO Information. Management will post information about EEO complaint procedures and contact information for the appropriate OCFO Civil Rights staff and/or EEO counselors on official bulletin boards in prominent work or common areas.

Section 3 – Duty Status

- A. A reasonable amount of official time will be granted to employees and/or representatives, who otherwise would be in duty status, to participate in the statutory complaint process. In addition to official time, employees will have access to private space and facilities, e.g., telephone, fax, conference room, etc., for use to pursue EEO complaints.
- B. Employees who use authorized official time in EEO activities who otherwise would be in a duty status will not be disadvantaged on their appraisals for approved absences to participate in functions authorized under this Article.

Section 4 – Alternative Dispute Resolution/EEO Complaint Process. The Parties agree the Agency EEO complaint procedure will continue to be implemented in accordance with Agency regulations or procedures. The Parties further agree to encourage the use of an Alternative Dispute Resolution (ADR) process as an alternative process for resolving informal complaints of discrimination.

ARTICLE 29: WHISTLEBLOWER RETALIATION

- A. The law prohibits a federal agency from taking, failing to take, or threatening to take a personnel action against an employee for making protected disclosures.
1. The personnel action in question must have been taken (or not taken, such in the case of a promotion), threatened, or influenced by an official who knew of the employee's disclosure; and the disclosure was a contributing factor in the personnel action.
 2. A protected disclosure includes any disclosure of information that an employee reasonably believes evidences:
 - a. a violation of any law, rule, or regulation;
 - b. gross mismanagement;
 - c. gross waste of funds;
 - d. abuse of authority; or
 - e. substantial and specific danger to public health or safety.
 3. In addition, the law prohibits retaliation for filing an appeal, complaint, or grievance; helping someone else file or testifying on their behalf; or cooperating with or disclosing information to the Office of the Inspector General (OIG).
- B. The U.S. Office of Special Counsel (OSC) has jurisdiction over allegations of federal whistleblower retaliation and investigates federal whistleblower complaints. Disclosures of such wrongdoing are covered by whistleblower protections regardless of whether they are made to the OIG, the OSC, a supervisor or someone higher up in management, or a member of Congress or congressional committee, provided the disclosure is not specifically prohibited by law and the information does not have to be kept secret in the interest of national defense or the conduct of foreign affairs.

ARTICLE 30: PARKING AND TRANSPORTATION

- A. The Parties agree that ensuring adequate, secure, and accessible parking for Pegasys Financial Services (PFS) employees is a matter of mutual concern.
- B. Consistent with relevant laws and regulations, and subject to budgetary limitations, Management agrees to pursue parking spaces for employee use through negotiations with GSA and other agencies as part of lease agreements.
- C. Spaces available will be allocated to employees, in a manner consistent with applicable provisions of the Federal Property Management Regulations (Subchapter C – Real Property, Parking Facilities).
- D. Management agrees to notify employees about ridesharing and public transportation subsidies that are available.

ARTICLE 31: DRUG TESTING PROGRAM

Section 1 – Governing Directives. Drug testing in PFS will be governed by and administered in compliance with laws, federal regulations, rules and policies, including Public Law 100-71, the Health and Human Service (HHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs, the Department of Transportation Regulations (49 CFR Parts 40 and 382), USDA DR 4430-792-2, “Drug-Free Workplace Program,” and the USDA Plan for a Drug Free Workplace. The requirements and procedures in DR 4430-792-2, as amended, will apply to all employees, along with the provisions of this Article.

Section 2 – Random Testing. Only employees who occupy a testing-designated position (TDP) are subject to random testing. TDPs are characterized by critical safety or security responsibilities as related to the mission of USDA, and the job functions associated with these positions directly and immediately relate to public health and safety, the protection of life and property, law enforcement, or national security. An employee who occupies a TDP is entitled to a 30-day written notice prior to being subject to random testing. Currently, there are not any positions in PFS designated as a TDP; however, the Union will be given advance notice if any positions are designated as a TDP.

Section 3 – Reasonable Suspicion Testing

- A. Reasonable suspicion testing may be required of any employee in any position when there is a reasonable suspicion of on-duty use of illegal drugs or on-duty impairment. In addition, there shall be grounds for reasonable suspicion testing if the employee is the focus of a criminal investigation into the illegal use, possession, distribution or trafficking of controlled substances. Although reasonable suspicion testing does not require certainty, mere hunches are not sufficient to meet this standard.
- B. Prior to directing the employee to submit to testing based on a reasonable suspicion of illegal drug use, the appropriate supervisor or Management official will gather and document all information, facts, and circumstances leading to and supporting this suspicion. The information will be submitted to the designated Agency Personnel Officer (or designee) to determine whether there is sufficient basis for reasonable suspicion testing. Competent medical and legal authorities may be consulted if necessary.
- C. Under no circumstances shall reasonable suspicion testing be used as a punitive measure.

Section 4 – Safe Harbor. Executive Order 12564 mandates disciplinary action shall be initiated for illegal drug use by any employee except when an employee self identifies and seeks “safe harbor.”

- A. To be eligible for safe harbor, the employee must voluntarily identify as a user of illegal drugs or volunteer for drug testing prior to being identified through other means, obtain counseling or rehabilitation through an Employee Assistance Program (EAP), and thereafter refrain from using illegal drugs.
- B. Safe harbor is not available to an employee who requests safe harbor protection from discipline after being directed to submit to a test.
- C. Safe harbor only protects the employee from action being taken based on the admission of substance abuse. It is not a shield from disciplinary action based on misconduct, nor does it shield the employee from corrective action based on drug use determined by other means, or misconduct/poor performance related to substance abuse.

Section 5 – EAP Referral and Disciplinary/Adverse Actions

- A. Employees whose tests have been confirmed positive will be referred to the EAP and Management must initiate disciplinary or adverse action. The severity of the disciplinary or adverse action is dependent on the circumstances of each case.
- B. Management must initiate action to remove employees from Federal service when they:
 - 1. Refuse to obtain counseling or rehabilitation through the EAP;
 - 2. Fail to refrain from illegal drug use and/or prohibited alcohol conduct after a first finding;
 - 3. Refuse testing when so required;
 - 4. Attempt to alter or substitute specimens; or
 - 5. Distribute or sell illegal drugs.

ARTICLE 32: CONTRACTING OUT OR OMB CIRCULAR A-76 COMPETITIONS

Section 1 – Definitions

- A. “A-76 Competitions” - A-76 competitions evaluate the costs of performing an activity with government employees versus contract employees to determine the most efficient way of performing the activity. The results of an A-76 competition may, or may not, result in the contracting out of bargaining unit positions.
- B. “Contracting Out”- Contracting out is Management’s determination to perform new or existing activities with contract employees.

Section 2 – Notifications

- A. Management agrees to inform the Union when a decision has been made to study the possibility of contracting out of bargaining unit work under authorities other than OMB Circular A-76. Management will keep the Union apprised of developments of such a contracting out study.
- B. The Union will be notified by Management prior to public announcement when any competition pursuant to OMB Circular A-76 is initiated which concerns work performed by bargaining unit employees. The notification will include the anticipated date of the public announcement.
- C. The Union will be included on the public announcement of the performance decision from any competition pursuant to OMB Circular A-76.

Section 3 – A-76 Competition

- A. The Agency’s inventory of commercial activities will be available on USDA’s website as it is approved by OMB.
- B. When any competition begins, a meeting will be held between Management and the local Union representatives to discuss ways in which the organization can contain costs and the scope of work to ensure all work functions are included. Such discussions may include, but are not limited to, the abolishment of vacant positions, changes in work schedules, and modifications in the operation under study that would lead to cost reductions.

- C. Upon request, copies of all supporting documentation to the Agency tender (bid) will be made available to a designated Union representative that has signed a nondisclosure statement.

Section 4 – Contractor Default. If bargaining unit work has been contracted out and the contractor goes into default within two (2) years of the contract start-up date, Management agrees to consider the alternative of reassigning or reinstating the unit employees who were displaced by the contract.

ARTICLE 33: USE OF OFFICIAL FACILITIES AND SERVICES (UNION SPACE)

Section 1 – Office Space. Office space and equipment will be negotiated separately for each PFS location. Union officials at each location may initiate bargaining on any changes required to implement this Section consistent with Article 9 once at any time during the life of this Agreement.

Section 2 – Meeting Space and Equipment

- A. The Agency will, on an as-needed basis, provide access to available conference rooms and authorized Agency technology for virtual meetings for the Union's use. The Union agrees to exercise reasonable care in use of such space/technology. The Union may request the use of Agency facilities for meetings during nonduty hours subject to availability and security requirements.
- B. Union representatives may use system capabilities of computer equipment situated at their workstations when it is not otherwise being used for the Agency's business.

Section 3 – Bulletin Boards. At each facility, the Union shall be provided bulletin boards in areas normally used to communicate with employees. If space limitations prevent the Agency from providing a separate bulletin board, the Union shall be provided designated space on an Agency bulletin board that is in an area normally used to communicate with employees.

Section 4 – Manuals and Issuances. Management shall send the Union electronic copies of all new PFS policies and/or procedures which impact the conditions of employment of bargaining unit employees.

Section 5 – Distribution of Literature. Subject to Federal Property Management Regulations and security and safety requirements, the Union may distribute informational literature on PFS premises in unlocked work areas before and after normal working hours.

ARTICLE 34: REASONABLE ACCOMMODATIONS

Section 1 – Governing Directives. The reasonable accommodation process in PFS will be governed by and administered in compliance with laws, government-wide regulations, rules and policies, including 42 U.S.C. 12101 (the American with Disabilities Act of 1990). The requirements and procedures in USDA DM 4300-002, “Reasonable Accommodation Procedures,” as amended, will apply to all employees, along with the provisions of this Article.

Section 2 – General Information. The Americans with Disabilities Act of 1990 prohibits discrimination based on disability and requires covered employers to provide reasonable accommodations to employees with disabilities. Reasonable accommodations can apply to the duties of the job and/or where and how job tasks are performed. The accommodations should make it easier for the employee to successfully perform the duties of the position. Management will expeditiously consider and respond to requests for reasonable accommodations.

Section 3 – Requests for Reasonable Accommodation

- A. Requests may be made orally or in writing by an employee or a person on behalf of an employee. Requests by an employee shall be made to his/her immediate supervisor, other Management officials in their reporting chain, or the Agency Reasonable Accommodation Program Coordinator. Requests made on behalf of an employee shall go to the same person to whom the employee would make the request. The request should outline the kind of accommodation requested, if known.
- B. An oral request for a reasonable accommodation must be followed up by confirming the request in writing, which may be done via email. Although a written document is required for record-keeping purposes, the written document is not required to begin processing the request itself.
- C. Interpreters will be provided upon request for performance evaluation and discussion, grievances and complaints, training and to communicate changes in practices.

Section 4 – Interactive Process. It is imperative for the employee to be involved and consulted regarding specific accommodations needed through an interactive process. The employee must participate in the interactive process or designate someone to do so; however, in the majority of situations, the employee should be able to provide information regarding the type of accommodation needed.

Section 5 – Medical Documentation

- A. The Agency is entitled to know that an employee has a covered disability that requires a reasonable accommodation. If the employee has an obvious disability or previously-documented medical condition that qualifies him/her as an individual with a disability and the accommodation request is related to the known disability, the accommodation request shall be considered immediately without the need for further medical documentation.
- B. If the employee does not have an obvious disability or previously-documented medical condition that qualifies him/her as an individual with a disability, he/she may be required to provide sufficient and reasonable documentation of his/her medical condition to determine whether the requestor is an individual with a disability. The failure to provide appropriate documentation or to cooperate in the Agency's efforts to obtain such documentation can result in a denial of the request.
- C. Medical information obtained in connection with the reasonable accommodation process must be kept confidential. Confidentiality applies to all aspects of the reasonable accommodation process.

Section 6 – Denial of Request for Reasonable Accommodation

- A. A decision denying a request shall be immediately communicated in writing to the employee/requestor using the designated Agency form. The denial should be written in plain language, clearly stating the specific reasons for the denial, for example, why the accommodation would not be effective or why it would result in undue hardship. Where a specifically-requested accommodation is denied, but an offer of a different one is provided, the notice will explain both the reasons for the denial of the requested accommodation and the reasons the decision maker believes the offered accommodation will be effective.
- B. The notice will inform the employee she/he has the right to file an Equal Employment Opportunity complaint and may have rights to pursue a grievance or Merit Systems Protection Board procedures. The notice will explain procedures available for alternative dispute resolution along with appropriate encouragement to use this process to resolve issues associated with the denial to accommodate.

ARTICLE 35: ASSIGNMENT OF WORKSTATIONS

Section 1 – Purpose. The Purpose of this Article is to establish the procedures for assigning workstations to bargaining unit employees who meet certain eligibility criteria.

Section 2 – Eligibility Criteria. Assigned workstations will be provided for bargaining unit employees, if they meet the following criteria (listed in priority order):

- A. Bargaining unit employees who have met the requirements under the USDA reasonable accommodations regulations, policies and procedures and an assigned workstation is determined to be an appropriate and effective accommodation.
- B. Bargaining unit employees whose signed telework agreement indicates they have declined to telework or would only perform situational telework in extreme or rare situations (such as inclement weather).
- C. Bargaining unit employees whose signed telework agreement indicates they have elected to only telework one day a week or less.

Section 3 – Procedures for Assigning Workstations

- A. For bargaining unit employees who meet the eligibility criteria after the Agreement is in place, the employee should inform their first-level supervisor of their request for an assigned workstation. The supervisor will forward this request to the designated Management representative.
 - 1. Once an eligible bargaining unit employee indicates they are interested in an assigned workstation, the designated Management representative will work with them to select an eligible workstation. Employees will be able to choose from any unassigned workstations in their designated USDA space that are available to reserve. When a conflict occurs involving two or more bargaining unit employees requesting the same workstation, the employee with the earlier service computation date shall be assigned the workstation.
 - 2. After the bargaining unit employee selects their workstation, the designated Management representative will be responsible for getting the workstation removed from being available for reservation.
- B. When an eligible bargaining unit employee has chosen an assigned workstation, then later modifies their telework agreement and no longer meets the eligibility criteria, they will not continue to be assigned a workstation. The employee's supervisor will notify the designated

Management representative no later than two weeks after the new telework agreement has been signed. The designated Management representative will contact the responsible organization to have the workstation returned to being available to reserve no later than two weeks after being contacted.

- C. If future circumstances arise that results in the need for a mass assignment of workstations, the designated Management representative will gather interest from the impacted group. After the due date for bargaining unit employees to request/identify their preferred workstations, the designated Management representative will assign workstations, resolving any conflicts based on the earliest service computation date.

ARTICLE 36: LABOR-MANAGEMENT MEETINGS

- A. The Parties agree that meetings between Management and Union officials will be held at an agreed-upon frequency by the participants at each PFS location to promote and facilitate understanding and constructive relationships between the Parties. Meetings shall include routine exchanges of information and concerns, but shall not constitute part of the grievance procedure, discussion of individual employee cases, or include negotiations or negotiation briefings.
- B. At a minimum, the Management participants will typically be the Division Director(s) (or designees) for the respective location and the Labor Relations Officer (or designee). The Union participants will typically be the Local President and/or Vice President (or designees) for the respective location.
- C. If the participants are located in the same duty location, the meetings will be conducted in person, otherwise the meetings will be conducted by electronic or telephonic means.
- D. Meetings will be held during normal duty hours and the Union's representatives will be entitled to participate on official time consistent with Article 6 of this Agreement.
- E. The participants will alternate responsibility for preparing and distributing the agenda at least two (2) workdays prior to the meeting.

ARTICLE 37: TRAVEL

Section 1 – Governing Directives. Travel and associated activities will be governed by and administered in compliance with laws, government-wide and Agency regulations, rules and policies.

Section 2 – Payment for Travel Expenses

- A. Employees who perform official travel for the Agency shall be reimbursed for all authorized expenses at the maximum standard rate allowed by law and government-wide regulations.
- B. Employees will submit travel vouchers within five (5) workdays after completion of the trip.

Section 3 – Compensation for Travel. To the maximum extent practicable, Management shall schedule administratively controllable travel to occur within each employee's scheduled duty hours. Travel required by events that cannot be scheduled or controlled administratively shall be considered hours of work for pay purposes consistent with applicable laws and government-wide regulations. Travel not otherwise compensable as hours of work will be handled consistent with laws and regulations governing compensatory time off for travel.

Section 4 – Government-Issued Travel Cards

- A. Employees will use the-government-issued travel card when performing properly authorized official government travel in accordance with applicable laws and regulations, except for those who meet the exemption criteria in federal travel and Agency regulations.
- B. In accepting the government-issued travel card, the employee is agreeing to be bound by the terms and conditions of the government travel card contract and applicable Agency regulations. Any misuse of the travel card may be sufficient cause for disciplinary or adverse action.

Section 5 – Travel Advances. If an employee has not been issued a government travel card, they may receive a travel advance in accordance with federal travel and Agency regulations.



**UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY**

United States Department of Agriculture
Office of the Chief Financial Officer
Fort Worth, Texas
Kansas City, Missouri
Washington, DC
-Agency

and

Case No. WA-RP-15-0024

American Federation of Government Employees
AFL-CIO
-Petitioner

CERTIFICATION OF REPRESENTATIVE

On July 2, 2015, I issued a Decision and Order finding that certain employees of the General Services Administration were transferred to the United States Department of Agriculture, Office of the Chief Financial Officer, and applying successorship, the American Federation of Government Employees, AFL-CIO, continues to represent these employees in a separate unit. All parties waived their right to appeal my decision.

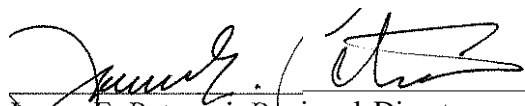
Pursuant to authority vested in the undersigned,

IT IS CERTIFIED that pursuant to Chapter 71 of Title 5 of the U.S.C., the **American Federation of Government Employees, AFL-CIO** is the exclusive representative of all nonprofessional employees in the following unit:

Included: All nonprofessional employees of the Office of the Chief Financial Officer, Pegasys Financial Services, U.S. Department of Agriculture.

Excluded: All professional employees, employees of the National Finance Center, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

FEDERAL LABOR RELATIONS AUTHORITY


James E. Petrucci, Regional Director
Dallas Region

Dated: July 2, 2015



**UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY**

**U.S. DEPARTMENT OF AGRICULTURE
(Agency)**

and

**AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, AFL-CIO
(Petitioner/Labor Organization)**

CASE NO. WA-RP-18-0062

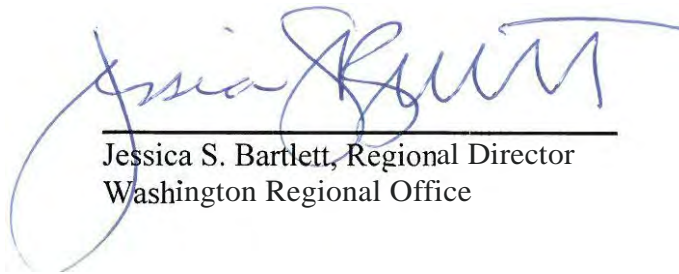
CERTIFICATION FOR INCLUSION IN EXISTING UNIT

An election was conducted in the above matter under the supervision of the undersigned Regional Director of the Federal Labor Relations Authority, in accordance with the provisions of Chapter 71 of Title 5 of the U.S. Code. The purpose of the election was to determine whether professional employees of the U.S. Department of Agriculture, Office of the Chief Financial Officer, Pegasys Financial Services wish to be included in an existing, nonprofessional unit represented by the American Federation of Government Employees, AFL-CIO (AFGE), as certified in Case No. WA-RP-15-0024. A majority of valid ballots was cast for representation by AFGE in the existing unit. No objections to the election were filed pursuant to 5 C.F.R. § 2422.26.

IT IS HEREBY CERTIFIED that, pursuant to Chapter 71 of Title 5 of the U.S. Code, the named labor organization is the exclusive representative of employees in the following appropriate unit:

Included: All employees of the U.S. Department of Agriculture, Office of the Chief Financial Officer, Pegasys Financial Services.

Excluded: All employees of the National Finance Center, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).



Handwritten signature of Jessica S. Bartlett in blue ink.

**Jessica S. Bartlett, Regional Director
Washington Regional Office**

Dated: November 16, 2018

APPENDIX B: PFS REQUEST FOR OFFICIAL UNION TIME

Name & Phone Number: _____

Date(s): _____ **Estimated Start/End Times:** _____

Location of Union Activity: _____

Purpose of Request (mark the applicable box):

- ☐ Contract negotiations and associated activities (*transaction code (TC) 35*)
- ☐ Mid-term negotiations and associated activities (*TC 36*)
- ☐ Attend a formal discussion (consistent with Article 6, Section 3A) (*TC 37*)
- ☐ Attend an examination of a bargaining unit employee by an Agency representative (consistent with Article 6, Section 5) (*TC 37*)
- ☐ Meet with bargaining unit employee(s) on matters associated with personnel policies, practices or other general conditions of employment (*TC 37*)
- ☐ Attend Union training sessions (consistent with Article 6, Section 11) (*TC 37*)
- ☐ Meet with Management on matters not referenced elsewhere (*TC 37*)
Brief description of activity: _____
- ☐ Dispute resolution – FLRA Proceeding (not related to contract or mid-term negotiations) (*TC 38*)
Brief description of activity: _____
- ☐ Dispute resolution – Grievance/Arbitration (*TC 38*)
Brief description of activity: _____
- ☐ Dispute resolution – Other (EEO, MSPB, etc.) (*TC 38*)
Brief description of activity: _____
- ☐ Other representational functions permitted by statute or government-wide regs (*TC 37 or 38*)
Brief description of activity: _____

Approved or Denied, and Reason if Denied: _____

When Employee will be Released (if applicable): _____

Supervisor's Signature/Date: _____

APPENDIX C: PFS DATA REQUEST FORM
(TO BE SUBMITTED TO LABOR RELATIONS SPECIALIST)

PURSUANT TO 5 USC 7114(b)(4), THE FOLLOWING INFORMATION/DATA IS REQUESTED:

THE PARTICULARIZED NEED/PURPOSE FOR HAVING THIS INFORMATION IS:

NAME AND TELEPHONE NUMBER OF REPRESENTATIVE

SIGNATURE PAGE

FOR MANAGEMENT

DEBORAH CLARK Digitally signed by DEBORAH CLARK
Date: 2022.06.30 08:40:52 -05'00' 6/30/22
Debbie Clark Date
Chief Negotiator

TRENA IVY Digitally signed by TRENA IVY
Date: 2022.07.01 06:59:44 -05'00' 7/1/22
Trena Ivy Date
PFS Director

MARISA QUINLIVAN Digitally signed by MARISA QUINLIVAN
Date: 2022.06.30 08:49:08 -05'00' 6/30/22
Marisa Quinlivan Date
Director, FIOD Division

unavailable to sign
Jacquelyn Boozer Date
Chief, ASDD Analysis Branch

KIMBERLY FREY Digitally signed by KIMBERLY FREY
Date: 2022.06.30 09:39:59 -05'00' 6/30/22
Kimberly Frey Date
Chief, FIOD External Services Branch

FOR THE UNION

Mary Cooper June 29, 2022
Mary Cooper Date
Chief Negotiator

TWANNA BROWN Digitally signed by TWANNA BROWN
Date: 2022.06.30 08:14:14 -05'00' 6/30/22
Twanna Brown Date
AFGE Local 236

CLAUDETTE JOYNER Digitally signed by CLAUDETTE JOYNER
Date: 2022.06.30 09:20:17 -04'00' 6/30/22
Claudette Joyner Date
AFGE Local 3147

Vanessa Dawson June 8, 2022
Vanessa Dawson Date
AFGE Local 3147

Carlene Carter 6-8-22
Carlene Carter Date
AFGE Local 3354

LORI DILLINGER Digitally signed by LORI DILLINGER
Date: 2022.06.30 08:30:42 -05'00' 6/30/22
Lori Dillinger Date
AFGE Local 3354