



Forest Service  
U.S. DEPARTMENT OF AGRICULTURE



# Master Agreement Between Forest Service and National Federation of Federal Employees

Effective Date: June 4, 2024

Termination Date: June 4, 2029



## **DEDICATION**

This Master Agreement is dedicated to Andy Pizzi. Mediation was both his vocation and passion. Andy's experience in conflict resolution came from growing up in an opinionated, strong-willed, and sometimes dysfunctional Italian family. Andy began working with the Forest Service Partnership Council in 2002, and he worked with NFFE and the Forest Service in a variety of labor-management settings. While Andy had deep knowledge of labor law, developed while working at the Federal Labor Relations Authority (FLRA), he understood and reminded us that negotiation is less about the technicalities and more about communication. Since the Master Agreement negotiations of 2010, he encouraged, cajoled, and shepherded us to agreement on four separate contracts.

During the year that it took to complete the most recent negotiations, we enjoyed his integrity, passion, and fun-loving nature. He deeply believed in our ability to create win-win agreements when we take the time to get down to core interests with mutual respect and trust. Andy had several memorable expressions, such as when we'd get close to an agreement on a subject and he would say, "you are in violent agreement here, now just get the words right."

We dedicate this Master Agreement to Andy as an expression of gratitude and hopefulness. Gratitude for having been inspired by Andy and hopeful that we can carry forward with his spirit in finding common ground.

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U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, DC. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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## **PREAMBLE**

Under the policy set forth by Title 5 United States Code (USC) 71 regarding Federal Labor-Management Relations, the Articles of this National Master Agreement, together with any and all Supplemental and Subordinate Agreements and/or Amendments which may be agreed to at later dates by the representatives of the Parties at the appropriate level, constitute the total Agreement. The Parties are the United States Department of Agriculture, Forest Service (Management) and the Forest Service Council of the National Federation of Federal Employees, Federal District 1 of the International Association of Machinists and Aerospace Workers, hereafter known throughout the Master Agreement as NFFE-FSC.

This Agreement is entered into pursuant to the Certification of Consolidation of Units, dated July 23, 1979.

The Parties recognize the importance of building a constructive and cooperative bilateral relationship which will aid in achieving the mission of the Forest Service. They are jointly committed to serving the public interest by the development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government. They are committed to working together to achieve the effective conduct of public business.

The Parties recognize that both the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the development and implementation of personnel policies and practices affecting the conditions of their employment. The maintenance of a constructive and cooperative Union-Management relationship at the appropriate levels will encourage this participation. To that end, the Parties recognize that many issues can be addressed through interest-based problem solving. To that end, the Parties agree to engage in effective communication at the appropriate levels to identify and resolve issues.

The Parties agree that the public interest demands the highest standards of performance and accountability. Therefore, the Parties are committed to following both the letter and intent of the Articles contained in this Master Agreement.\*



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Randy Moore  
Chief, USDA Forest Service



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Shawn Patterson  
President, NFFE-FSC

## ARTICLE 1

### RECOGNITION AND BARGAINING UNIT DESIGNATION

1. **Recognition:** Management recognizes that the National Federation of Federal Employees (NFFE), Federal District 1, International Association of Machinists and Aerospace Workers (IAMAW), is the exclusive representative of all employees in the consolidated Bargaining Units.
2. **Bargaining Units:** This Master Agreement is applicable to a professional consolidated Bargaining Unit and a nonprofessional consolidated Bargaining Unit covering Forest Service employees as described in Appendix A. The Parties further agree that this Master Agreement will apply to additional groups of Forest Service employees for whom NFFE is certified as the exclusive representative. Appendix A is a guide to the Bargaining Units. It is not intended to change the status of units as they exist at the time of this Master Agreement. Upon certification of a new unit or an amendment to an existing unit, the Parties will meet to discuss implementation of this Master Agreement, as it pertains to the new unit.
3. **Changes**
  - a. Management shall not change the Bargaining Unit status of a Bargaining Unit position without first notifying the Local Lodge in writing with the rationale for the change. The Union will notify Management in writing with the rationale within 30 days if they disagree with the change. If the Parties do not agree, the Union may exercise their right to file a petition or Unfair Labor Practice (ULP) in the event the Management action is disputed by the Union. Any disputed position(s) will remain in the Bargaining Unit until such time as the Federal Labor Relations Authority (FLRA) reaches a decision on the position. Nothing in this Subsection will affect Management's right to assign work.
  - b. The Union will notify Management when it believes the Bargaining Unit status of a position should be changed prior to filing a petition with the FLRA. If the Parties are unable to agree, the Union may file a petition

## ARTICLE 2

### IMPLEMENTATION OF THE AGREEMENT

#### 1. Implementation of the Agreement

- a. The National Parties have developed and provided an Annotation of the Master Agreement as a tool to assist the parties in understanding and interpreting the intent of contract language.
  - b. As soon as practical upon implementation of this agreement, or when a new bargaining unit is certified, jointly developed training by National Parties will be provided to bargaining unit employees, union officials, and management. Any Master Agreement training that includes both bargaining unit employees and management will be conducted jointly. When practical, training will be delivered face-to-face. When face-to-face training is not practical, training can also be provided using other formats that allow for interactive dialogue including, but not limited to, video teleconferencing, electronic meetings, AgLearn, or other appropriate technology.
  - c. Management will print 1,000 copies of this Agreement for Union use. Annotations will be printed on a different color than the contract. Hardcopies will be in ring-binder format so they fit the binders from the previous Agreement. Management will send all hardcopies to the National Federation of Federal Employees (NFFE)-Forest Service Council (FSC).
  - d. Management shall provide a link to the electronic version of the Agreement and Annotations compliant with Section 508 of the Rehabilitation Act of 1973 as amended (29 USC 794(d)) through the FSweb and the Forest Service Internet no later than the effective date of this agreement. Management will post changes to the Agreement or Annotations within 30 days of when the Parties agree to the changes. Management will establish and maintain hyperlinks to underlying laws, regulations, or policy.
  - e. The National Parties recognize there may be a need to provide alternative formats of the Master Agreement, assistance, training, or guidance on the interpretation and implementation of the Master Agreement. As appropriate, the National Parties will provide oversight and assistance to meet this need. Language assistance will be provided upon request in accordance with the criteria in Executive Order 13166 on Improving Access to Services for Persons with Limited English Proficiency.
2. In the administration of all matters covered by this Master Agreement, the parties are governed by existing law and governmentwide regulations.
  3. The effective date and expiration date of the Master Agreement shall be printed on the cover.



## ARTICLE 3

### DEFINITIONS

For the purpose of this Master Agreement, the terms listed below are defined as follows:

1. **Day:** Unless stated otherwise, day means calendar day. If a due date falls on a Saturday, Sunday, or holiday, the next official workday will be considered the due date.
2. **Designated Labor Relations Specialist:** An individual that management has designated as the labor relations contact. The current list of Labor Relations Specialists designated for each unit is located on the HRM Labor Relations web site.\*
3. **Domestic Partner:** Domestic partner means an adult in a committed relationship with another adult, including both same-sex and opposite-sex relationships. Committed relationship means one in which the employee, and the domestic partner of the employee, are each other's sole domestic partner (and are not married to or domestic partners with anyone else), and share responsibility for a significant amount of each other's common welfare and financial obligations. This includes, but is not limited to, any relationship between two individuals of the same or opposite sex that is granted legal recognition by a State or by the District of Columbia as a marriage or analogous relationship (including, but not limited to, a civil union).
4. **Emergency:** While it depends on the circumstances, an emergency is characteristically a situation that is temporary in nature and poses sudden, immediate, or unforeseen work requirements as a result of natural phenomena or other circumstances beyond Management's reasonable control or ability to anticipate.
5. **Employee:** An individual employed by the Forest Service who is included in a represented unit or otherwise recognized by the Parties during interim situations. Such an employee is also called a Bargaining Unit Employee. 5 USC 7103(a)(2) defines an "employee" as only those individuals currently employed. This definition does not include individuals who are applicants for employment. Temporaries cease to be employees after termination regardless of rehire eligibility.
6. **Forest Service Council (FSC or Council):** The consolidated Bargaining Units (professional and nonprofessional) comprising all the National Federation of Federal Employees (NFFE) Locals in the Forest Service.
7. **Forest Service Council Executive Board:** The board consists of 14 officials and includes the NFFE-FSC President, NFFE-FSC Vice Presidents (9 Regional, 1 CCC, 1 R&D, and 1 WO), NFFE-FSC General Vice President and NFFE-FSC Secretary Treasurer.
8. **In Writing:** Email is an acceptable method for all transmittals with reference to the Master Agreement.
9. **Local Level:** References to "local level" or "Local Level" pertain to activities which occur at the level of an "Organized Unit."
10. **Local Lodge:** A unit of NFFE that represents one or more organized units.
11. **Local Management:** All levels of Management on each individual national forest, Civilian Conservation Center, regional office, research station, Washington Office, technology and development center, or any other Forest Service unit for which NFFE is the exclusive representative.
12. **Local Parties:** The Union and Local Management at the level of an organized unit. (The level of an organized unit is the same as the local level.)
13. **Management:** Means all levels of Management to which the Forest Service assigns managerial or supervisory duties. This term is equivalent to employer or agency.
14. **Midterm Negotiations:** Bargaining changes affecting conditions of employment during the life of this Master Agreement that are not in conflict with the Master Agreement.

- 15. Notification:** All notification specified in this Master Agreement must be in writing, unless otherwise stated.
- 16. Organized Unit:** An organized unit is a Forest Service unit (for example, National Forest, Research Station, Job Corps Center) for which the Federal Labor Relations Authority has issued a certification for professionals, non-professionals, or both, recognizing NFFE as the exclusive representative. Organized units are part of the consolidated Bargaining Unit(s) certified by the Federal Labor Relations Authority, and this Master Agreement has been negotiated to cover the professional and nonprofessional units as one unit. A list of Organized Units is found in Appendix A, and include, for example, the Lolo National Forest (Local Lodge 60) and the Washington Office (Local Lodge 1919).
- 17. Parties:** Normally, Parties with an upper case “P” indicates the national Management and Union collectively.
- 18. Service Computation Date:** For purposes of seniority in this Master Agreement, service computation date will be computed on the basis of each employee’s leave service computation date, unless specified otherwise.
- 19. Supervisor:** An individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees; to adjust their grievances; or to effectively recommend such action. The exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment. For units that include firefighters or nurses, the term “supervisor” includes only those individuals who devote a preponderance of their employment time to exercising such authority (5 USC 7103(a)(10)).
- 20. Subordinate Agreements:** Any agreement negotiated by the intermediate or Local parties.
- 21. Supplemental Agreements:** Any agreement negotiated by the National Parties, other than this Master Agreement.
- 22. Threshold Issues:** Threshold issues are typically procedural and or legal issues that are of such significance to the proceeding that they must be addressed prior to the other issues in the proceeding.
- 23. Union:** The National Federation of Federal Employees, the FSC, Local Unions, Local officers of the Union, Union stewards, and other authorized representatives designated by any of the above.
- 24. Union Official and/or Union Representative:** A representative or designee of the FSC, any accredited business representative of the NFFE, or the duly elected or appointed Union representative of a Local NFFE Union.
- 25. Work Unit:** A work unit is an entity with a specific mission, with homogenous procedures or technology, and headed by a supervisor or manager authorized to approve time and attendance reports and approve leave.

## ARTICLE 4

### EMPLOYEE RIGHTS

1. Every individual has the right to be treated with the dignity and respect that is normal in an employer-employee relationship. The Parties agree to mutually establish and maintain a safe, positive, and professional work environment that promotes good workmanship; values employees for who they are and what they contribute; ensures fair, equitable, and respectful treatment of employees; and maintains high standards of employee performance.
2. Employees will be granted a reasonable amount of duty time in pursuit of rights under this Master Agreement. The employee and the Management official will discuss the amount of time required. An employee will request release as far in advance as practical and will inform their supervisor of the approximate length of time needed and the location where they will be. Normally, workload will not preclude the release of the employee. If the employee cannot be released immediately due to work-related reasons, the employee will be released as soon as the work requirement is met or appropriate arrangements are made. If a delay in releasing an employee involves a situation with a contractual time limit, the time limit will be extended equal to the delay.\*
3. During the months of June and September, Management will notify employees of their Weingarten Right and their rights to be represented by their Union under this Master Agreement. This notice shall be distributed to all employees simultaneously and Management will permanently post the notification on employee information bulletin boards and the Human Resources Management (HRM) website. Management will also provide the same notice to new employees within 30 days of their reporting date.
4. **Protected Employee Activities (per 5 USC 7102):** Each employee shall have the right to form, join, or assist any labor organization or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such rights. Except as otherwise provided, such rights include the right to—
  - a. Act for the National Federation of Federal Employees (NFFE) in the capacity of a representative and the right in that capacity to present the views of the NFFE to heads of agencies and other officials of the Executive Branch of Government, the Congress, or other appropriate authorities.
  - b. Engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.
  - c. The following are examples of employees exercising their right to assist the Union:
    1. Respond to a union survey.
    2. Talk to one another about issues in the workplace that the union could address and/or share information.
    3. Post Union insignia, e.g., posters in workspaces, or wear clothing, pins, and hats. Individuals have the option to wear a union logo pin on the uniform and will be worn on the right lapel or collar or centered just above or below the nameplate. See also Forest Service Uniform Policy, Other Insignia or Commemorative Pins.
    4. Inform others you are a member of the union.
    5. Ask management if the union has been invited to a meeting.
    6. When a coworker has a problem, connect them with a union steward.
    7. Ask management if the union has been notified of a change they just announced.
    8. Point out language in the Master Agreement when the employee believes it is not being followed.
    9. Talk about union successes and/or efforts in the workplace.

10. Ask a coworker to join the union, sign a petition, or collect signatures if it does not disrupt work and is not done while on agency official time, consistent with 5 USC 7131(b).

## **5. Employee Rights to Union Representation**

- a. Employees have a right to meet, consult, and share information or documents with Union officials concerning working conditions, and attend Union meetings to discuss representational matters. See Section 2 for release procedures.
- b. Employees may assert their right to be represented by the Union, such as during Weingarten meetings, formal discussions, or when they have concerns or ideas about working conditions.
- c. Any employee may bring matters of individual concern to Management's attention. However, if the discussion becomes a formal discussion or triggers a bargaining obligation, then the procedures in Article 5.4 and/or Article 11 regarding Union notification will apply.
- d. Management will not take reprisal actions against employees for the exercise of any appeal right granted by law, rule, regulation, or this Master Agreement.

## **6. Other Protected Employee Rights**

- a. Employees have the right to raise concerns without penalty or reprisal, including but not limited to the following protected activities:
  1. Raise concerns about any behaviors or conditions that put people at risk or make employees feel uncomfortable or unsafe. These concerns may encompass physical, psychological, and social safety and all types of harassment and inappropriate behavior. Employees may include evidence such as pictures of dangerous or unsafe working conditions. (See also Article 27.)
  2. Directly engage their supervisor about what is expected of them on the job, such as work priorities, workload adjustments, assigned duties, timelines, objectives, needed resources, and/or ask questions.
  3. Choose not to participate when participation is not required. If an employee is unsure whether participation is optional, mandatory, or mandatory with exceptions, the employee may ask, and management will provide clear direction.
  4. Share a concern about working conditions in meetings.
  5. Request to participate in a work group.
  6. Raise an issue with another appropriate management official if an employee feels that the issue is not being adequately addressed by their immediate supervisor or there is a conflict with their supervisor.
- b. Positive Work Environment  
The Parties will encourage the use of conflict resolution and prevention tools as part of their shared commitment to a safe, positive, and professional work environment.
- c. Many workplace conflicts do not rise to the level of actionable harassment or bullying, however they may still represent unfavorable working conditions that impact employees' wellbeing and/or productivity. In such cases, employees or the Union can request intervention from conflict management, resolution, and prevention tools available under the Work Environment and Performance Office (currently at <https://fsweb.wo.fs.fed.us/wepo/>) and/or the procedures under Article 8.
- d. Management will not take reprisal actions against employees for the exercise of any right granted by law, rule, regulation, or this Master Agreement.\*
- e. Employees have the First Amendment right to express their personal opinion to the traditional media and social media on their own time. However, personal social media activities that violate ethics, Standards of Conduct, or other applicable laws, regulations, and policies may subject employees to administrative action, criminal prosecution, or civil penalties.

1. Employees may speak in their individual capacities, but not as representatives of the agency unless authorized to do so.
2. Employees must follow ethics laws and regulations:  
[https://www.oge.gov/web/oge.nsf/0/3D3B3F1EE20BA918852585BA0063A592/\\$FILE/Compilation%20of%20Federal%20Ethics%20Laws%20\(2023\).pdf](https://www.oge.gov/web/oge.nsf/0/3D3B3F1EE20BA918852585BA0063A592/$FILE/Compilation%20of%20Federal%20Ethics%20Laws%20(2023).pdf)
3. A list of permitted and not permitted political activities with respect to the Hatch Act can be found at <https://osc.gov/Services/Pages/HatchAct.aspx>
4. Tips To Avoid Violation of These Rules on Social Media:
  - a. Employees should carefully consider whether to affiliate themselves with the agency on social media, including through pictures or their profiles.
  - b. Employees should consider stating that their opinions are their own and do not reflect the views of the agency.
  - c. Employees should avoid sharing any non-public information they possess as a result of their official positions.

## **7. Bullying**

- a. All agency employees are expected to refrain from workplace bullying and adhere to a standard of conduct that is respectful and courteous to others.
- b. Workplace bullying is unwelcome, repeated, abusive behavior that is threatening, humiliating, or intimidating. It may be direct or indirect, whether verbal, physical, or otherwise, by one or more persons against another or others, at the place of work and/or in the course of employment. Bullying could include: slandering, ridiculing or maligning a person or their family; persistent name calling that is hurtful, insulting, or humiliating, using a person as a butt of jokes; abusive and offensive remarks; socially or physically excluding or disregarding a person in work-related activities, sabotage or deliberate interference which prevents work from getting done, or manipulating the work environment.
- c. Where appropriate and when they feel safe to do so, the affected employee should speak to the alleged bully or bullies to object to the behavior.
- d. Employees are encouraged to report any incidents to the Harassment Reporting Center, their supervisor, or any other management official. Management will not retaliate against any employee for reporting workplace bullying.
- e. Upon receipt of a report of workplace bullying, Management will initiate an inquiry, address any inappropriate conduct, assist the affected employee, and act to prevent any retaliation by the bully or bullies.\*

## **8. Interim Measures Related to Harassment and Bullying**

- a. Upon receipt of an allegation of harassment or bullying, Management will take appropriate interim measures to stop any harassment or bullying that may be occurring, and prevent potential retaliation by the alleged offender, coworkers, or supervisors. Management will meet with the employee to discuss available, appropriate options and consider the employee's input, which may include the potential financial impact on the employee.
- b. To avoid any real or perceived retaliation, if reassignment of the parties is necessary, the employee affected by the alleged harassment should not be reassigned unless they specifically request it.
- c. An employee may seek a review of interim measures by notifying the next level manager, see Subsection 6.a.6 of this Article.

## **9. Employee Rights During Examinations in Connection with an Investigation\***

- a. Employee Weingarten Right (5 USC 7114(a)(2)(b)):

1. An employee has the right (commonly known as the Weingarten Right) to be represented by the Union during any examination of the employee by a representative of the agency in connection to an investigation, if he or she reasonably believes that the examination may result in disciplinary action against him or her, and he or she requests representation. This right exists regardless of whether the questioning is termed an inquiry, interview, investigation, examination, etc.
  2. If, at any point during an examination, an employee requests representation under the Weingarten provision, the examination shall be either postponed for a reasonable amount of time (no more than 3 days unless both parties mutually agree to an extension in writing) to allow the employee to obtain a Union representative, or it may be canceled.\*
  3. Special agents and employees authorized to conduct investigative interviews will verify the current bargaining unit status of any employees involved prior to contacting them.
- b. Management will take reasonable steps to provide confidentiality when employees are involved in a management inquiry or investigation. All parties involved will only share associated information, including that an examination will occur or has occurred, with those who have a legitimate business need to know. For the purpose of allowing a union representative to be readily available, Management should inform the Union where and when a representative is likely to be requested in a potential Weingarten situation.
- c. Absent extenuating circumstances, examinations will be conducted in a setting that is not intended to be intimidating.
- Any meeting held for the purpose of issuing a disciplinary or proposed disciplinary letter to a bargaining unit employee will not be investigative in nature.
- d. The employee has a right to meet with the Union Representative in advance of an examination. During the examination the Union Representative may assist the employee.
- e. Examinations that continue beyond the employee's regular duty hours will constitute hours of work, and the employee will be compensated appropriately.
- f. Examinations will only be audio- or video-recorded in accordance with U.S. Department of Agriculture (USDA) Departmental Regulation (DR) 4070-735-001 (dated October 4, 2007). Before any examination in a noncriminal investigation, the employee will receive timely notification if the examination will be audio- or videorecorded. In the event the Agency records the examination, the employee or the representative may also record the examination. The representative will be provided a reasonable amount of time to secure a recording device.
1. For a misconduct investigation conducted in accordance with USDA Departmental Personnel Manual (DPM) 751 Subchapter 3, if discipline is subsequently proposed, the employee will be provided a copy of the recording and a transcript, if one is produced, of the Agency's recording consistent with Article 22.5.f.2.
  2. In all other instances, the employee may request a copy of their portion of a recording and transcript, if one is produced, and will receive a copy unless precluded from release by law, rule, or Government-wide regulation.
- g. If a statement has been taken, Management will promptly provide the employee with a copy of their signed statement.
- h. Employee Notice of an Examination
1. This Subsection pertains to employee examinations in management inquiries. In these examinations, management will inform employees of the subject matter of the inquiry and employees have a right to know the following, upon request:
    - a. Whether the examination is currently a part of a criminal investigation;

- b. That they are being directed to answer the questions and may be disciplined if they refuse to answer questions and will be given a written statement to that effect upon request; and
  - c. Whether the employee is the subject of the investigation or a witness.
  - d. That the employee has a right to union representation, if they believe they may be disciplined as a result of the examination and they request a representative (Weingarten right).
2. This Subsection regarding employee notice of examinations pertains to examinations conducted as part of an inquiry into misconduct when an Employee Relations Specialist is present, harassment inquiries (HART), or Misconduct Investigations in accordance with USDA DPM 751.\*

When an employee is contacted to schedule an examination that is part of a misconduct investigation the employee will be informed, in writing:

- a. That the examination is not part of a criminal investigation;
  - b. The nature of the matter under investigation;
  - c. That they are being directed to answer the questions and may be disciplined if they refuse to answer questions;
  - d. Whether the employee is the subject of the investigation or a witness; and
  - e. Weingarten notice using the following language:  

You have the right to be represented during this examination if you reasonably believe that the finding from this interview may result in disciplinary action against you and you request representation. Your representative will be designated by the local lodge of the National Federation of Federal Employees for the unit in which you work.

If you initially agree to proceed without representation and later change your mind, the interview will be either postponed for a reasonable amount of time to allow the employee to obtain Union representation, or it may be canceled.
3. USDA EEO investigations are not misconduct investigations. However, if evidence of misconduct by an employee is revealed in the course of an EEO investigation, that information may be referred to management for a subsequent administrative action (similar to a criminal Report of Investigation (ROI)).
4. Safety Reviews conducted by the Forest Service are addressed in Article 27.21. The employee will be notified that examinations in connection with Safety Reviews are voluntary.
5. Upon request the investigator will provide the employee with a copy of the letter authorizing the investigation and delegation of authority, if one exists.

#### **10. Employee's Rights in Background Investigations\***

- a. Duty time will be granted to employees to complete background investigations. Travel and per diem will be granted, if needed, for travel to the activation station for fingerprinting and/or LincPass activation.\*
- b. Use of Government equipment, facilities, and transportation will be authorized for the completion of the background investigation.
- c. Costs associated with employee fingerprinting will be paid by the Agency. Employees will not be required to pay for fingerprinting; however, if the employee chooses to pay they will be reimbursed.
- d. Management will make the appropriate forms available for the employee to complete.

- e. Employees shall be provided a secure method for providing personal information.
11. Management shall inform employees of rules, regulations, and policies under which they are obligated to work.
  12. Employees shall not be given warnings or statements of disapproval, counseled on conduct or unacceptable performance, or given verbal warnings except in a setting that provides reasonable confidentiality. In special job-related situations involving safety and/or well-being of employees, immediate public admonishment is appropriate (for example, co-worker harassment or safety violations).
  13. **Remote vehicle-tracking capabilities:** Will be used to support the safety and security of government owned vehicles, especially in instances where a supervisor believes there has been an accident and/or employee is missing. However, such tracking will not be used to monitor bargaining unit employees' travel, time, and attendance, except when there is reasonable suspicion of misconduct.
    - a. Limited Access. Upon receiving an allegation or notification of potential misuse of a government-owned-vehicle (GOV), authorized personnel will access only data regarding the alleged misuse to provide to the appropriate management official.
    - b. Notification. Management will notify employees annually regarding the purposes of the telematics program, the types of data being collected, and who will have access to it.
      1. Management will update and redistribute the above notification whenever substantial changes are made to system configuration and use.
      2. Management will place a decal in a highly visible location on each vehicle to reference monitoring by telematics.
    - c. Access List. The National Union President, or any Regional Vice-president may submit a request to the appropriate management official for a report listing the names, positions, and organizational codes (up to Level 5) of the people who have had authorized access to the data within the last year. This request will comply with the information request requirements of 5 USC 7114(b)(4) and not occur more frequently than annually. The handling and dissemination of this report by both Management and the Union will comply with all policies and regulations related to Personally Identifiable Information.
  14. Electronic systems, software, and check-in check-out procedures will be used for their intended purpose and will not be used to monitor travel, time, and attendance, except when there is reasonable suspicion of misconduct.
  15. **Collection of Debts Owed to the Government\***
    - a. An employee will be provided due process in accordance with the appropriate debt collection and salary offset regulations, including 5 USC 5514, 5 CFR 550 Subpart K, and the Debt Collection Improvement Act (1996). These processes constitute the employee's grievance/appeal procedures regarding the existence and amount of the debt and any resulting collection action.
    - b. Notification of a Potential Debt
      1. As soon as possible after Forest Service Management identifies an employee likely owes a debt to the Government, the employee will be given the reason for the debt and the following information, if known: approximate amount of the debt; the details of the calculation of the amount; and the date(s) the debt was incurred. A phone number and email contact information will be provided for employees to receive available information. <https://fsweb.wo.fs.fed.us/hrm/pay/index.php#debt>
      2. For debts that arise from overpayment of salary, the notification will be given at least 14 days prior to changes to the employee's record that will cause the debt to be referred to the National Finance Center (NFC).



3. Exceptions: The notification requirements in Subsections 15.b.1 and 15.b.2, above, do not apply when debts are generated through employee changes to their own timesheet or travel vouchers. This notification requirement also does not apply to actions initiated by the NFC.
- c. Debt Hearings
1. Employee has the right to request a Hearing. The Hearing determination will consider the existence of the Debt, the amount of the debt and/or percentage of disposable pay to be deducted each pay period. Timely filing of a petition for a hearing will suspend collection proceedings. Human Resources Management (HRM) Pay will create an HR Help Case to record and notify employee of Debt Notice.
  2. Employee must request a hearing by contacting HRM no later than 15 calendar days following the receipt of the salary overpayment. The request for hearing will include:
    - a. Signed request identifying if the request is for an oral or written hearing
    - b. Explanation of facts and evidence and witnesses if applicable
    - c. Explanation as to why the Hearing is needed rather than a documentary review  
 Fax request to 1-866-339-6435 or open a HR Help case or Mail to:  
 Forest Service, HRM Pay and Leave  
 4000 Masthead St. NE, Mail Stop 225  
 Albuquerque, NM 87109
  3. Steps of a Hearing:
    - a. Human Resources Management (HRM) will assign a case manager who will contact the employee, go over the process, and the debt will be placed on a continuous hold during the Debt Hearing process until the Written Notification of Final Decision is sent to the employee.
    - b. The case manager will prepare an investigative report of facts and submit the completed package to the Hearing Officer for review and decision.
    - c. Once a final decision is received from the Hearing Officer the employee will be notified of the decision in writing.
- d. Official Debt Notice:
1. Once a debt has been referred to the NFC, the employee will receive a notice containing all information required by 5 CFR 550 Subpart K and informing them of the dollar amount of the alleged liability at least 30 days in advance of the collection action being initiated. (This is currently called a Notice of Overpayment of Salary and Demand for Payment, or a Demand for Payment.) Upon receiving the Demand of Payment notice from the National Finance Center (NFC), HRM will mail a copy of the debt notice to the employee's address on file, create a HR Help case, and attach a copy of the debt notice. The employee will receive an email notification upon generation of the HR Help case.
    - a. This provision does not apply for Federal Employee Health Benefit debts, those go directly from NFC to the employee.
  2. Employees may request the Debt Calculation Worksheet and additional information from NFC through the HRM case manager.
  3. The notice will inform the employee of their rights to due process under 5 USC 5514 and 5 CFR 550 Subpart K, including Instructions for how to request a hearing and a waiver with associated timeframes and a phone number where questions should be addressed.\*

4. This Section does not apply to the following, which may be grieved under Article 9:
  - a. Alleged debts to the Forest Service of less than \$100; or
  - b. Disciplinary actions related to failure to pay just debts originating outside the Government covered under 5 CFR 581 or 582.
- e. Debt Waivers
  1. Employees may request waivers of debt per their right under 5 USC 5584, 2774, or 32 USC 718.
  2. Employees have three years from the date of the Notice to request a waiver. However, the debt is collected throughout the debt waiver process.
  3. To submit a Waiver an employee must send in a personal statement to include:
    - a. Date employee was notified.
    - b. Reason for the debt and if full or partial waiver request.
    - c. Explanation of why they should not have to repay the debt.
    - d. Any documentation to support the request.
  4. If the employee's waiver request is successful, the Agency will refund the employee the amount of erroneous payment recovered as soon as possible but not later than 2 years following the effective date of the waiver.
- f. Debts owed to the employee caused by unwarranted or unjustified personnel action (as defined by 5 USC § 5596) may be grieved and recovered with interest in accordance with the Backpay Act.

#### **16. Rights in Matters Involving Documents**

- a. Prior to changing any performance evaluations, travel documents, and time and attendance reports that have been signed by an employee, Management will notify the employee and provide the rationale for the change.
- b. Records maintained on an employee that are not maintained on a permanent basis will be removed from official files in accordance with the Government's retention schedule, unless otherwise specified in this Master Agreement. Employees have the right to review the contents of their Electronic Official Personnel Folder (eOPF) and may request a copy of any documents from the OPF through Human Resources. Upon request, employees will typically receive any documents requested from their OPF within 30 days.
- c. Whenever practical, employees will have a profile on the electronic communication system. Employees will be provided duty time to access their official records on Forest Service and other websites where their official records are located. No employee will be penalized for the lack of a profile (for example, pay, benefits, training, or advancement opportunities).
  1. Except as stated in Subsection 16.c.2 below, Management will not, without the employee's knowledge, access an employee's electronic profile or storage media unless such access is required for internal security purposes (for example, for criminal investigations or where Management has reasonable cause to believe an employee is violating regulations in his or her use of the electronic office system).
  2. Management will provide general policy information to the Union on all communication tracking hardware/software that may be used to monitor electronic communication systems for appropriate use or internal purposes as described in Subsection 16.c.1 above. Such policy information will include where and when they are being used or are to be used, how they would be used, the purpose of their use, and the types of employees who will be authorized to use the tracking hardware/software. Bargaining Unit employees will be made aware of the subject policy on an annual basis.

3. As part of the offboarding process, employees will be reminded of the procedures for reassignment of electronic files.

## **17. Rights in Miscellaneous Personnel Matters**

### **a. Outside Activities**

1. Employees shall have the right to engage in outside activities and employment of their own choosing, and otherwise conduct their private lives as they see fit, in accordance with 5 CFR 2635, 5 CFR 735, and 5 CFR 8301.
- a. Without prior approval, an employee may participate in the activities, not prohibited by law, of national or state political parties and may participate in the affairs of or accept an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization. An employee shall not:
  1. Accept a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which the acceptance may result in or create the appearance of conflicts of interest.
  2. Engage in outside employment that impairs his or her mental or physical capacity to perform his or her job.
  3. Receive any salary or anything of monetary value from a private source as compensation for his or her government services.
2. Employees who are in positions subject to filing financial disclosure reports (OGE-450) must obtain supervisory approval prior to engaging in outside employment\*. All employees who engage in outside employment, whether or not prior approval is required, are subject to ethics regulations pertaining to conflict of interest. Employees are encouraged to seek advice from their ethics advisors on potential conflict of interest situations at any time.\*
3. An employee may invest his or her money, donate to charity, and participate in similar types of activities freely and without coercion.

### **b. Requests for Reassignment**

1. An employee may request, in writing, permanent or temporary reassignment to a different position or a different supervisor at any time for any reason.
2. Employees may request the assistance of higher-level Management and/or follow the procedures for a Hardship Request under Article 42 due to:
  - a. Conflict with the employee's work supervisor if the employee has tried to resolve the conflict;\* or
  - b. Bullying or harassment in the workplace.
3. Management will consider the request and will respond in writing, stating the reasons for the decision, within 28 days.

c. Employees who are required to work, as part of an emergency or continuity of operations (COOP), will be notified at least annually and as soon as practical if the designation changes. The Union at the appropriate level will be copied on these notifications.

d. Within 72 hours of the activation of a COOP or emergency plan, the Union at the appropriate level will be provided a list of bargaining unit employees activated. The Union at the appropriate level will be updated on changes to this list as soon as practical.

e. Employees may use telecommunications and office equipment (e.g., mobile devices, tablets, computers, telephones, printers, FAX equipment) and Internet resources (e.g., electronic messaging services, internet connections, file sharing sites, and social media), for personal matters on an occasional basis provided that the use does not involve more than minimal expense to the Government, interfere with official business, violate Federal law, or constitute prohibited activity.

Limited personal use of telecommunications and Internet resources shall normally take place during an employee's personal time. This provision follows the Federal CIO Council's Recommended Executive Branch Model Policy/Guidance on "Limited Personal Use" of Government Office Equipment Including Information Technology.

Employees may not use USDA telecommunications and Internet resources to earn outside income.

Employees may not use telecommunications, office equipment, or Internet resources for activities that are inappropriate or offensive to fellow employees or the public (e.g., accessing sexually explicit materials, hate speech, remarks ridiculing others based on race, creed, religion, color, gender, handicap, national origin, sexual orientation). See USDA Department Regulation (DR) 3300-1.

#### **18. Travel Associated with Alternate Worksites within the Duty Station**

- a. For purposes of this Section an employee's "regular place of work" is determined by Management and can be described by a specific physical address or coordinates.\*
  1. An employee's "regular place of work" is defined as the office or building where the employee spends the greatest part of their work time during the year, based on the preponderance of their duties.
  2. For field-going employees, the regular place of work is the experimental station, forest office, district office, or other facility out of which their work is performed.
- b. Management will only change regular places of work or official duty stations for legitimate business reasons. They will normally not be changed seasonally for the sole purpose of avoiding payment of travel associated with the employee reaching the location where work is to be performed.
- c. Agency will authorize local travel within the duty station if an employee is required to report to a location other than their regular place of work.\*
  1. The employee normally will use a Government owned Vehicle (GOV) for this local travel; however, if authorized a Privately Owned Vehicle (POV) can be used and the employee will be reimbursed at the appropriate rate in accordance with General Services Administration (GSA) mileage rates.
  2. When the employee elects to drive directly from home to a location other than their regular place of work but within their duty station, this will be considered their normal commute and as such is not compensable.
- d. The Parties at the appropriate level may negotiate alternate arrangements related to travel associated with changes in the regular place of work, consistent with applicable law, Government-wide rule or regulation, and this Master Agreement.
- e. This Section does not apply for positions that are advertised and accepted with two or more official duty stations or regular places of work.

## ARTICLE 5

### UNION RIGHTS AND REPRESENTATION

1. **Representation:** The National Federation of Federal Employees (NFFE) Federal District 1, IAMAW, is the exclusive representative of the employees in the Bargaining Unit and is entitled to act for these employees. 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.\*
  - a. The designated officers or representatives of the National Federation of Federal Employees, Forest Service Council (NFFE-FSC) have the right to represent the employees within the entire Bargaining Unit in the Forest Service. Vice Presidents (or their designees) of the NFFE-FSC have the right to represent employees within the Management Units to which they are assigned (that is, the Regions, the CCC, Research, and WO/WO-Detached).
  - b. If and when the Forest Service establishes new organization structures, the National Parties will discuss appropriate representational arrangements.
  - c. Local Lodge officers and representatives have the right to represent employees within the organized units that their Local Lodge represents.
  - d. For the purpose of administration of this Master Agreement, Management agrees to recognize representatives of the NFFE-IAMAW National Office and the NFFE-FSC in lieu of or in addition to Local Lodge officials.
  - e. Designation of Union Representatives: The Union will inform the appropriate Management official and Labor Relations Specialist in writing of its designated representatives within 14 days of the designation.\*
    1. National: The designated officials at the national level are the President, General Vice-President, and Secretary-Treasurer, NFFE-FSC.
    2. Intermediate: The NFFE-FSC Vice Presidents are the designated officials at the respective intermediate level (for example: Region, Research, CCC, WO). When there is no NFFE-FSC Vice President, the NFFE-FSC President is the designated official.
    3. NFFE-FSC officials at the National and Intermediate level may designate other union officials to act on their behalf.\*
    4. Local: The Local Lodge President is the designated official for each Local Lodge. When there is no Local Lodge President, the NFFE-FSC Vice President to which that Local Lodge is assigned will be the designated official.
      - a. The Local Lodge President may designate a Primary Point of Contact (PPOC) as the designated official for each organized unit represented by the Local Lodge. PPOC designations will include a description of their authority.\*
      - b. The Local Lodge President and PPOCs may designate additional representatives for specific matters, for each line organization, and for different shifts or duty stations. When there are any questions concerning the authority of the parties to make a binding decision, the parties are strongly encouraged to immediately resolve the issue.
2. The Union has the right to represent an employee or group of employees in presenting a grievance or other appeal or when raising matters of concern. The Union has the exclusive right to represent employees under the negotiated grievance procedure in this Master Agreement. The Union has the exclusive right to invoke arbitration on behalf of itself or the employees.\*

3. In providing effective representation, Union representatives will use the most economical and efficient efforts to resolve representational matters including use of current communication technologies whenever practical.\*
4. **Formal Discussions:** The Union will be given reasonable notice, the opportunity to attend, and the opportunity to participate in formal discussions. Notification of formal discussions will be sent to the Local Lodge President or PPOC, if designated. A formal discussion is any meeting between one or more representatives of the Forest Service and one or more Bargaining Unit employees concerning any grievance, personnel policy or practice, or other general condition of employment.\*
5. **Information Requests:** The Parties agree that information requests must articulate a particularized need necessary to respond to the proposal/issue. When the Union requests information pursuant to 5 USC 7114, any applicable time limits will be automatically extended equal to the number of days it takes to either receive the information or a written statement that the information does not exist or its release is barred by statutes. Information requests must be submitted to the designated Management official and the designated Labor Relations Specialist.
6. **Official Time**
  - a. Purpose of Official Time: Union officials who are employees will be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest, as prescribed by 5 USC § 7131, to perform the following representational functions.
    1. Review Management's proposals concerning negotiations and changes in policies, practices, and matters concerning working conditions.
    2. Prepare for negotiations and negotiate.
    3. Participate in proceedings before the FLRA in accordance with 7131(c).
    4. Receive, review, prepare, and present grievances.\*
    5. Visit, phone, and write to elected representatives in support of or opposition to pending or desired legislation that would impact working conditions of employees represented by the FSC. This provision is limited to FSC Council members or their designees.
    6. Attend the annual Union-sponsored congressional contact meeting. This provision is limited to a total of 12 Union officials and 320 total hours of official time. The 320-hour bank of hours or number of attending Union officials may be increased by agreement of the National Parties. Within 30 days prior to and then following the meeting, the FSC will provide the National Labor Relations Officer with a list of the employees, dates of travel, home unit, and the number of hours used by each employee.
    7. Perform other representational duties under the Statute and contract administration functions, such as:
      - a. meeting and conferring with management;
      - b. representing the labor organization in investigations pursuant to 5 USC 7114(a)(2)(B) (commonly referred to as Weingarten);
      - c. representing the labor organization in formal discussions;
      - d. representing employees concerning informal EEO complaints;
      - e. communicating to resolve potential grievances or regarding negotiations and negotiated agreements;
      - f. training for the purpose of improving union representational skills;
      - g. performing other representational functions where official time is allocated as specified in this Agreement;

- h. conducting research associated with representational matters; and
  - i. communicating with bargaining unit employees and other Union representatives regarding working conditions, conditions of employment, and other labor-management information; and
  - j. preparing reports required by 5 USC 7120(c).
- b. Union officials may be granted official time to represent employees concerning complaints, matters, or proceedings involving the Merit Systems Protection Board, Equal Employment Opportunity Commission, Office of Special Counsel, and Office of Workers Compensation.
- c. Official time will not be granted when:
- 1. Not authorized by statute or this Agreement.
  - 2. Conducting internal union business, as described in 5 USC 7131(b), including participating in membership drives, soliciting membership, and training on internal Union administrative items.
  - 3. A Union representative is placed on a Demonstration Opportunity Plan (DOP) in accordance with Article 21.
- 7. Procedures for Use of Official Time:** The Parties recognize the need to effectively balance agency work and Union representation of all bargaining unit employees. It is in both Parties' interest to minimize the time needed to administer official time.
- a. Union representatives and their supervisors are encouraged to agree to appropriate standing procedures for the use of official time. They will communicate as often as needed to balance representational and agency work, including communicating upcoming and planned Union activities, based on known events and representational trends. At a minimum, they will discuss the procedures needed for release from agency work, including for urgent matters that arise, such as Weingarten interviews, formal discussions on short notice, or urgent unexpected employee issues.\*
- b. Absent agreement on standing procedures above, the following applies: The Union official will request release from their supervisor as far in advance as practical, normally two days in advance. Unless the supervisor and union official mutually agree, the request will be in writing and will contain the following information:
- 1. The type of representation matter(s) (see Subsection 6.a),
  - 2. The date and approximate time,
  - 3. The approximate length of time needed,
  - 4. Location, and
  - 5. A way to contact when away from their normal duty station.
- c. Response to release requests: Management will respond within 1 business day of receipt of the request. If a union representative's supervisor is unavailable, requests will be sent to the designated acting supervisor or elevated to the second level supervisor if no such designation occurs.
- 1. If a release request is for any of the matters in Subsection 6.a above and there is no reason to delay the release, Management will agree to the request, consistent with 5 USC 7131. If a response is not given within 1 business day, the request will be conditionally approved. If Management notifies the Union that they disagree with this conditional approval, all official time used to that point is approved, and further release is subject to mutual agreement.

2. If a release request is for a discretionary matter in Subsection 6.b above and there is no reason to delay the release, Management may approve or deny the request, and the provisions for conditional release above do not apply.
  3. If a release must be delayed, Management will respond with a notice of delay in writing and include the reason and when the Union official will be released.
    - a. Normal workload will not preclude release. If the Union representatives cannot be released at the requested time due to work requirements or an emergency, the representative will be released when the workload requirements have been met or other arrangements have been made, normally no more than 24 hours after the request is made.
    - b. If a delay in releasing a Union representative involves a situation with a contractual time limit, the time limit will be extended equal to the delay.
  4. When the parties agree that the use of official time is appropriate but either party has questions or concerns about the amount of time requested, the parties will meet to discuss the request and attempt to reach an agreement.
  5. Denial for the use of official time under this Article will be in writing and will include the reason of the denial.
- d. Accounting for Official Time
1. Union representatives and their supervisors are mutually responsible for ensuring official time used is accurately recorded on their timesheets, using the following codes:
    - a. 35 – Term Negotiations, including preparation.
    - b. 36 – Mid-Term Negotiations, including preparation (national, regional, local).
    - c. 37 – General Labor Management Relations (all contract administration and representational activities except negotiations and grievances/appeals/complaints).
    - d. 38 – Grievances/Appeals/Complaints, including preparing and presenting.
- e. Official Time Allocations
1. NFFE-FSC Vice Presidents, Secretary-Treasurer, and Committee Chairs may use up to 1200 hours each, per agency fiscal year.
  2. All other Union representatives may use up to 750 hours each, per agency fiscal year.
  3. Time spent on the following activities on official time are not subject to, and do not count towards, these allocations:
    - a. Negotiating collective bargaining agreements and attending impasse procedures (see 5 USC 7131);
    - b. Attending the annual Union-sponsored congressional contact meeting, subject to the limits in Subsection 6.a.6.\*
    - c. Activities performed by the NFFE-FSC President and General Vice-President.
  4. The National Parties may mutually agree to increase these allocations for:
    - a. unforeseen circumstances;
    - b. no other equivalent steward available;
    - c. transition would require an unreasonable amount of official time;
    - d. limits jeopardize the Union’s ability to fulfill the duty of fair representation; or
    - e. other legitimate needs.
- f. Official Time and Work Schedules



1. Union officials who are on flexible work schedules may elect to earn credit hours for official time granted for performance of representational functions.
2. When meetings cannot be scheduled during representatives' normal schedules or tours of duty, and available representatives are not eligible for credit hours, Management has determined that a representative's schedule and/or tour of duty will be changed to meet the representational need.
3. Union officials are not entitled to compensatory time for travel for representational functions. However, Management will make a reasonable attempt to schedule meetings and other events which require a Union Official to travel at such times that the Union Official may be compensated. Use of or a temporary change to flexible work schedules may be appropriate to allow compensation for official time for travel.

g. Official Time and Pay

1. When the Parties agree, Permanent Seasonal employees in non-pay status who are needed to effectively resolve complaints and Labor-Management issues will be brought back into pay status as appropriately as mandated by applicable law or case law for the time spent administering this Master Agreement.\*
2. When a Union official has been granted official time, pay rates applied to the official time will include any shift differentials otherwise applicable to the representative's agency-assigned work during that shift.
3. Official time, including travel to and from meetings or Union sponsored training, will be excludable for Administratively Uncontrollable Overtime (AUO) calculation purposes when it is all or part of an aggregate 8-hour block of excludable activities in a day.

**8. Travel and Per Diem:**\* After official time is approved, the Parties at the appropriate level will work together to determine the most economical and efficient means of representation and will use current communication technologies whenever practical. When the parties agree in-person representation is necessary and promotes the proper and efficient administration of this Master Agreement, the following provisions for authorization and payment of travel and per diem apply:

- a. Travel must not commence until it is approved.
- b. Union representatives approved for travel will be paid travel and per diem.
- c. In some cases, Union representatives approved for travel may be individuals who are not the normal designated Union official or a locally available representative.\*
- d. Consistent with Federal Travel Regulations, a Union representative performing representational functions on approved Official Time may be approved to use a government owned vehicle (GOV) if available, a rental vehicle, or a privately owned vehicle (POV). A Union representative using a POV will receive the applicable GSA POV rate consistent with Federal Travel Regulations.
- e. The Agency will not pay for travel associated with training on internal union business.

**9. The Union in the Workplace:** The Parties agree the Union has an essential role in the Agency and collective bargaining in the civil service is in the public interest. Union officials, Union members, and union activity will be treated with the same dignity and respect that all Forest Service employees deserve, free from harassment and retaliation.

- a. Management will neither encourage nor discourage membership in the Union. Management will not engage in behavior that has a chilling effect on employees exercising their right to form, join, or assist the Union, such as:
  1. Being present at Union meetings or meetings between BUEs and the Union for representational purposes, unless invited; or
  2. Communicating disrespectfully about the Union to BUEs, electronically or in person.

- b. Management will not interfere, restrain, coerce, take or threaten an unlawful personnel action, retaliate or discriminate against any Union official because of the employee's association or interaction with the Union, or for actions taken in connection with this Master Agreement or applicable law or regulation.
- c. Each employee has the right to form, join, or assist any labor organization freely and without penalty or reprisal.
- d. The Union may conduct outreach, education, and/or formal membership drives with bargaining unit employees at any location, subject to normal safety and security limitations and so long as it does not disrupt work. Normal workload will not preclude Union visits. The Union official will notify the unit head before arriving and discuss arrangements when practical. Internal union business must be conducted by Union officials before and after duty hours, or at break periods and lunch periods and employees representing the Union must not be on official time.
- e. Upon request, Management will provide the Union with available, reasonable, and visible space, tables, bulletin boards, easels, and any other item reasonably available for use in the free exercise of a federal employee's right to join or assist a labor organization.
- f. Upon request by the Union, Management will assist Union business representatives and leadership in obtaining a PIV credential if eligible.
- g. Bypass: Management will not deal directly with employees about working conditions without Union involvement where Management must engage with the Union as an exclusive representative.
- h. Management should consult with the Union prior to distributing surveys to all employees to determine procedures and consider union interests. Subjects for consultation include whether: survey results will be made available to the Union; results will be made sortable by bargaining unit status; and participation would be improved if the Union surveyed its bargaining unit directly instead.
- i. Unfair Labor Practices: The Parties agree that avoiding ULPs is in the best interest of the public. Management and the Union will jointly develop training materials that will be used to train employees and management on the avoidance of ULPs.

**10. Bargaining Unit Status (BUS) Code Corrections:** The Parties agree it is important for the effective and efficient administration of this Agreement to ensure employees' BUS codes are correct, in accordance with the bargaining unit certification. The Union may request a bargaining unit status code correction at any time by submitting a HRM helpdesk ticket. Management will act on such requests within 2 pay periods and notify the Union of completion.

#### **11. Union Use of Office Space and Equipment**

- a. Office space to be used by the Union is a subject for bargaining at the local level. The Parties' intent is to provide exclusive office space and equipment, subject to space limitations and cost considerations.
- b. Upon request, each Local Lodge and each NFFE-FSC officer may be assigned reasonable, exclusive office space and equipment to conduct representational functions. When provided, Union office space will be reasonably private and secure, to assure confidentiality of records and conversations. Office equipment will include telephone service, a computer system, and standard office furniture. In cases where a Union official already has an assigned exclusive office for his or her normal work activities, such space may meet this requirement.
- c. When exclusive office space is unavailable, and the Union determines a need for a private space to conduct union representational activities, Union officials may request the use of available meeting space in a Forest Service facility and Management will provide that space as soon as possible for

the time slot requested. The local procedures already in place for requesting meeting space will be followed.

- d. Security of confidential materials may be assured by providing filing or storage cabinets capable of being locked. For internal security, maintenance, and custodial purposes, Management will retain access to any exclusive office space it provides.\*
- e. The Union will be responsible for the proper use and care of the facilities, services, and equipment provided in this Article.
- f. Union officials are allowed the use of a government computer for the performance of representational activities, even where their agency work does not require a computer.
  - 1. Upon their request, the FSC President and General Vice President will be issued government cell phones for representational activities, if their agency work does not require a cell phone.
  - 2. If a Union official requests to be issued a government computer or cell phone in accordance with this Article, the following procedures will be followed:
    - a. Union Officials: Notify their supervisor if they need a computer (and/or a cell phone in the case of the FSC President or GVP) for their representational duties and return such government equipment when their Union duties end.
    - b. Supervisors: Following a request from an employee who serves as a union official, the supervisor will submit a request through the CIO Products and Services Catalog (<https://fswb.wo.fs.fed.us/cio/service-catalog>) to issue the computer or cell phone. The supervisor will coordinate with their servicing Labor Relations Specialist when submitting the request. Finally, the supervisor will ensure the employee returns their government equipment when they leave their union role.

## **12. Union Use of Electronic Communication Systems\***

- a. Electronic Communications systems are defined as the computer system, video teleconferencing, fax, and land-line phone system.
- b. Current government communication technologies and government equipment may be used for communicating regarding working conditions or joining or assisting the Union. Use of communications systems will be consistent with applicable laws, regulations, and Agency policies, and may not interfere with the mission or operation of the Forest Service.\*
- c. The Parties agree that communications between Management and the Union over electronic communications will be professional.
- d. Union officials will be authorized to use communications systems for representational purposes as defined in this Article.
- e. Management will not access Union electronic records except during internal security investigations or to delete or migrate the records. Prior to deletion or migration, the Union will be notified and given an opportunity to access the Union records.

## **13. Posting of Information**

- a. Bulletin board space of at least 24 by 36 inches for posting notices and literature, limited to NFFE Local Lodge use only, will be available at each location where there is an employee information bulletin board.
- b. Additional bulletin boards and/or space on a bulletin board may be negotiated at the local level.
- c. Management will provide space on the Agency intranet for the Union to post and maintain information, subject of the approval of the content by management.\*

- 14. List of Employees:** Upon request, Management agrees to furnish to the Union, at the appropriate level:
- a. Usually not more than quarterly, an up-to-date list of employees in the organizational unit showing name, position, title, grade, step, Bargaining Unit Status (BUS) code, Fair Labor Standards Act code, official duty station, and position type.
  - b. Usually not more than bi-annually, the list of employees and other information in a. will be provided with the addition of bargaining unit employee Agency email addresses.
- 15. Publications:** Management agrees to provide to Union representatives and employees internet access to information such as the Forest Service Manuals (FSM), Position Classification Standards, and other publications. When the availability of the above information changes, it is an appropriate subject for impact and implementation bargaining under Article 11. Access to other reference materials may be negotiated at the appropriate level unless prohibited by law, rule, or regulation.
- 16.** The Union will be invited to present their rights and responsibilities to the law enforcement community at any regional annual law enforcement meeting. The Union may also advise all Bargaining Unit employees of their right to Union representation at any other times they determine necessary.

## ARTICLE 6

### MANAGEMENT RIGHTS

1. The following Management rights are identified in 5 USC 7106 Management Rights 5 USC 7106:
  - a. Subject to Subsection b of this Section, nothing in this chapter shall affect the authority of any management official of any agency—
    1. to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and
    2. in accordance with applicable laws—
      - a. to 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;
      - b. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
      - c. with respect to filling positions, to make selections for appointments from
        1. among properly ranked and certified candidates for promotion; or
        2. any other appropriate source.
      - d. to take whatever actions may be necessary to carry out the agency mission during emergencies.
  - b. Nothing in this Section shall preclude any agency and any labor organization from negotiating—
    1. at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
    2. procedures which management officials of the agency will observe in exercising any authority under this Section; or
    3. appropriate arrangements for employees adversely affected by the exercise of any authority under this Section by such management officials.
2. The Parties may continue to address Management rights issues when mutually agreed.

## ARTICLE 7

### WORK LIFE BALANCE

1. The Parties agree that by supporting Forest Service employees in balancing the responsibilities of work, family, and community, we create a work environment that supports the agency's productivity, engagement, and overall organizational success, and help create healthy communities for all citizens.
2. From time-to-time employees may find themselves in situations that have a short-term negative impact on their well-being. Management and the affected employee will actively cooperate on temporary adjustments that meet both the needs of the employee and the agency. This may include making temporary adjustments to employees' schedules.
3. In the event that Management elects to establish a Childcare Subsidy Program under DR 4080-811-01, the Parties may negotiate in accordance with Article 11.
4. **Children in the Workplace:** Management may approve employees bringing their dependent children into the workplace on an occasional or brief basis. It should not be allowed where there is an impact on safety or disruption to other employees, productivity, or scheduling. Employees are responsible for the supervision of their children at all times. It should be considered only when no other practical alternatives exist. Local parties may negotiate children-in-the-workplace policies.
5. **Nursing Mothers' Room:** Management will provide a room for nursing mothers. This room is a private space a nursing mother can use to breast feed or express milk. This space must be shielded from view and free from intrusion of others. A nursing mother's room must be functional, with a private space, a place to sit, and a flat surface, other than the floor, to place the breast pump and other supplies. Although there are no size or permanency requirements, these rooms should provide access to electricity for the use of a breast pump, as well as good lighting, a comfortable temperature, and proper ventilation. Further, a room for nursing mothers should be clean and agencies should provide cleaning wipes and paper towels. Nursing mother's rooms with exceptional accommodations may include a breast pump provided by the agency, refrigerator, microwave for sterilization of breast pump parts, comfortable chair, table, clock, mirror, and sink. Arrangements can be negotiated at the local level.
6. Employees should not have to choose between nursing and fulfilling work duties. As such, infants may accompany employees on official travel to breastfeed until the infant is one year old. Management may reimburse covered expenses such as reasonable commercial shipping fees, excess baggage, disposable storage bags or non-durable containers, cold shipping packages, refrigeration, and transport. Infants will generally not incur extra costs for transportation, lodging, or meals. If there are extra expenses associated with the infant's travel, the employee will assume those costs. Spouses, nannies, or other caregivers can accompany the employee on the trip to watch the child. However, if there are extra expenses associated with caregiver travel, the employee will assume those costs. Employees may take reasonable breaks for breastfeeding.
7. **Duty Related Travel:** When traveling by commercial carriers (e.g., taxis, shuttles, airplanes, ferries, etc.) or personal vehicles, dependents may accompany employees on official travel at the employee's expense. Dependents of employees will not be authorized to accompany employees in official vehicles. Employees may request permission to drive their privately owned vehicles (POV) and transport their dependents. The employee will be reimbursed consistent with the Federal Travel Regulations.
8. **Commuting Subsidy:** The agency manages, coordinates, and supports participation in the Department of Transportation (DOT), TRANServe (Transit Subsidy) Program. Approved federal employees committed to using mass transportation for their home-to-work/work-to-home commute are eligible to receive the federal transit subsidy and may apply using the agency's established

TRANServe application process. See <https://www.transportation.gov/transerve/participants> and <https://fsweb.wo.fs.fed.us/pps/pages/pps-internal/?tab=transit-benefits>

9. The Agency will fairly administer a Student Loan Repayment Program (SLRP) pursuant to its authority under 5 USC § 5379 and DR 4050-537, subject to the sufficient availability of funds. Employees receiving payments under this program will be required to enter into Continuing Service Agreements (CSAs) specifying the term of service and any other conditions consistent with the amount of the repayment. Management will use the template in DR 4050-537 Appendix B.

The Public Service Loan Forgiveness Program administered by the Department of Education is also available to employees.

10. The Parties agree promoting continuing education may allow employees to meet career goals and benefit the Agency. Management will consider and fairly approve or deny all requests from employees seeking to pursue continuing education, including educational opportunities outside the agency.
- a. For education or trainings that support mission requirements and are consistent with the individual development plan (IDP) process, and in accordance with applicable regulations:
    1. Management may pay all or part of the time worked, except overtime, holiday, or night differential.
    2. Management may pay, or reimburse an employee, for necessary expenses incurred in connection with approved training.
  - b. For education or trainings that do not support mission requirements, supervisors and employees may mutually agree to work schedules that accommodate employee education goals. See Section 2 of this Article, Article 18, and 5 CFR 610.122.

#### **11. Continued Service Agreements for Training**

- a. A continued service agreement is an agreement an employee makes to continue to work for the Government for a pre-established length of time in exchange for Government- sponsored training or education. The service obligation begins when the training is completed. If the employee voluntarily leaves Government service before completing the service obligation, he or she must generally repay the Government all or some of the costs of the training (excluding salary).
- b. Agencies may require service agreements for training of long duration or of high cost. 5 CFR 410.101, 410.309, and 410.310 provide a formula for determining service agreement requirements for academic degree training.

12. **Accepting Reimbursement of Meeting Expenses:** A special provision of training law allows agencies to establish procedures under which employees may accept payment or reimbursement of travel, subsistence from a non-profit organization, and other expenses incidental to attending meetings. Accepting meeting expenses must not compromise the integrity of the employee or represent a payment of services rendered to the non-profit organization prior to the meeting. Prior approval from a designated high-level official is required, often following a consultation with, or review by, the designated agency ethics official (Ethics-NRE@usda.gov). See 5 USC 4111.

13. **Professional Organization Memberships:** 5 USC 5946(1) prohibits the use of appropriated funds to pay for individual employee memberships in professional associations and societies. However, there are several ways for an agency to obtain the professional, scientific, and technological information those associations provide their members. For example, association membership is often included in registration fees for a conference or meeting. If the agency pays the registration fees, the employee's membership in the association is an incidental by-product of meeting attendance. In addition, agencies may purchase an organizational membership in the association or society. They may also purchase a membership for a specific agency position, such as the position of Medical Director. The

incumbent in that position uses the membership to improve the conduct, supervision, or management of his/her function.

- 14. Mental Health and Wellbeing:** Employees' mental health and wellbeing are vital to creating a work environment that supports the agency's productivity, engagement, and overall organizational success. The Parties support comprehensive health, wellness, and resilience—physical, mental, and emotional.
  - a. Sick leave can be used for mental health. Requests to use sick leave for mental health should be treated like requests to use sick leave for other types of health.
  - b. The Agency offers an employee assistance program in accordance with Article 26.
  - c. Management will engage the Union on developing employee mental health and wellbeing programs, training, and awareness.
- 15. Assistance to Families:** Management will offer assistance to families of deceased employees in completing necessary documents.
- 16. Honor Guard for Non-Line of Duty and Retiree Deaths:** The Chief or designated acting may approve using the Forest Service Honor Guard in a memorial service honoring Forest Service employees whose deaths did not occur in the performance of their official duties and retirees. Travel expenses may be authorized. Requests should be submitted through the chain of command to the Regional Forester or Station Director. Management will promptly respond to these requests. See FSH 1309.13. For further information, contact the national Casualty Assistance Program manager.
- 17.** Employees may request to have a dog or other animal accompany them in the workplace, including the field, through the reasonable accommodation process.



## ARTICLE 8

### ALTERNATIVE DISPUTE RESOLUTION

1. Alternative Dispute Resolution (ADR). There are a number of ADR techniques by which disputes can be resolved at a level that usually does not include an administrative hearing or litigation (for example, informal consultation, group intervention, mediation, work group assessment, facilitation, etc.).
2. The parties involved in the dispute may use any mutually acceptable dispute resolution process and neutral third party, if they so choose.
3. Any neutral party used in resolving workplace disputes will report to the appropriate NFFE-FSC Vice-President and Conflict Management Program (CMP) Manager:
  - a. ADR technique used (CMP, Positive Work Environment, negotiated, or other).
  - b. Outcome of Resolution Process (successful or not).
4. The Conflict Management and Prevention Program has been established as a Forest Service ADR resource for workplace disputes. Additional ADR techniques, forms, and processes can be negotiated at the appropriate level.
5. If the parties elect to use the ADR technique of mediation, the neutral selected for mediation must meet the requirements of U.S. Department of Agriculture Departmental Regulation 4710-001, dated April 5, 2006.
6. In resolving grievances through the use of ADR techniques, the Settlement Template in Appendix D must be used.
7. When an issue other than a grievance is settled through the use of ADR techniques, the Parties recommend that the settlement be documented in writing, and that the following items be considered in documenting this agreement:
  - a. Terms and conditions of agreement, including steps to be taken if one of the parties does not comply.
  - b. Timelines for action items: include who, what, when, how, and why.
  - c. Monitoring and follow-up clauses.
  - d. Degree of confidentiality.
  - e. Duration of agreement.
  - f. Signatures of the parties.
  - g. Distribution of the agreement.
8. The use of ADR does not automatically extend any timelines in this Master Agreement. Grievance timelines may be extended under the provisions of Article 9.

## ARTICLE 9

### GRIEVANCES

1. **Common Goal:** The purpose of this Article is to provide a mutually acceptable method for the expeditious resolution of workplace issues raised by the parties and/or employees pursuant to 5 USC 7121. The Parties agree that grievances should be resolved in an orderly, efficient, and equitable manner that will maintain the self-respect of the employee and be consistent with the principles of good management and the public interest. The Parties are committed to making every effort at resolving issues at the lowest level possible. The parties are encouraged to use technologies that reduce the need for travel.
2. **Grievance Prevention:** Most grievances arise from misunderstandings or disputes that can be resolved promptly and satisfactorily on an informal basis. To resolve issues that may result in grievances, potential grievants are encouraged to contact and discuss their concerns with the other party. However, such discussions prior to the start of the grievance process do not extend any time frames unless mutually agreed to in writing.
3. **Definitions:** Grievance means any complaint by any—
  - a. Employee concerning any matter relating to his or her employment.
  - b. Labor organization concerning any matter relating to the employment of any employee.
  - c. Employee, Labor organization, or Agency concerning—
    1. The effect or interpretation, or a claim of breach, of a collective bargaining agreement.
    2. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
4. **Application**
  - a. A grievance may be filed by an employee or a group of employees, by the Union, or by Management.
  - b. Only the Union, or a representative designated by the Union, may represent employees in such grievances. Designations may be done electronically.
  - c. Any employee or group of employees may personally present a grievance and have it resolved without representation by the Local Lodge provided that the Local Lodge will be given an opportunity to be present and participate on behalf of the bargaining unit at all formal discussions between the grievant(s) and management pertaining to the grievance.
  - d. All transmittals in this Article shall be done by electronic means, unless electronic means are impractical.\*
  - e. **Grievance Resolution Meetings.** Meetings to resolve grievances filed under the negotiated grievance procedure are formal discussions to which Union representatives must be invited. The Parties will follow Article 5 as it applies to Union representation in these meetings. The parties will inform one another of whom the Union and Management representatives and participants will be prior to the meeting. No more than one Union representative will be granted official time for a grievance meeting; however, this provision in no way restricts the parties' right to invite additional participants at their own cost.
5. **Exclusions:** The following items are excluded from the grievance procedure to the extent provided by statutes and case law:
  - a. Any claimed violation of 5 USC 73, Subchapter III relating to prohibited political activities (Hatch Act).
  - b. Retirement, life insurance, or health insurance.
  - c. A suspension or removal under 5 USC 7532 (national security reasons).

- d. Any examination, certification, or appointment.\*
- e. The classification of any position that does not result in the reduction in grade or pay of an employee.\*

The following additional items are excluded from the grievance procedure:\*

- f. Reduction in Force or furloughs of more than 30 days.
- g. Separations during a probationary or trial period. Grievance rights of probationary or trial employees will be consistent with their appellant rights before the Merit Systems Protection Board (MSPB).
- h. Separation or a reduction-in-grade taken against specific employees who have no statutory right to appeal those adverse personnel actions to the MSPB. (This exclusion shall be null and void should a decision by mutual agreement of the Parties or by a third party be rendered that a precedential change in case law occurred that approves or provides for grievances of this nature).
- i. Non-disciplinary letters pertaining to cautionary situations (Article 22.4).\*
- j. The assignment of ratings of record, when those rating are fully successful or above.
- k. The award of any form of incentive pay, including cash awards, quality step increases, or recruitment, retention, or relocation payments, except in cases of administrative error.
- l. Bills of Collection for \$100 or more issued to employees, which are covered by special process in Article 4.
- m. Collections from accountable officers (unless case law makes it grievable).

#### **6. Election of Forum\***

- a. Filing a grievance constitutes an election of forum. If the grievance forum is selected, then generally a complaint may not be filed on the same issue/same theory in the forums identified in 6.b below. Conversely, a complaint filed in one of the forums in 6.b below will bar a grievance over the same issue/same theory.
- b. For those matters that are grievable, this procedure shall be the exclusive procedure for the parties and employees. However, nothing in this Section shall prevent employees from electing instead to exercise their statutory rights to:
  - 1. File a formal Equal Employment Opportunity complaint.\*
  - 2. Appeal adverse actions (5 USC 7512) or actions for unacceptable performance (5 USC 4303) to the MSPB.
  - 3. File an unfair labor practice charge with the Federal Labor Relations Authority.
  - 4. File complaints for corrective action from the Office of Special Counsel.\*
- c. If an agency listed above determines that they have jurisdiction to hear an appeal or complaint of an employee who filed a grievance in writing on the same issue, the grievance will be cancelled.
- d. Nothing in this Article shall prevent an employee from filing a complaint with Office of Special Counsel.\*

#### **7. Step 1 Grievance Procedure**

- a. A Step 1 Grievance must be filed prior to filing a Step 2 Grievance except for grievances regarding:
  - 1. Union release for official time under Article 5,
  - 2. Actions under 5 USC 7512 (Adverse Actions) or 5 USC 4303 (Unacceptable Performance), or
  - 3. Violation of Article 16 procedures,
 which are grieved directly at the Step 2 level.

- b. For all other grievances, the grievant and/or representative must file the Step 1 Grievance with the appropriate Step 1 Receiving Official in writing with a carbon copy to the designated Labor Relations Specialist within 30 days of the incident resulting in the complaint or the date the grievant first became aware of the matter.
- c. Step 1 Grievance notification: When submitting a Step 1 Grievance, the grievant or his or her representative shall:
  - 1. Identify that this is a “Step 1 Grievance.” Grievants shall state this identification in the subject of e-mail or hard copy document.
  - 2. Identify the incident resulting in the complaint.
  - 3. Identify the date of the incident.
  - 4. Include to the fullest extent possible information on the alleged violation(s) of the Master Agreement, supplemental or subordinate agreements, or any law, rule, regulation or policy incident.\*
  - 5. Identify relief requested.
  - 6. Optional—Provide suggested alternative dispute resolution techniques for resolving grievances.
- d. The parties may resolve the grievance using an alternative dispute resolution technique acceptable to both parties (see Section 12 on Settlements).\* If no settlement is reached, the Step 1 Deciding Official will transmit a written decision to the grievant and the Union within 30 days after transmittal of the Step 1 Grievance.
  - 1. For Local Lodge and employee grievances, Management will carbon copy the appropriate Council Vice President.
  - 2. For Management grievances, the Union will carbon copy the designated Labor Relations Specialist.
  - 3. Included within such decision shall be a statement indicating the grievant’s right to submit a Step 2 Grievance.

## **8. Step 2 Grievance Procedure**

- a. If the grievant is dissatisfied with the Step 1 Decision, the grievant may file a Step 2 Grievance with the appropriate Step 2 Receiving Official within 30 days of receiving the Step 1 Grievance Decision. If a Decision is not received within 30 days of the transmittal of the Step 1 Grievance, the grievant may file a Step 2 Grievance within 30 days of when the Step 1 Decision was due.
- b. In the case of grievances filed over disputes regarding release for official time under Article 5, no Step 1 grievance is required. The Union must file a Step 2 Grievance with the appropriate Step 2 official within 30 days of the notification.
- c. In the case of grievances filed in response to a written decision letter notifying the employee of an action under 5 USC 7512 (Adverse Actions) or 5 USC 4303 (Unacceptable Performance), no Step 1 grievance is required. An employee must file a Step 2 grievance within 30 days of the effective date of the action or within 30 days after receipt of the Agency’s decision, whichever is later.
- d. In the case of grievances filed over disputes regarding violations of Article 16, no Step 1 grievance is required. In these instances, a Step 2 Grievance must be filed with the appropriate Step 2 official within 30 days of the incident resulting in the complaint or the date the grievant first became aware of the matter.
- e. A Step 2 Grievance will contain the following:
  - 1. Subject identifying that this is a “Step 2 Grievance.” Grievants shall state this identification in the subject of the e-mail or hard copy document.
  - 2. A copy of the Step 1 Grievance and supporting documents, if applicable.
  - 3. A copy of the Step 1 Grievance Decision (if one was received).
  - 4. The issue(s) being grieved at this Step.

5. Any additional supporting evidence available at the time. (Note: If additional information comes to hand after submittal, provide information and continue to attempt to resolve.)
6. The relief requested.
- f. The grievant/representative is encouraged to include citations of the alleged violation, misinterpretation, or misapplication of the Master Agreement, supplemental agreements, subordinate agreements, or any law, rule, regulation or policy affecting conditions of employment, if applicable.
- g. The grievant shall file the Step 2 Grievance with the appropriate Step 2 Receiving Official with a carbon copy to the designated Labor Relations Specialist.
- h. The parties may resolve the grievance using an alternative dispute resolution technique that is acceptable to both parties (see Section 12).\* If no settlement is reached, the Step 2 Deciding Official will transmit a written decision to the grievant and Union within 30 days after transmittal of the Step 2 Grievance. The written decision letter will identify the right to arbitration, supporting documents, and appropriate citations, if applicable. The Parties encourage including supporting rationale in the decision letter.
  1. For Local Lodge and employee grievances, Management will carbon copy the appropriate Council Vice President.
  2. For Management grievances, the Union will carbon copy the designated Labor Relations specialist.
- i. This response shall be the final Agency or Union decision on the grievance.
- j. If the grievance is not resolved, the matter may be referred to arbitration in accordance with Article 10.
- k. If mediation has not been used previously, the parties are strongly encouraged to engage in mediation prior to arbitration. This does not affect time limits for invoking arbitration.

**9. Grievance Receiving Officials**

- a. Local Lodge or employee(s) file grievances with the respective individual(s) listed.

Organization	Step 1	Step 2
JCCC Center	Center Director	Appropriate National JCCCC Assistant Director (AD)
JCCCC National Office	Appropriate National JCCCC AD	JCCCC National Director
National Forests	Forest Supervisor	Deputy Regional Forester (DRF)
Regional Office	Staff Director (if there is one) or DRF	DRF or Regional Forester if Step 1 filed with DRF
Research Station, IITF, or FPL	Assistant Station Director or Program Manager	Assistant Station Director, Deputy Station Director, or Director
National Technology and Development Program	Director	WO Engineering Staff Director

Organization	Step 1	Step 2
Washington Office	Staff Director (if there is one) or the Associate Deputy Chief (ADC)	Appropriate Deputy Chief
Law Enforcement & Investigations (LE&I) Field	Special Agent in Charge	Deputy Director
LE&I and Local Lodge grievance that affects more than one Region	Deputy Director	National Director
Chief Information Office (CIO)	Deputy Director of CIO	Director of CIO
Budget and Finance (B&F)	Deputy Director of B&F	Director of B&F
Enterprise Teams	Director	ADC for Business Operations
Other WO-detached (for example CAT)	Appropriate Staff Director	Appropriate ADC
Human Resource Management (HRM)	Assistant Director	Director of HRM
Unit not identified above	Designated Labor Relations Specialist	Designated Labor Relations Specialist

- b. Intermediate or National Union officials or their designees file grievances with the respective individual(s) listed.

Organization	Step 1	Step 2
JCCCC Vice President (VP)	Chief of Staff of JCCCC	National Director of JCCCC
National Forest System VP	Deputy Regional Forester	Regional Forester
WO and WO-detached VP	Appropriate Staff Director	Appropriate Associate Deputy Chief (ADC)
Research VP	ADC, Research	Deputy Chief, Research
NFFE-FSC President	ADC, Business Operations	Deputy Chief, Business Operations

- c. Management officials or their designees file grievances with the respective individual(s) listed at the right:

Organization	Step 1	Step 2
Local Manager	Local Lodge President or PPOC	Appropriate NFFE-FSC Vice President
Intermediate Manager	Appropriate NFFE-FSC Vice President	NFFE-FSC President
National Manager	NFFE-FSC Grievance Chair	NFFE-FSC President

### 10. Authority

- a. The party receiving the grievance will forward the grievance to the Deciding Official who will act upon the grievance. If different from the Receiving Official, the name of the Deciding Official will be communicated to the grievant as soon as practical, normally within ten (10) days of receipt of the grievance. For Union or employee grievances, a copy will be sent to the Union Official designated to handle the grievance or the Local Lodge President/PPOC if no Union Official has been designated.\*
- b. The Deciding Official must have full authority to resolve all issues being grieved.
- c. The Step 2 Deciding Official shall not be the same as or subordinate to the Step 1 Deciding Official.
- d. In the case of a grievance involving disciplinary action, it is not appropriate for the grievance Deciding Official to be the same individual as or subordinate to the Deciding Official for the disciplinary action.

### 11. Time Limits

- a. Time limits for this Article start with “Day One” on the day following occurrence of the incident being grieved or when the grievant became aware of the issue, transmittal of the grievance to the Receiving Official, or the transmittal of the decision to the grieving party.
- b. The intent of the National Parties is for all participants to act within the time limits allowed within this Article. However, time limits in this Article may be extended by mutual written consent of the parties involved in the grievance.
- c. When information needed by Management to process a grievance is requested from a grievant or the Union, the time limits will be extended equal to the amount of time required to receive the requested information but not more than 15 days. If the information is not received during that time period, Management will render a decision based on the information they have at the time.
- d. When information needed by the Union to process a grievance or to determine whether a grievance exists is requested from Management, any applicable time limits will be automatically extended equal to the number of days it takes to either receive the information or a written statement that the information does not exist or its release is barred by statute.
- e. Failure by the grieving party to meet time limits, or to request and receive an extension of time, shall automatically terminate the grievance, unless mitigating circumstances prevail.\*
- f. Failure of the deciding official to meet time limits on grievances, or to request and receive an extension of time, shall result in the deciding party’s liability for the arbitrator’s fees and expenses, unless mitigating circumstances prevail.\*

### 12. Settlement of Grievances

- a. Any grievance that is jointly agreed to be resolved will be documented in a written settlement agreement using the settlement agreement template (Appendix D), which the grievant, Union, and the Deciding Official will sign and date.

- b. Any settlement agreement constitutes a full and final resolution of any and all alleged issues raised in the grievance thereby terminating the grievance.
- c. If a party believes that another party has failed to comply with the terms of the agreement, the party may:
  - 1. File a new Step 1 grievance requesting that the terms of the settlement agreement be specifically implemented, OR
  - 2. Reinstate the grievance at the next step from where the settlement occurred, if applicable.\*
 Either 1 or 2 above must be done within 30 days following the date on which the grievant knew or should have known of alleged noncompliance.
- d. Any settlement must be consistent with the terms of this Master Agreement and applicable Supplemental Agreements.
- e. Regardless of whether the Union is representing an employee in a grievance, the Union will be given the opportunity to be present in all grievance settlement discussions. The Union will be given a copy of all grievance settlement agreements, within 14 days of signing, redacted as necessary to comply with the Privacy Act.

**13. Grievance Termination:** A grievance will terminate—

- a. At the grievant's request.
- b. Upon termination of employment with the Agency, unless personal relief to the employee may be granted after termination of employment.
- c. Upon the death of the employee, unless the grievance involves a question of pay.
- d. Upon failure by the grieving party to meet time limits, or to request and receive an extension of time, unless mitigating circumstances prevail.



## ARTICLE 10

### ARBITRATION

1. **Introduction:** If the decision on a grievance processed under the negotiated grievance procedure is not acceptable, the issue may be submitted to arbitration. For simple, nonprecedential cases in which the facts are not in dispute, the parties may agree to use an expedited process as described in Section 10 of this Article. The invoking party is encouraged to discuss using expedited arbitration with the responding party prior to invoking arbitration, so that an appropriate list of arbitrators can be obtained.
2. **Process for Invoking Arbitration of a Grievance\***
  - a. Prior to invoking arbitration, the invoking party will submit a request to the Federal Mediation and Conciliation Service (FMCS) or the American Arbitration Association (AAA) for a list of seven impartial persons qualified to act as arbitrator.
  - b. The notice invoking arbitration must be in writing, signed by an Officer of the NFFE-FSC or the Local Lodge President, or the appropriate Management official, and submitted to the other party within 28 days following issuance of the final grievance decision. If a final grievance decision is not received within the established timeframe per Article 9, then the 28-day timeframe to invoke arbitration begins the day after the final grievance decision was due. An invocation-of-arbitration notice will include a copy of the list, or a copy of the request for a list, of FMCS- or AAA-certified arbitrators. Failure to invoke arbitration within the 28 days will result in termination of the grievance.
  - c. After arbitration is invoked, the parties may mutually agree to use a dispute resolution process. Use of the dispute resolution process does not suspend any of the timeframes in this Article unless mutually agreed by the parties.
  - d. The party invoking arbitration may opt to postpone the arbitration hearing date, if that party has filed an Unfair Labor Practice charge alleging information relevant to the case has been withheld, until the Federal Labor Relations Authority (FLRA) has rendered its decision.
3. Where there are a number of grievances concerning the same issue, the parties will review the issue and may mutually agree to combine the grievances for a single decision on all the cases by the arbitrator.
4. **Selecting the Arbitrator:** Unless otherwise agreed, the following process will be used:
  - a. Within 21 days after receipt of the list of arbitrators, Management and the Union will confer to select an arbitrator. If either party fails to participate in the selection process, the other party will make a selection of the arbitrator from the list.
  - b. If the parties cannot agree on an arbitrator from the list, each party will strike one name in turn from the list. The determination of which party will strike first from the list will be determined by the flip of a coin. After each party has struck three names from the list, the remaining person will serve as the arbitrator.
5. **Submissions**
  - a. The parties are encouraged to jointly frame the issue(s) prior to the start of the arbitration hearing.
  - b. If the parties cannot agree on a joint statement of the issues, they will submit separate statements to each other and to the arbitrator. The arbitrator will decide the issues to be heard on this basis.
6. **Arbitration Process**
  - a. If the parties do not agree to expedited arbitration, a formal hearing will be held.
  - b. The parties agree that Union and Management representatives for each arbitration will be limited to two representatives: a lead representative and a technical representative for each party, unless

otherwise agreed. The representatives will be identified as soon as possible to each other prior to the hearing.

- c. The parties agree to exchange witness lists and/or information that is germane to the case with each other prior to the arbitration through a designated official. This period of exchanging witness lists and requesting information will end 14 days prior to the arbitration date. Information germane to the case will be furnished to the parties no later than 10 days prior to the arbitration hearing. Questions raised as to whether a witness is necessary or information is germane will be resolved by the arbitrator.
- d. Upon selection of the arbitrator in a particular case, the respective representatives for the parties will communicate jointly with the arbitrator and each other in order to select a mutually agreeable date for the arbitration hearing. The parties will endeavor to schedule the hearing within 90 days after arbitration is invoked. If the parties are unable to mutually agree and schedule a hearing date within 90 days, the arbitrator will select a date.
- e. If the arbitrator is not available within the timeframe, the parties will agree either to extend the timeframe or select a different arbitrator.
- f. All communications with the arbitrator will include the other party unless otherwise mutually agreed.
- g. The arbitrator will be requested to render the decision and remedy to the parties as quickly as possible, but, in any event, no later than 30 days after the conclusion of the process as described above, unless the parties otherwise agree.
- h. The arbitrator's decision will be final and binding, unless an exception is filed with the FLRA or judicial review is sought. If no exception/review is filed, the arbitrator's decision and remedy will be implemented.
- i. The intent of the parties is for all participants to act within the time limits allowed within this Article. However, time limits in this Article may be extended by mutual consent.

## **7. Authority**

- a. The arbitrator's authority is limited to the adjudication of issues that were raised in the grievance procedure or pursuant to Section 9. The arbitrator will not have authority to add to, subtract from, or modify any of the terms of this Master Agreement, or any supplement thereto.
- b. In considering grievances concerning actions based on unacceptable performance and adverse actions appealable to the Merit Systems Protection Board (MSPB), the arbitrator will be governed by 5 USC 7701(c)(1) and, to the extent applicable, by the precedential decisions of MSPB.
- c. The arbitrator will have the authority to require the parties to produce information to the extent allowed by statute, law, and/or regulation.

## **8. Fees and Expenses\***

- a. Unless Article 9.11.f applies, the cost of arbitration, including panel request fees and arbitrator's fees and expenses, will be borne by the losing party. When a decision does not clearly favor one party's position over the other, the arbitrator may specify that all costs should be borne equally by the parties.
- b. The cost of arbitration expenses for threshold or enforcement issues will be paid by the losing Party in each proceeding.
- c. If a clarification of an arbitrator's decision is necessary, the requesting party will pay for the additional arbitration fees and expenses. The arbitrator will be requested to complete the clarification within 30 days. If jointly requested, the costs will be shared.
- d. An employee who is found to have been affected by an unjustified or unwarranted personnel action that has resulted in the withdrawal or reduction of all or part of the pay, allowances, or

differentials of the employee is entitled, on correction of the personnel action, to receive reasonable attorney fees related to the personnel action, awarded in accordance with standards established under 5 USC 7701(g).

- e. The arbitration hearing will be held, if possible, on Management's premises and during the regular day-shift hours, unless mutually agreed otherwise.
- f. Absent an emergency or other special circumstance, the grievant and any employee called as a witness, under Subsection 6.c, will be released from duty to the extent necessary to participate in the scheduled official proceedings. Their participation will be on official time and with travel expenses as authorized in agency travel regulations. If Management determines that the grievant or an employee called as a necessary witness cannot be released to participate at the scheduled time, Management will notify the Arbitrator and the Union as soon as practical and explain why the employee(s) must be withheld from participating and when Management expects to be able to make the employee(s) available. The parties will defer to any ruling by the Arbitrator as to how to resolve the issue. If Management determines that the grievant or an employee called as a witness cannot be released at the scheduled time, Management will be considered to have raised the issue, and Subsection 8.i, below, will apply.
- g. Those Union representatives employed by the Forest Service will be entitled to official time, travel, and per diem expenses.
- h. Employee participants on shifts other than the regular day shift will be temporarily placed on the regular day shift for the pay period(s) of the hearing in which they are involved.
- i. If threshold or other issues are raised later than the arbitrator's cancellation date, then the party raising the issue will be responsible for the costs incurred to reschedule the arbitration on the merits of the grievance unless mutually agreed otherwise by the parties.
- j. Transcripts. The cost of a transcript, requested by one party for its exclusive use and not shared, will be borne by the requesting party. If it is mutually agreed to request a transcript, the cost will be borne equally.

#### **9. Grievability/Arbitrability/Timeliness Threshold Determinations**

- a. The Parties agree that threshold issues should be raised as soon as possible, preferably during the grievance process. If not raised during the grievance process, the parties will raise threshold issues by submission of a written statement of the issue, including any supporting documentation, to the other party. Generally, all threshold issues should be raised at the same time. If the parties are unable to resolve the threshold issues themselves, unresolved threshold issues may be submitted for arbitration. The arbitrator to whom the issue is submitted will have the authority to settle the threshold issue.
- b. Either Party may raise threshold issues of grievability or arbitrability in accordance with other provisions of this Master Agreement. The hearing will be bifurcated when threshold issues are raised. The Party requesting bifurcation will bear the cost of requesting the list of arbitrators for the threshold issues. The arbitrator will decide threshold issues based on a telephonic hearing or on briefs, but normally not both. The arbitrator may not convene a separate in-person or virtual hearing solely to decide threshold issues. The arbitrator will issue a single written decision on all threshold issues.
- c. Either party may move to consolidate several related grievances into one for efficiency, e.g., grievances concerning similar facts, violations, requiring the same witnesses, etc.

**10. Expedited Arbitration:** In an effort to reduce time and expenses of some grievance arbitrations, the parties may agree to expedited procedures that may be appropriate in certain nonprecedential cases or those that do not involve complex or unique issues.

Expedited arbitration is intended to be a mutually agreed upon process whereby arbitrator appointments, hearings, and awards are acted upon quickly by the parties and the arbitrators. The process is streamlined by mandating short deadlines and eliminating requirements for transcripts, briefs, and lengthy opinions.

The parties may elect to use the expedited processes of FMCS, AAA, or any of the procedures described below:

- a. A stipulation of facts to the arbitrator can be used when both parties agree to the facts at issue and a hearing would serve no purpose. In this case, data, documentation, etc., are jointly submitted to the arbitrator with a request for a decision based upon the facts presented.
- b. An arbitrator inquiry may be used to expedite the resolution of the grievance. In this case, the arbitrator would make such inquiries as he or she deemed necessary, prepare a brief summary of the facts, and render an on-the-spot decision with a summary opinion. The parties may mutually agree to eliminate the summary opinion.
- c. Mini-arbitration. In this case, an oral hearing will be held. The arbitrator will prepare a brief summary of the facts and render a decision with a summary opinion. The parties may mutually agree to eliminate the summary opinion.
- d. Mediation-Arbitration. The parties may mutually agree to a certified AAA or FMCS arbitrator who will use a mediation-arbitration process to determine the outcome of the case.

#### **11. Exceptions and Appeals**

- a. An exception to the arbitrator's decision may be filed in accordance with FLRA regulations.
- b. For arbitration cases related to actions taken under 5 USC 4303 (unacceptable performance) and 5 USC 7512 (suspension of greater than 14 days, demotions, removals, etc.), either party may request judicial review during the 30-day period beginning on the date the Award is served on the party for cases in which discrimination covered by 5 USC 7702 is alleged as a basis for the appeal and 60 days for nondiscrimination cases.

- 12. Implementation of Arbitration Awards:** To facilitate implementation of the Award, the arbitrator who heard the threshold issues and/or merits of the case will retain jurisdiction until the Award is implemented. Arbitration Awards will be implemented as soon as possible following the final decision. A decision is not considered final until all exceptions, if any, are resolved.

## ARTICLE 11

### EARLY ENGAGEMENT AND MIDTERM NEGOTIATIONS

1. **Purpose:** The purpose of this Article is to provide processes to address changes in conditions of employment during the term of this Master Agreement.
2. The definition of “conditions of employment” can be found in 5 USC 7103a(14).\*
3. **General Provisions**
  - a. The Parties agree to work together to enhance the principles of mutual trust, accountability, understanding, and respect.
  - b. The Master Agreement is controlling, and neither the Union nor Management may negotiate nor implement any change that conflicts with this Master Agreement. Only the National Parties may reopen the Master Agreement, in whole or in part, during its term and only upon mutual agreement subject to Article 45.2.
  - c. The Parties recognize early engagement promotes efficiency and effectiveness in labor-management relations. Employees have the opportunity, through their Union, to meaningfully engage with Management on changes that impact them at an early stage. Early engagement allows the parties to collaborate more efficiently and resolve issues normally addressed in negotiations under this Article’s procedures. Early engagement is appropriate for emerging topics, initiatives, or policies that may affect conditions of employment. The Parties will follow the procedures below in Section 4 for early engagement.
  - d. The Parties agree that the decision to change conditions of employment may create a need for either Management or the Union to propose midterm negotiations. Either party may propose changes in conditions of employment not in conflict with this Master Agreement during its term. The procedures in this Article will be used when such changes in conditions of employment are proposed and are not covered by this Agreement.
  - e. Management may implement changes in personnel policy or practices that affect conditions of employment that are not in conflict with this Master Agreement. When the changes create a bargaining obligation, Management will notify, in writing, the appropriate Union officials of the proposed changes and provide the opportunity to negotiate, including conclusion of mediation and impasse procedures if the services of either the Federal Mediation & Conciliation Service (FMCS) or the Federal Service Impasses Panel (FSIP) are invoked by either Party.\*
  - f. The question of whether the Agency is obligated to bargain with the Union over a change in conditions of employment can be a complex legal question involving such concepts as “de minimis” and “covered by.” The parties at the Intermediate and Local levels should work together and are advised to seek advice from the Parties at the National level prior to implementation or the earliest practical date.
  - g. Management agrees that it will not unilaterally implement changes in personnel policy or practices that affect conditions of employment, including those originating from terms of dispute settlement agreements, unless there is an emergency, or the date of implementation is required by law. In emergency situations, the appropriate Union representative will be notified as soon as possible. Where date of implementation is required by law, notice will be provided in accordance with Section 5 as soon as possible. In either case, negotiations may continue post-implementation.\*
  - h. Management will engage in bargaining over 5 USC 7106(b)(1) permissive subjects as required by law or Executive Order at the time of the Union’s request to bargain.
  - i. If negotiations are invoked, the parties at the level proposing the change are obligated to meet or otherwise communicate in a timely manner and bargain in good faith, which may include mediation and impasse procedures.

- j. At the completion of negotiations, the Parties agree to implement, distribute, promote and support the negotiated agreement to the impacted employees and involved management officials.
- k. Parties may address alleged violations of this Article through either the grievance/arbitration process or through filing an Unfair Labor Practice (ULP), but not both.
- l. Nothing in this Article shall be construed to limit either Party's statutory rights.

**4. Procedures for Early Engagement:** Early engagement may reduce the need to formally negotiate a change that may affect conditions of employment. The parties will notify one another of emerging topics or initiatives on such changes as soon as practical and before making a decision. They are encouraged to collaborate in an effort to facilitate the early identification and resolution of issues and provide the opportunity for participants to add value to the outcome.

- a. The Parties will memorialize the substance of the consensus agreements reached during collaboration in writing, acknowledged by both Parties. Any unresolved matters may be addressed pursuant to the procedures within Section 5.
- b. If the Union is involved in the development of a policy or guidance, they should be given the opportunity to review the final document.
- c. Early engagement does not affect either Party's statutory rights.

#### **5. Negotiation Procedures**

- a. The parties agree to use the Article 11 Bargaining Notice and Response to Bargaining Notice checklists, and Ground Rules template (Appendix E). These checklists apply to formal bargaining. They are not required for early engagement under Section 4 but may still be useful to the parties.\*
- b. Notifications and response timelines. The designated official of the proposing party will provide written notice delineating proposed changes to the designated official of the responding party, utilizing the Article 11 Bargaining Notice checklist. After receipt of the notice and proposal, the responding party will respond as quickly as possible, but no later than 28 days utilizing the Response to Bargaining Notice checklist. Both Parties should communicate early in the process.
- c. Where the parties have participated in early engagement and there are unresolved bargainable issues, an Article 11 Bargaining Notice will be issued and the receiving party will have 14 days utilizing the Response to Proposal checklist.
- d. If the responding party does not intend to negotiate, they will notify the other party as soon as possible.
- e. In situations where management did not notify the appropriate union officials, the timeline starts only when the correct official is notified by the other party's designated official.
- f. Within 10 days of the proposing Party's receipt of the Response to Proposal checklist, the Parties will schedule a time to begin negotiations (to include ground rule negotiations if needed) unless the parties mutually agree to extend the timeframes.
- g. On a Management-initiated proposal, if a response is not received within the indicated number of days in Subsections 5.b or 5.c above, then Management may proceed with implementation of the proposal unless there is a mutually agreed-upon extension in writing. The Parties are encouraged to communicate early in the process to avoid an unintended waiver.
- h. Negotiations will typically be a hybrid of traditional and interest-based bargaining. The National Parties recommend the use of the Ground Rules Template in Appendix E with any modifications as negotiated by the parties. The National Parties also encourage the use of technologies that reduce the need for travel. Regardless of the negotiation method used, the parties are encouraged to work expeditiously.
- i. If the Parties agree that facilitation is needed, any expenses incurred for facilitation, including travel and per diem, will be fully borne by Management.\*

- j. Designated Officials and Points of Contact: The proposing party will issue a negotiations notice to the respective individual(s) listed in the table below. If the proposing party is unclear who the designated official is for a particular organization, the NFFE-FSC Secretary-Treasurer, for the Union, or the National Labor Relations Officer, for the Agency, may be contacted and will provide the name and contact information of the designated official.

**Negotiations Notice Receiving Officials:**

Organization	Management from FSM 6100 Delegations of Authority Manual	Union
JCCCC Center	Center Director Cc: Labor Relation Specialist	Local President Cc: JCCCC CVP
JCCCC National Office	Appropriate National JCCCC AD Cc: Labor Relation Specialist	JCCCC CVP Cc: Council President, National Negotiations Chair
National Forests	Forest Supervisor Cc: Labor Relation Specialist	Local President Cc: Regional CVP
Regional Office	Staff Director (if there is one) or DRF Cc: Labor Relation Specialist	Regional CVP Cc: Council President, National Negotiations Chair
Research Station, IITF, or FPL	Assistant Station Director or Program Manager Cc: Labor Relation Specialist	Local President Cc: R&D CVP
National Technology and Development Program	Director Cc: Labor Relation Specialist	Local President Cc: WO CVP
Washington Office	Staff Director (if there is one) or the Associate Deputy Chief (ADC) Cc: Labor Relation Specialist	Local President Cc: WO CVP
Law Enforcement & Investigations (LE&I) Field	Special Agent in Charge Cc: Labor Relation Specialist	Local President Cc: WO CVP
LE&I negotiations that affect more than one Region	Deputy Director Cc: Labor Relation Specialist	WO CVP Cc: Council President, National Negotiations Chair
Chief Information Office (CIO)	Deputy Director of CIO Cc: Labor Relation Specialist	Local President Cc: WO CVP
Budget and Finance (B&F)	Deputy Director of B&F Cc: Labor Relation Specialist	Local President Cc: WO CVP
Enterprise Teams	Director Cc: Labor Relation Specialist	Local President Cc: WO CVP
Other WO-detached (for example CAT)	Appropriate Staff Director Cc: Labor Relation Specialist	Local President Cc: WO CVP
Human Resource Management (HRM)	Assistant Director Cc: Labor Relation Specialist	Local President Cc: WO CVP

k. Delegation of Authority:



1. When the lead negotiator, for either party, is other than the designated official, their delegation of authority shall be in writing and provided to the other party.\*
  2. The National Party or intermediate-level parties may delegate their authority in writing to negotiate specific issues, otherwise negotiable at their level, to parties at subordinate levels in order to promote more effective and efficient resolution of issues that more directly affect those parties.
- l. Information Requests During Negotiations: Management is encouraged to share information that is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of the negotiations at hand, in order to have the most efficient and effective negotiations possible. When there is a disagreement over the information request, the parties are encouraged to work with the National Parties for resolution. If the disagreement persists, the Parties default to the information requests procedures in Article 5.
  - m. Memoranda of Understanding: Unless mutually agreed otherwise by the negotiating parties, final negotiated agreements will be documented in a Memorandum of Understanding (MOU) and identify the parties to the MOU and its terms. If applicable, the MOU will state whether or not further negotiations may take place at the lower organizational level(s) and state any known conditions that need to be met prior to implementation of the changes giving rise to the negotiations and agreement. The MOU will state any conditions for reopening and/or the duration of the agreement.
  - n. Posting and Distribution: The timely posting and distribution of negotiated agreements will be the responsibility of Management, unless otherwise agreed. Posted agreements will be in compliance with Section 508 of the Rehabilitation Act of 1973 as amended (29 USC 794(d)).

## **6. Supplemental Agreements**

- a. Supplemental Agreements are agreements negotiated at the national level during the term of the Master Agreement.
- b. Normally, the subject addressed in a supplemental agreement will be addressed and incorporated into the Master Agreement in term negotiations.
- c. Existing supplemental agreements, not incorporated into the Master Agreement during term negotiations, remain in effect in accordance with their terms.

## **7. Subordinate Agreements**

- a. Subordinate agreements are agreements negotiated at the Local and intermediate levels during the term of this Master Agreement.
- b. The intermediate- or Local-level parties may bargain subjects that are not specifically covered by this Master Agreement, or which have been identified in higher-level agreements for further negotiations. Negotiated agreements between the Local and intermediate parties shall not duplicate, conflict with, or otherwise be inconsistent with the Master Agreement or supplemental agreements and may be subject to review by the National Parties. All Memoranda of Understanding should be posted on the FSweb.\*
- c. When subordinate negotiated agreements later come into conflict with subsequent higher level negotiated agreements, the higher level negotiated agreement will prevail. Subordinate-negotiated agreements will be modified to reflect changes necessitated by the higher level negotiated agreement.
- d. Existing subordinate negotiated agreements not in conflict with the Master Agreement remain in effect in accordance with their terms.
- e. Any question of validity or noncompliance of a subordinate negotiated to the Master Agreement or any supplemental agreements shall be submitted by either party to the National Parties for resolution. Questions and issues not addressed in any national agreements, as related to its

contents, and whether such issues may be negotiated locally should be raised to the National Parties for resolution. A decision will be made by the National Parties within 30 days. If the Parties are unable to agree as to compliance or validity, either Party may submit the issue to arbitration.

#### **8. Negotiability Disputes and Impasses**

- a. Negotiability Disputes: If Management believes a written Union proposal is nonnegotiable under 5 USC Chapter 71, they will raise the issue of negotiability in a timely fashion, at the early stages of the negotiation process, so that attempts can be made to cure any negotiability problems. If the negotiability issue cannot be resolved, the Union will be provided, upon written request, with a written statement of the rationale for a claim of nonnegotiability. The Union may submit a negotiability appeal to the Federal Labor Relations Authority (FLRA) in accordance with applicable regulations.
- b. Impasses: In the event the parties cannot reach agreement, either party may request assistance from the FMCS. If the matter remains unresolved, either party may request impasse resolution assistance from the FSIP.

#### **9. Past Practices**

- a. A past practice is established if it is consistently and openly exercised over a significant period of time, followed by both parties, or followed by one party and known but not challenged by the other.
- b. Once a past practice is established it becomes a condition of employment and enforceable under this Master Agreement.
- c. Past practices may be changed by either party by providing the other party written notice and following procedures in this Article, or by both parties abandoning the practice.
- d. When past practices are inconsistent with a government-wide regulation or law that requires an immediate change on or by a specified date, negotiations may occur post-implementation.

## **ARTICLE 12**

### **PRENOTIFICATION FOR UNFAIR LABOR PRACTICE CHARGE**

1. The Parties agree that prior to filing an Unfair Labor Practice (ULP) charge, the charging party will serve written notice of the alleged ULP charge on the other party. The charging party may file a ULP charge any time after providing the prenotification.\*
2. If the charged party requests the opportunity to discuss the issue(s), the parties will begin discussions as soon as possible but no later than 14 days after the charge is filed, unless more time is mutually agreed to. The parties are encouraged to resolve the issue in the prenotification stage.
3. The parties will have full authority to mutually agree to any procedures necessary for resolution.
4. Amendment of the ULP charges on the same issue will not necessitate a new prenotification of said charges. However, the parties are encouraged to discuss and try to resolve the issues(s) that gave rise to the amendment.
5. Neither party has the authority to waive or extend the 6-month statutory filing requirement.
6. If a ULP charge is filed with the Federal Labor Relations Authority (FLRA), the charging party may request the FLRA to allow the parties additional time to attempt resolution before proceeding.

## ARTICLE 13

### ORIENTATION OF EMPLOYEES

1. Management shall inform all new employees that the Union is the exclusive representative of employees in the Bargaining Unit and provide a copy of the written designation of Union officials (see Article 5.1.e). When the Union supplies Management with a Union packet, Management will provide it to new employees during their first 30 days. All applicable subordinate agreements that apply to the Bargaining Unit may be included in the packets.
2. The national online New Employee Orientation shall include an item in the supervisor/employee checklist related to discussing labor organizations. The linked material will include:
  - a. General information about Labor rights in the Federal sector;
  - b. Information about the Bargaining Units in the Forest Service;
  - c. Links to the Albuquerque Service Center, Human Resource Management Web site, the Master Agreement, the National Federation of Federal Employees-Forest Service Council Web site, and the SF-1187 payroll deduction form.
3. Upon request, Management will give the appropriate level of the Union a list of all employees added to the Bargaining Unit for the period requested.
4. Where practical to do so, supervisors will arrange to introduce new employees to a local Union official.
5. Discussions held with new Bargaining Unit employees where working conditions are discussed may constitute formal discussions (see Article 5.4).
6. The Union will be granted a period of time to speak at group orientation sessions that are held for employees. Such time will normally not exceed 1 hour, although additional amounts may be negotiated at the appropriate level. The Union will receive a reasonable notice at least 7 days prior to local sessions and at least 30 days prior to regional or national sessions.\*
7. Further details of Union participation in the orientation process may be negotiated at the appropriate level.

## ARTICLE 14

### POSITION DESCRIPTION AND CLASSIFICATION

1. **Policy:**\* Each employee shall have a position description (PD) that is accurate as to title, pay plan, series, and grade, and clearly states major duties that serve as the basis for establishing performance standards.
  - a. A PD is deemed to be accurate when the principal duties, knowledge requirements, and supervisory relationships are described, and it covers 80 percent or more of the work situation.
  - b. All major duties must be covered in the PD. “Major duty” is defined as a grouping of tasks that is series- or grade-controlling if they (1) are a regular and continuing part of the job; (2) are performed 25 percent or more of the time; and involve a higher level of knowledge and skill.
  - c. Duties that require special training, performance, or credentials that are necessary to perform the job should be reflected in the PD, even if they are less than 25 percent of the employee’s time.\*
  - d. Employee PDs or PD cover sheets, when created, updated, modified, or upon request, will identify:
    1. Any security clearance or background-check requirements;\* and
    2. Telework eligibility of the position.
  - e. The PD shall be reviewed annually by the employee and work supervisor, normally during the performance evaluation process.
2. **New or Revised Position Descriptions**
  - a. When an employee is assigned additional major, regular, and recurring duties that are likely to exceed 12 months and are not reflected in their position description, Management will revise the PD to reflect the changes, in accordance with this Article.\*
  - b. For new employees, or when a new PD has been approved and classified, the supervisor and the employee will review and discuss the PD and how it relates to performance expectations under Article 21. With concurrence of the supervisor, the employee may have a Union representative present.
3. **Position Description Review/Classification Procedure\***
  - a. Employee Request for PD Review (excluding Research Scientist positions): Any employee who feels that they are performing duties outside the scope of their PD, or that the PD is otherwise inaccurate, may make a written request to their immediate supervisor that the position be reviewed. The total aggregate timeframe for the process in (1)–(3) below will not exceed 45 days, unless mutually agreed in writing.
    1. Employee submits request for a PD review, along with a summary of inaccuracies and/or additional duties not described to their immediate supervisor. The employee and supervisor will discuss whether or not to submit a new PD.
    2. If the supervisor agrees that the PD is inaccurate, a proposed PD will be prepared, and the employee will be promptly provided with copies of all other documents the employee must complete. In preparing the proposed PD, the supervisor will consider the employee’s written and oral comments, if applicable. If further modifications of the proposed PD occur prior to classification, the supervisor will discuss the changes with the employee.  
Agency documents to be completed by employees as part of the PD review will be clear, concise, understandable, and similar for all employees and posted on the Classification section of the Human Resource Management (HRM) Web site.

3. After the proposed PD and required documents are completed, the PD review package will be submitted to HRM by the supervisor for classification. A copy of the review package will be given to the employee.\*
  - b. Management-initiated PD Review: When a PD review is initiated by Management (for example, new classification standards or supervisor perceives a change in duties), the supervisor will discuss proposed changes to the PD and will consider feedback from the employee prior to submitting the PD review package to HRM for classification. The employee and supervisor will complete the applicable documents required to provide a complete PD Review Package.
  - c. If the employee and supervisor do not agree on the accuracy of the PD, the employee may grieve the accuracy of the PD in accordance with Article 9.
  - d. For all PD reviews, Management will communicate the classification determination to the employee within 60 days from the time the completed PD review package was submitted for classification. The employee will be given a copy of the reclassified PD, cover sheet, and, if applicable, the classifier's evaluation statement.
  - e. The employee may have Union representation during any discussions between the employee and supervisor or management related to the review and classification. The role of the representative is to help the employee understand the process and articulate their duties. The representative will not be disruptive in the meeting.\*
  - f. Management shall refrain from temporarily reassigning an employee's work during the PD review if the sole purpose for reassigning the work is to avoid reclassification of the employee's position.\*
  - g. Panel Requests for Research Scientist Positions:
    1. The position review process for employees occupying research scientist positions is set out in the current Forest Service Guide for Preparing Research Scientist Position Descriptions.
    2. The employee shall initiate the review process by submitting to their immediate supervisor a panel package in accordance with the Guide. The supervisor shall review and suggest changes to the employee's package, and provide initial feedback to the employee within 30 days. Subsequent revisions will be completed in a timely manner.
    3. Normally within 90 days after HRM receives a complete panel package as described in the Guide, the panel will be scheduled and the employee will be notified of the panel date as soon as possible, so that they may notify their references.
    4. For panel decisions that recommend a grade of GS-14 and below, Management shall communicate the panel decision to the employee within 45 days from the panel date. Panel results for the GS-15 level will be communicated to the employee by management within 30 days of receipt by HRM of the approval by the Deputy Chief of Research & Development. Recommendations for Scientific Technical level will be communicated to the employee after approval by the Deputy Chief and will include the date forwarded to the Department. The employee shall be given a copy of the panel evaluation report.
- 4. Position Classification Review/Appeal Procedure:**\* The classification of any position that does not result in the reduction in grade and pay of the employee is not subject to the negotiated grievance procedure. However, when the accuracy of a PD has been established under Section 3, but the employee believes their position is not properly classified as to title, pay plan, series, and/or grade, the employee may:
- a. Request a Forest Service position classification review:
    1. Research scientist positions. The process is addressed in the current FSH 6109.15, Chapter 30.

2. All other positions. To initiate a classification review, the employee may submit such a request, through their supervisor, to a Forest Service classifier to have the classification of the position reviewed by a different Forest Service classifier. The classifier will consider the employee's written and oral comments. The employee may have Union representation during any discussions related to the review. The findings, including the reviewer's evaluation statement, will be reported in writing to the employee no later than 90 days from the date of the employee's request to the Forest Service classifier.
  - b. Appeal directly to the U.S. Department of Agriculture (USDA) or the U.S. Office of Personnel Management (OPM): The employee may use the USDA or the OPM Classification Appeal procedures directly, or upon completion of the Forest Service Position Classification Review in Subsection 4.a, above. Employees may request information on the classification appeal rights and process from Management.
- 5. Actions Following Reclassification at a Higher Grade:** In accordance with 5 USC 7106, management has the right to assign work. As such, if a review of a position or PD reveals that there has been an accretion of duties, one of the following actions will be taken:
- a. If Management decides to promote the employee, they will be promoted at the beginning of the second pay period after the position has been classified at the higher level, in accordance with Article 16. In the event the promotion is delayed, Management will inform the employee of the reason for the delay and the pay period that the promotion will take effect.\*
  - b. If Management decides to eliminate and/or redistribute the grade-controlling duties, the employee will be advised in writing of this decision within 14 days of the completion of the review, including a summary of the duties that are being removed.\*
  - c. If Management temporarily needs the employee to perform these higher- graded duties, the employee will receive a noncompetitive temporary promotion, if otherwise eligible. Such temporary promotion will be effective at the beginning of the second pay period after the position has been classified.\*

## ARTICLE 15

### TEMPORARY PROMOTIONS AND DETAILS

1. **Temporary Promotions:** A qualified employee placed in a higher graded position or assigned to a group of duties that have been properly classified at a higher grade, for 30 consecutive days or more, will be temporarily promoted into that position and paid accordingly. As with a detail, the employee returns to their regular duties and position at the end of the assignment.
  - a. Supervisors will refrain from rotating or scheduling assignments of employees to avoid compensation of a particular employee at the higher level.
  - b. Temporary promotions of over 120 days will be filled through competitive procedures unless filled with a noncompetitive-eligible employee.
  - c. An employee will not be deterred or prohibited from competing for or accepting a temporary promotion.
  - d. An employee cannot be noncompetitively promoted for more than 120 days in a 12-month period, unless they are eligible for non-competitive promotion. An adjudicator can award a retroactive temporary promotion consistent with 5 CFR § 335.103.
  - e. The initial time period of a competitive temporary promotion shall be listed in the vacancy announcement. Any extensions to the initial period will be documented on an SF-50.
2. **Details:** A detail is the temporary assignment of an employee, with no change in pay, to a different position or to a different set of duties for a specific period, with the employee returning to his or her regular or similar duties at the end of the detail. The employee continues to be the incumbent of the position from which they are detailed.
  - a. Employees may be detailed at any time or location to meet emergencies.
  - b. Details within an employee's commuting area may be voluntary or involuntary.
  - c. For details outside an employee's commuting area, Management of the sending unit will:
    1. Seek qualified volunteers for the assignment before directing an employee to an involuntary assignment;
    2. Except for emergencies, provide an employee at least 10 days' notice prior to the reporting date;
    3. Consider requests for relief under Article 42 from an employee for whom a detail assignment would create an undue hardship.
  - d. When Management determines the need for a detailer for more than 120 days, chooses to fill the position noncompetitively, and has determined through an open outreach process that there are two or more qualified lateral candidate employees within the competitive area of the detail position, Management shall rotate assignments at least every 120 days unless legitimate job-related reasons or travel/per diem costs require otherwise.
  - e. Additional procedures and arrangements may be negotiated at the appropriate level.
  - f. Supervisors are encouraged to support employees on detail opportunities that assist employees to gain experience in other occupational series, especially when employees have educational qualifications for professional series when currently employed in a technical or administrative series.
3. **Advertising Temp Promotion and Detail Opportunities:** If outreach is used to seek candidates from outside the organization for details and noncompetitive temporary promotions, then outreach notices should be posted, for at least 7 days, and the Outreach Notice will be posted using the procedures in Article 16.3.



4. Details in excess of 30 days and all temporary promotions require a completed SF-52 personnel action approved by the employment officer of the sending unit, and will be documented in the employees Official Personnel Folder (OPF) with copies of the record forwarded to the employee.
5. See Article 19.3.c for per diem and travel provisions related to temporary promotions and details outside the employee's commuting area.

## ARTICLE 16

### PROMOTIONS

1. Promotions are an effective way to increase employee retention, improve employee morale, encourage employee innovation, and encourage the wise use of agency investments in current employees. The intent is to give current employees an opportunity to receive fair, equitable, expedient, and appropriate consideration for higher level jobs and develop their knowledge skills and abilities, while balancing the need to build a highly qualified, diverse work force.\*
2. All promotion and staffing procedures will be performed in accordance with applicable laws and regulations, government wide rule and regulation, as well as Departmental Regulation, 4030-335-002—Merit Promotion and Internal Placement Plan (Merit Promotion DR).
3. **Outreach:**\* When outreach is conducted, the following provisions apply:
  - a. Outreach notices will be posted in the Forest Service Outreach database, and they will be accessible to all permanent employees through the Forest Service intranet and available on the Forest Service internet website.
  - b. Employees are encouraged to develop profiles in both USAJobs and the Outreach database to facilitate receiving notices on jobs for which they may be interested.
  - c. Outreach notices, at a minimum, will include the following information:
    1. Title, series, grade;
    2. Location(s);
    3. Point of contact information;
    4. Response timeframe(s);
    5. If used for details and temporary promotions, the anticipated starting and ending dates of the assignment and whether travel expenses will be authorized.
  - d. Positions in the Outreach notice will be described at least as broadly (in both series and grade) as how the position may be filled or advertised.
  - e. When outreached positions are transitioned to a job announcement, respondents to the outreach will be notified with a link of the posting, if available.
4. **Exceptions to Competition:** The exceptions to competitive procedures include all items outlined in the Merit Promotion DR, Appendix G, and other applicable hiring authorities.\*
5. A robust Pathways Program providing a supplement to, and not a substitute for, the competitive hiring process is essential to boosting the Federal Government's ability to recruit and retain early career talent. When Management determines it will advertise a bargaining unit position using Pathways Recent Graduate Authority, a companion Merit Promotion vacancy announcement will be advertised concurrently.\*
6. Employees can use duty time and government equipment to apply to Federal Job announcements as long as it does not interfere with their assigned duties.
7. **Merit Promotion Procedures:** When Management uses Merit Promotion announcements, the following procedures will apply.
  - a. Standard
    1. Hiring managers should be mindful of time of year, nature of position, and likelihood of field-going employees interested in applying to the position when considering setting the time that the announcement is open and will send a unit-wide email regarding announcements.

2. Management should consider using multi-series announcements when it will expand the candidate pool for the position.
  3. When advertising fire positions using Direct Hire, management has determined hiring managers should consider advertising concurrent Merit Promotion announcements, so LMWFA-eligible applicants may receive a maximum entry age waiver.
  4. When applicable, job announcements will state that applicants may receive an email asking if they are still interested in the position and requesting information by a given deadline. Failure to timely respond to this email may result in non-selection.
- b. When official transcripts are requested by HRM, Management will reimburse current employees for the cost through the Miscellaneous Reimbursement process.
- c. When management fills career ladder positions with promotion potential, some announcements are limited to only one initial grade while others permit selection at one of several grades. In either case, job announcements will clearly indicate whether the position can be filled at only one grade level or at one of several grade levels (for instance by indicating the position is a GS-5 with promotion potential to GS-9, a GS-5/7 with promotion potential to GS-9, or a GS-5/7/9).
- d. Group Vacancies
- When management uses group vacancy announcements (simultaneously advertising multiple positions in multiple locations), job announcements and confirmation letters will clearly state occupational specialty/parenthetical, conditions of employment (drug-testing, firearms, commercial driver's licenses, etc.), supervisory status, bargaining unit eligibility and union affiliation, and full performance grade level by position location.\*
- e. Management should use subject-matter experts to assist in identifying specialized experience and qualifying coursework to meet positive education requirements.
- f. Notifications to Applicants and Appeals\*
1. Applicants will be notified of the status of their application within 2 days after issuance of the referral list. Selections should not be made before applicants have an opportunity to appeal and receive a decision. At a minimum, applicants will be notified:
    - a. They were not referred: not eligible.
    - b. They were not referred: not qualified.
    - c. They were referred to the hiring official.
  2. In accordance with the USDA DR for Merit Promotion and Internal Placement, employees may request a review of their application within 7 days of the notification that they are not referred to the hiring official. The employee will request a review by contacting HRM and opening a case. Employees are encouraged to contact the hiring official to let them know a second level review has been requested. Management has 7 days to review the determination and render a final determination. If management has not reviewed the determination within 7 days, and no selection has been made, the selection will be delayed until a final decision on the review has been made.
  3. If there is a dispute over whether the employee has met the positive education requirement, management will seek the assistance of a subject matter expert to determine whether the employee meets the Basic Qualifications.
  4. If an employee believes that they were not referred in error, management will review the employee's entire application to determine whether the employee should have been referred.
  5. If an employee's request for review was timely and it is determined that the employee should have been included among the candidates referred to the hiring official, if the

position has not been filled, the employee will be added to the list of candidates and considered.

6. If the position was filled, and reconstruction of a promotion action shows that the employee should have been referred to the hiring official, the individual will receive priority consideration for one year for the next appropriate vacancy at the same series, grade, and promotion potential and geographic location. The individual eligible for priority consideration must be considered by the hiring official(s) before other applicants are ranked or referred for selection.
- g. Release Dates under Merit Promotion. In accordance with the Merit Promotion DR:
  1. An employee selected for promotion must be released within a full pay period, or a later date if agreed to by the employee and gaining unit.
  2. For a selection other than promotion, the employee must be released no more than two full pay periods from date of selection. Exceptions may be made by management with input from the employee.
- h. Release of Information While the Vacancy is Open: In accordance with the Merit System Principles, only applicant numbers are available during the open period of a vacancy announcement.

## **8. Land Management Workforce Flexibility Act (LMWFA)**

- a. In order to establish the service time eligibility requirement for consideration under the LMWFA, the following documentation is required from employees in addition to all other documentation specified in the vacancy announcement:
  1. Documentation of Service Time eligibility: Copies of their Notification of Personnel Action(s) (SF-50s) showing the employee has served in appropriate appointment(s) for a period/periods that total more than 24 months without a break in service of two or more years. (Include initial hire actions, extensions, conversions and termination/separation SF-50s for each period of work).
  2. Documentation of Acceptable Performance for Service Time:
    - a. Performance rating(s) showing an acceptable level of performance for period(s) of employment counted towards their eligibility, signed by their supervisor(s); or
    - b. If documentation of a rating does not exist for one or more periods, a statement from the employee's supervisor(s) or other individual in the chain of command indicating an acceptable level of performance for the period(s) of employment counted towards their eligibility; or
    - c. Applicants who do not provide a performance appraisal ((1) above) or other performance documentation ((2) above) for any period that they are using to qualify for eligibility under the LMWFA, shall provide:
      1. a stated reason as to why the appraisal/documentation is not available
      2. a statement that their performance for all periods was at an acceptable level, their most recent separation was for reasons other than misconduct or performance, and they were never notified that they were not eligible for rehire based on performance. This shall be accepted in lieu of providing copies of the performance appraisals.
- b. Employees may obtain copies of their SF-50s to support their applications under the LMWFA by accessing their eOPFs. If they are not able to access or retrieve the information from their eOPFs, then employees can request it through the HRM Contact Center, and will receive a response and any requested documents within 10 days. If more time is needed then they will be provided any

requested documents within 30 days of their request. Employees are encouraged to make these requests as soon as possible.

- c. Employees will be provided duty time to obtain official documents in accordance with Master Agreement Article 4.
- 9. Job Offer Declinations:** Management will collect data on the reason why any candidate declined a job offer or withdrew their acceptance. Upon request, but not more than once per year, the Union at the Forest Service Council level will be provided with this data.
- 10. Employee Rights to Information Under Merit Promotion:** Within 14 days of notification that they were not selected, the nonselected employee may request the following information for Bargaining Unit positions from the hiring official regarding the specific vacancy for which he or she was not selected. The employee will receive the requested information, if available, within 14 days of their request.
- a. Explanations and supporting regulations concerning the Merit Promotion Plan.
  - b. The qualifications required for a position.
  - c. If the employee was considered basically qualified.
  - d. If the employee was rated among the quality group.
  - e. How the employee was evaluated by the merit promotion panel or human resources specialist, including the employee's score on the occupational questionnaire and explanation of their qualification rating determination.
  - f. Cut-off score for inclusion in the quality group.
  - g. Scores of other candidates (not identified by name).
  - h. Number of qualified candidates.
  - i. Number of candidates in the quality group.
  - j. Number of candidates interviewed.
  - k. The name of the individual hired.
  - l. Other documentation pertaining to the employee used by the Selection Advisory Panel and/or hiring official to evaluate the employee that is not precluded from release subject to applicable law and/or government-wide regulation.
  - m. Feedback from the hiring official and/or the supervisor of the position being filled how the employee may improve chances for selection on future vacancies.
- 11. Career Ladder Promotions:** Employees will be given the opportunity to demonstrate capability to perform at the next higher grade before their career ladder promotion is due.
- a. Employees in career ladder positions will be promoted in the first pay period after:
    - 1. they become minimally eligible (52 weeks of time-in-grade and 52 weeks of specialized experience) to be promoted (after the last workday of the 52nd week in their positions or whatever lesser period satisfies the basic eligibility requirements); and
    - 2. they are capable of satisfactorily performing at the next higher level.
  - b. If a supervisor determines an employee is not capable of satisfactorily performing at the next higher level, the supervisor will provide a written notice to the employee as soon as possible, but no later than 60 days before the employee is eligible for the promotion.
    - 1. The written notice will clearly outline the reasons why, with examples, the supervisor has determined that the employee is unable to perform satisfactorily at the next higher grade level. Management will identify future assignments which will be considered to demonstrate capability to perform at the higher level.

2. After the due date of the promotion, if the employee has not demonstrated they are capable of performing at the next higher level, the supervisor and employee will develop a mutually agreed upon plan to demonstrate capabilities. The employee will be promoted as soon as they demonstrate the capabilities required.
  3. If the employee has not demonstrated the capabilities to perform at the higher grade and the 60-day advance notice requirements are not met, when the employee demonstrates the capability to perform at the higher grade, the promotion will be made retroactive to the date the employee met time-in-grade requirements.
- c. If a personnel action is not processed timely and the employee was otherwise eligible for the promotion by meeting time-in-grade and specialized experience requirements, the promotion will be made retroactive to the date the employee met the requirements.

## **12. Repromotion Rights**

- a. This Section applies for up to 2 years from the date of involuntary demotion (see Appendix F). It does not apply to involuntary demotions due to performance or misconduct.\*
1. Upon request, Management will provide the Union with a current list of employees, maintained by the Agency, with re-promotion rights. If the Union is designated to represent an employee on the list, upon request, the Union will be provided all information regarding the potential matches and the outcomes related to the potential matches for that employee.
  2. Candidates with repromotion rights will be given appropriate consideration, prior to filling of vacancies.
  3. When more than one employee has repromotion rights and both are qualified for a position, the employee with the earliest service computation date will be offered repromotion first.
  4. Offers of positions outside the commuting area to employees whose positions have been downgraded, and who are entitled to saved-grade/saved-pay protections may be declined by the employee and will not affect the entitlement to saved grade or saved pay. The distance involved in the commuting area will be in accordance with the same definition as put forth in Article 35.8.d, of the Master Agreement.
- b. After the two-year period covered above, the employee is still eligible for priority consideration to be repromoted to the highest grade previously held on a permanent basis (or intervening grade), if they apply for a position. In order to assert this eligibility, the employee must include the employee's repromotion letter or SF-50 showing their involuntary downgrade indicating that they have repromotion priority consideration when they apply for a vacant position.\*

## **13. Accretion of Duties**

- a. If the action is supported by a classification determination, in accordance with Article 14.5, Management may elect to noncompetitively promote the employee into the reclassified position if the conditions for accretion of duty in the USDA Merit Promotion DR have been met.\*
- b. Employees may utilize the procedures in Article 14 regarding a management decision not to exercise accretion of duties promotion authority.
- c. Management recognizes that, if upon review, Management finds the initial management determination not to use its non-competitive promotion authority to promote an employee was improper, management has determined the appropriate remedy is to process the non-competitive permanent promotion action retroactive to the date of the initial management determination.

## **14. Union Rights to Information**

- a. Upon request to the designated Labor Relations specialist, Management will provide the union with the following information, if it exists, related to any positions being advertised or filled in the bargaining unit in accordance with the Privacy Act:
  1. A copy of the vacancy announcement(s) issued for the vacancy;
  2. Justification for the use of selective factor(s) for a specific position;
  3. Organizational chart, dated and signed by the appropriate Forest Service official that reflects the bargaining unit positions being filled;
  4. Whether the position was advertised through Merit Promotion, and, if so, the number of applicants on the Merit Promotion certificate regardless of whether a selection was made from the Merit Promotion certificate;
  5. If a selection has been made, the name of the selectee and the authority that was used to fill the position; and
  6. Management will provide a response within 14 days of the union's request.
- b. Upon request, and with written designation of the Union to represent an employee who applied for a MPP vacancy for a permanent bargaining unit position and was not selected, the Union will receive the following documents pertaining to the vacancy (unless disclosure is barred by applicable law), within 14 days, if it exists:
  1. Name of person hired;
  2. The qualifications required for a position;
  3. Cut-off score for inclusion in the quality group; and
  4. A redacted list of applicants to the vacancy showing:
    - a. Whether they were basically qualified
    - b. Whether they were rated among the quality group
    - c. Whether they were interviewed
    - d. How they were evaluated by the merit promotion panel or human resources specialist, including the applicant's score on the occupational questionnaire and explanation of their qualification rating determination.
- c. Semi-Annual Hiring Summary: Twice a year, in October (covering April through September) and April (covering October through March) Management will provide the Union at the National level with a table of the following information for permanent positions filled in the bargaining unit:
  1. Selectee's name;
  2. Title, series, grade;
  3. Organizational code to Level 5;
  4. Duty Station; and
  5. The authority used to fill the vacancy (including Demo, Merit by Nature of Action Code, VRA, Schedule A, and Conversions of Pathways Interns and PMFs, or Pathways Recent Grads).
- d. Changes to union permissions to view expired records, active records, or the information report data and formats available to the Union in the 2016 Outreach Database will be subject to bargaining in accordance with Article 11.\*

## ARTICLE 17

### AWARDS PROGRAM

1. The Parties agree that the employee suggestion, incentive, and performance award programs are beneficial to both Management and the employee. Meaningfully recognizing differences in employee contributions and achievements represents an important aspect of employee morale. The awards program will be administered in accordance 5 CFR 451, 430, and 531, Forest Service Handbook (FSH 6109.13—Performance, Training, and Awards Handbook, Chapter 10), and the U.S. Department of Agriculture (USDA) Guide for Employee Recognition. The Parties mutually agree that safety, civil rights, productivity, efficiency, and public service will receive emphasis in the awards program. Labor Management Relations Committees and/or Labor Management Forums may periodically evaluate and review the unit's awards program to ensure the administration is fair, equitable, effective, and understandable.
2. **Employee Recognition:** An award is something bestowed or an action taken to recognize and reward individual or team achievement that contributed to meeting organizational goals or improving the efficiency, effectiveness, and economy of the Forest Service operations or is in the public interest.
3. Management will maximize the use of awards (within allocated budget and OPM policy) to recognize employee achievements. In administering any awards program, Management will do the following:
  - a. Nominate employees as soon as possible after the achievement.
  - b. Assure fairness and equity in the distribution of awards based on employee contribution and achievement.
  - c. All Employees should have equitable opportunities to earn and receive achievement awards.
  - d. Give group awards based on the employee's contribution or participatory value rather than solely on the employee's grade.
4. Forest Service awards programs include monetary awards, nonmonetary awards, time-off awards (TOA), and quality step increases (QSI). All awards are also available to temporary, term, and wage-grade employees, except that temporary and wage-grade employees are not eligible for Quality Step Increases. Management will inform the employee of an award before the employee receives it, including the amount, the reason for it, and how to use a TOA if applicable. Recipients will be given a choice in the type of recognition they receive whenever possible. For example, an employee may select a time-off award in lieu of a monetary award. Per 5 CFR 451.104(f), time-off awards cannot be converted to a cash payment.
  - a. **Monetary Awards:** Recognition given for a particular accomplishment, such as superior contribution on a short-term assignment or project, an act of heroism, scientific achievement, major discovery, excellence in customer service, or significant cost savings. For guidance on award amounts, consult DR 4040-430, Appendix E. Nonmonetary awards can be given in conjunction with monetary recognition.
  - b. **Nonmonetary Awards:** Recognition given for a specific outstanding accomplishment, such as those defined in Section 4.a. Types of these awards include keepsakes, letters of appreciation, and honorary awards.
  - c. **Time Off Awards (TOA)**
    1. For guidance on TOA amounts, consult DR 4040-430, Appendix E.
    2. TOAs and monetary awards may be combined for a single award action where the sum of the combined award is commensurate with the contribution(s).
    3. Full-time employees may be awarded up to 80 hours of time off during a leave year, but not more than 40 hours in one award.



4. Part-time employees may be granted TOAs up to the average number of work hours in the employee’s biweekly scheduled tour of duty during a leave year. The limit for a single TOA for part-time employees or employees with an uncommon tour of duty is one-half the maximum that may be granted during the leave year.
  5. 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.
  6. Employees must obtain their respective supervisor’s approval before using a TOA, consistent with the approval requirements for using annual leave.
  7. Receipt of a TOA does not increase an employee's "use or lose" annual leave amount, and time-off should be scheduled so as not to conflict with the use of existing "use or lose" annual leave. Use of a TOA is not justification for the restoration of forfeited annual leave.
- d. **Quality Step Increases (QSIs):** QSIs are reserved for the most exceptional levels of performance. No single accomplishment merits a QSI. It may be granted only to those employees who have demonstrated sustained exceptional performance, commensurate with the classification of the employee’s position, over at least a 12-month period in the same grade and type of position.
1. Management will notify the appropriate Council Vice President if a QSI Review Panel is formed. Union officials at the appropriate level may make recommendations on the size and composition of panels, and the rating criteria to be used.
  2. Where an employee has a Within-Grade Increase (WGI) scheduled within the next 2 pay periods, HRM will hold the processing of the employee’s QSI so that it is processed after the pending WGI is processed.
5. **Travel Gainsharing:** Employees who save the agency at least \$200 in lodging and/or airfare while on official travel may be eligible for a Travel Gainsharing Award.
6. The Parties encourage the use of peer awards. Employees are empowered to nominate other employees or groups of employees for monetary and non-monetary awards by submitting a nomination to the appropriate management official.
7. **Length of Government Service Recognition:** Employees will be recognized in 5-year increments for their length of government service. A length-of-service award will include a pin, certificate, and a nonmonetary keepsake. An employee will be offered the opportunity to select from among several kinds of nonmonetary keepsakes for length-of-service recognition. The following chart will be used as guidance for nonmonetary Length of Service awards:

Years of Service	Recommended Award Value
5	\$25
10	\$50
15	\$75
20	\$100
25	\$125
30	\$150
35	\$175
40	\$200
45	\$225
50	\$250

Employees who have not received the recommended award value during the course of their employment will receive an awards value equivalent to the combined years of service, e.g., 5 and 10 years combined will equal \$75.00 non-monetary award amount, but not to exceed \$250.

8. Management will arrange an appropriate award presentation and recognition, taking into account the employee's preference.
9. Generally, award nominations will be processed by the Agency within 30 days of their approval and supervisors will present the appropriate certificate(s) with citation of the achievement(s).
10. The provisions outlining posthumous flag recognition policy and procedures in DR 4040-430 do not impact or otherwise affect the Agency's own policies and procedures for posthumous flag recognition as prescribed by FSH 1309.19, Chapter 60.
11. A Union official at the appropriate level may request a list of awards given to all bargaining unit and nonbargaining unit employees of an organizational unit(s) (for example, district, forest, station, or region). Management will provide the list for the last 3 years. The standard report will include: type of award, amount, date of award, pay plan, grade, series, title, bargaining unit status code, and organizational codes to Level 5.

Note: This standard report does not include employee names. Local Lodges that need employee names or other information than that which is in the standard report above will need to file an information request and provide a particularized need.

12. The Parties recognize that awards to Union officials for performing representational duties are not appropriate. This does not preclude an employee who is from a bargaining unit or Union official from receiving recognition, including cash awards, for special acts or for team involvement in partnership efforts or otherwise contributing to successful collaborative labor-management relations, as long as the work being rewarded is nonrepresentational.

This Section recognizes that a Union official who serves on agency or project task forces as a representative of a labor-management forum or as a designee of Management, and not as a representative of the Union, is eligible to receive incentive awards consistent with Federal Labor Relations Authority (FLRA) guidance (Office of General Counsel Memorandum, dated August 8, 1995, Duty to Bargain Over Programs Establishing Employee Involvement and Statutory Obligations When Selecting Employees for Work Groups, pp. 6–8).

13. Certain aspects of award programs may be negotiated at the Local or Intermediate level (e.g., Union-Management awards committees, type of non-monetary awards, awards ceremonies, peer-to-peer award procedures, etc.). However, the scope of negotiability is limited by law and the parties are encouraged to seek advice from the National Parties.

## ARTICLE 18

### WORK SCHEDULES

1. **Introduction:** There is a wide range of work schedule options available (standard-fixed, compressed-fixed, and several flexible schedules), any of which may be applied to either full- or part-time tours. Work schedule assignments will be based on the nature of the assigned work. Work schedules must be approved in advance to assure work objectives are met and to give employees a reasonable advance notice.
  - a. Work schedules must be administered fairly and equitably to all employees.
  - b. No intimidation, coercion, or threats may be placed on employees by Management, the Union, or other employees regarding work schedules.
  - c. The Parties recognize the benefits to employees and the agency of allowing employees to use alternative work schedules (AWSs). The parties will make every effort to accommodate agency and employee needs when assigning employees to work schedules.
2. **Standard Work Schedules**
  - a. Definitions (5 CFR 610.102):
    1. Regularly scheduled administrative workweek, for a full-time employee, means the period within an administrative workweek, established in accordance with 5 CFR 610.111, within which the employee is regularly scheduled to work, including any regularly scheduled overtime hours. For a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.
    2. Tour of duty means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.
  - b. A standard work schedule consists of 5 consecutive 8-hour workdays, normally Monday through Friday, in which the employee has a set arrival and departure time. Days off will normally be 2 consecutive days.
  - c. Unless otherwise ordered or approved, employees' regularly scheduled administrative workweek will fall between the hours of 6 a.m. and 6 p.m., on 5 consecutive days in each week of the pay period. Exceptions based on requirements of the nature of the work (such as, field work, laboratory work, or CCCs) may be negotiated by the Local parties.
  - d. Management will provide notice in writing to the employee of changes in an employee's tour of duty, Regularly Scheduled Administrative Workweek (RSAW), and/or on-call schedule. Notice will be provided at least 10 days in advance, except for emergencies and unforeseen situations that would result in undue hardship in mission accomplishment and/or substantial additional cost. Management will give consideration to an employee's personal needs when changing tours, RSAW, and/or on-call periods.\*
  - e. An employee who needs to work a different tour of duty, RSAW, and/or scheduled on-call period will make a written request to their supervisor indicating the reason for their request. The employee and supervisor will discuss both employee and agency needs related to the request. If consistent with the needs of the job, the employee may be assigned to that tour of duty. Management will provide their decision in writing. If the request is denied, the decision will state the reason for the denial.
  - f. An employee may have union representation, if requested, during discussion with Management about changes in their tour of duty or RSAW.
3. **Flexible Work Schedules**

- a. The Parties agree that flexible work schedules (FWSs) will be used service wide, according to the following guidelines and approved schedules, for the purpose of improved productivity and greater service to the public, according to 5 USC 6120- 6133 and 5 CFR 610 Subpart D.
- b. Definitions:
  1. Flexible Work Schedules: Flexible work schedules are schedules for which an employee may vary the length of the workday and/or workweek. Employees on flexible work schedules may earn and use credit hours. The Forest Service will use the following flexible work schedules:
    - a. Variable Day: Variable day schedule is a type of flexible work schedule containing core hours on each workday in the week and in which a full-time employee has a basic work requirement of 40 hours in each week of the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday within the week within the limits established for the organization. For a part-time employee, the basic work requirement is the number of hours the employee must work in a week.
    - b. Variable Week: Variable week schedule is a type of flexible work schedule containing core hours on each workday 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 the limits established for the organization. For a part-time employee, the basic work requirement is the number of hours the employee must work in a pay period.
    - c. Maxiflex: Maxiflex schedule is a type of flexible schedule in which the employee may vary the number of hours per day and the number of days per week, accounting for at least 80 hours per pay period, including core hours. There are core hours on fewer than 10 workdays per pay period. For a part-time employee, the basic work requirement is the number of hours the employee must work in a pay period.
    - d. Gliding: Gliding schedule is a type of flexible work schedule in which a full-time employee has a basic work requirement of 8 hours in each day and 40 hours in each week. Employees may select a starting and stopping time each day within the established flexible hours.\*
  2. Basic work requirement means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise. Employees who work flexible work schedules have a basic work requirement in lieu of an RSAW. All work performed by an employee within the basic work requirement is considered regularly scheduled work for premium-pay and hours-of-duty purposes (5 CFR 610.111(d)).
  3. Tour of duty under a flexible work schedule means the limits set by an Agency, as described in Subsection 3.c below, within which an employee must complete their basic work requirement.
  4. Core hours: The time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee covered by a flexible work schedule is required by the Forest Service to be present for work or otherwise account for their time.
  5. Credit hours are those hours within a flexible work schedule that an employee elects to work in excess of their basic work requirement so as to vary the length of a workweek or workday.
  6. Administrative workweek: The administrative workweek is a period of 7 consecutive days beginning on Sunday.

- c. Tour of duty:
  1. For employees on a Maxiflex schedule, the default tour of duty will fall between 5 a.m. and 10 p.m. on Sunday through Saturday.
  2. For employees on Variable Day, Variable Week, and Gliding schedules, the default tour of duty will fall between 5 a.m. and 10 p.m. on 5 consecutive days in each week of the pay period.
  3. The number of hours an employee may work in a day shall be in accordance with FSH 6109.11, Section 21.03.2.
  4. Changes to the 5 a.m. to 10 p.m. time band (tour of duty) for a flexible schedule may be negotiated at the Local level to address work requirements of the work unit (for example, shift work at Civilian Conservation Centers and Law Enforcement).
- d. Core hours:\*
  1. The default core hours for employees on Maxiflex schedules will be the 3 middle days of the employee's tour of duty from 10 a.m. to 2 p.m., excluding a meal break.
  2. The default core hours for employees on Variable Day and Variable Week schedules will be 10 a.m. to 2 p.m. on each day of the tour of duty, excluding a meal break.
  3. Employees may request and supervisors may grant deviations from core hours on a case-by-case basis.\*
  4. Changes to the specific clock hours designated as core hours and which days of the week are core days for the work unit may be negotiated by the parties at the Local level.
  5. Existing subordinate agreements for core hours will remain in effect unless changed in accordance with Article 11.
- e. Credit hours:
  1. Earning of credit hours:
    - a. Credit hours are earned at the election of the employee. No coercion may be placed on any employee for the purpose of interfering with that employee's right under an FWS to elect a time of arrival or departure and to work or not work credit hours (5 USC 6132). Employees must inform their supervisors at least 2 hours 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.
    - b. Employees have the option of recording credit hours earned daily or after 80 hours.
    - c. Credit hours may not be earned while an employee is in training. The earning of credit hours for travel will be in accordance with existing law and regulation.\*
    - d. Employees cannot be forced to earn credit hours.
  2. Use of credit hours:
    - a. The use of credit hours must be scheduled and approved in advance, like any other absence from work. The employee will be released from work unless there are work-related reasons. Normally, ordinary workload will not preclude this release. Release procedures are subject to local-level negotiations.
    - b. Credit hours may be earned and used within the same biweekly pay period, but credit hours must be earned before they can be used.

- c. Credit hours may be used during core hours.
- d. Employees cannot be forced to use credit hours.
- e. A maximum of 24 hours may be used as a credit hour carry-over from one pay period to another with flexible work schedules. Employees on part-time tours may carry over credit hours on a prorated basis of one-fourth of their part-time tour hours.

#### **4. Overtime and Premium Pay under Flexible Work Schedules**

- a. Those hours an employee is directed by management to work in excess of 8 hours per day or 40 hours per week are overtime hours.
- b. Night pay and night differential premium pay for night work are handled pursuant to 5 USC 6123(c). Only employees who are assigned to work at night are entitled to night differential.
- c. Management may restrict an employee on an FWS from electing to perform work as part of their basic work requirement on a Sunday in order to avoid the increased operational costs associated with Sunday premium pay; however, such an employee may elect to earn credit hours on a Sunday. Only employees who are assigned to work on Sunday are entitled to Sunday differential.

#### **5. Compressed Work Schedules**

- a. The Parties agree that compressed work schedules (CWSs) will be used service wide according to the following guidelines and approved schedules, for the purpose of improved productivity and greater service to the public, according to 5 USC 6120-6133.
- b. Definitions:
  - 1. Compressed work schedules are fixed schedules in which employees complete their basic work requirement in less than 10 days during a pay period. Compressed schedules are fixed schedules, and employees may not vary the time of arrival or departure. Credit hours are not earned or used on a compressed schedule.
  - 2. Tour of Duty means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that an employee is required to work.
- c. Employees' scheduled hours of work will fall between the hours of 6 a.m. and 6 p.m. on consecutive days in each week of the pay period, unless negotiated otherwise by the Local parties.
- d. Approved compressed schedules:
  - 1. 4–10: The employee works four 10-hour days per week. Employee schedules day off with supervisor. Credit hours are not earned.
  - 2. 5–4/9: The employee works eight 9-hour days with one 8-hour day. Employee schedules short day and day off with supervisor. Credit hours are not earned.
- e. Specific hours scheduled and days off are a matter of joint discussions, including provisions for required coverage, between the respective supervisor and employee. Employees approved to use 5–4/9 or 4–10 will select, with supervisor approval, their "off" day and/or their "short" day. At the request of the employee, the supervisor may approve a change in the scheduled "off" day during a pay period subject to work demands.
- f. Employees for whom Management has determined that a compressed work schedule would impose a personal hardship shall be excluded from the schedule or reassigned (5 USC 6127(b)). Upon receipt of a written request for personal hardship relief, Management will consider it based on, but not limited to, the following:
  - 1. Health problems, including care for a family member as defined at 5 CFR 630.201;
  - 2. Child- or elder-care problems; or
  - 3. Other personal hardships that would impact the employee.

A written determination shall be transmitted to the employee not later than 10 days after receipt of the employee's request, unless mitigating circumstances prevail. Denials provided to the employee shall include the rationale for the decision. The Local Lodge will be notified that a request was made and whether it was granted or denied.

- 6. First 40-Hour Tour:** The first 40-hour tour of duty will be used only when extenuating circumstances preclude a regular schedule of definite hours of duty for each workday of an RSAW, in accordance with 5 CFR 610.111(b). First 40-hour tours will not be used to circumvent overtime pay or compressed work schedules.

**7. Administration of Work Schedules**

- a. Management has the responsibility to approve and monitor the work schedules of the employees, in accordance with criteria in paragraphs f. and i., below.\*
- b. The default schedule is the standard work schedule.\*
- c. Management may assign an employee to a CWS based upon any of the criteria in paragraph f., below.
- d. An employee may not be assigned to an FWS unless the employee requests an FWS.
- e. FWSs and CWSs are both considered alternative work schedules (AWSs). All employees may apply for any AWS described in this Article. Employees do not have an entitlement to an AWS.
- f. In reviewing an employee's request for an AWS, Management may deny the request based upon any of the following criteria:
  1. Productivity.
  2. Level of direct or indirect services furnished to customers.
  3. Cost of operations, other than reasonable administrative costs.

Denials shall be in writing, transmitted to the employee and Local Lodge within 10 days, and include the rationale for the decision. The employee or the Union has the right to grieve the decision in accordance with Article 9.

- g. Employees and their supervisor are expected to communicate regularly about when and where the employee is working and what work activities are planned.
- h. An employee's tour of duty will be recorded in the header of the Paycheck record.
- i. Discontinuation of an employee's AWS:
  1. Management may discontinue the AWS for an employee when they have identified an adverse impact to the agency based upon any of the criteria in paragraph f., above. Written notice shall be transmitted to the employee and the Local Lodge 10 days in advance and will include the rationale for the decision.
  2. Management will not discontinue or shift the type of AWS for the purpose of avoiding overtime or other premium or extra compensation.
  3. Any employee removed from an AWS will be assigned to a standard or compressed work schedule, unless the employee requests, and the supervisor agrees, that another type of AWS is more suitable.
  4. Management will remove an employee from an FWS within 10 days upon the employee's request.
  5. Management will pay an employee reassigned from an FWS to a fixed schedule for all accumulated credit hours, not to exceed 24 hours, at the employee's regular rate of pay (5 USC 6126(b)) within three pay periods.
- j. Seasonal Work Schedule Changes

1. Standard practice for firefighters in most units is to change work schedules seasonally, working 5-8s most months and 4-10s or another work schedule during the winter months (offseason). Such work schedule changes normally remain in effect 2-4 months.
  2. Early engagement with employees through their union representatives should occur regarding the timing of the change, proposed work schedules, seasonal mission requirements, and employee preferences.
  3. Management will normally give employees two pay periods notice of seasonal work schedule changes.
  4. Climate change and other factors impact mission requirements in some locations to such an extent that Management may determine seasonal work schedule changes are no longer appropriate, due to Adverse Agency Impact. Before making a final Management determination and as far in advance as practical, Management will:
    - a. Present the reasons for the potential change (cost, productivity, and/or customer service) to employees and the Union.
    - b. Listen to and consider employees' concerns (e.g., regarding work-life balance, family obligations, etc.).
    - c. Give employees and the Union two pay periods notice before implementation.
    - d. Following this notice, the Union will have five days to invoke negotiations to the extent required by 5 USC § 6120 et seq. Management will not implement any changes to work schedules until bargaining obligations have been satisfied.
    - e. Upon request, provide the Union with data demonstrating the seasonal work schedule at issue has caused Adverse Agency Impact, consistent with 5 USC § 7114(b)(4).
      1. Adverse Agency Impact is defined as (1) a reduction of the productivity of the Agency; (2) a diminished level of services furnished to the public by the Agency; or (3) an increase in the cost of Agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule). See 5 USC § 6131(b).
    - f. Expedited bargaining. Bargaining over such seasonal work schedule changes will be completed within 14 days of the date of the notice to the Union. This timeline may be extended by mutual agreement. It will automatically be extended if designated negotiators are on an incident equal to the number of days remaining on the incident.
    - g. If the parties cannot reach agreement, they will consult the National Parties within the 14 days before declaring impasse.
    - h. Impasse. If, after involvement of the National Parties, no agreement is reached within the 14 days, either party may request assistance from the Federal Service Impasses Panel and procedures in 5 USC § 6131 apply.
  5. The Union may request modification of seasonal work schedules for entire work units by following the procedures in Article 11.
- k. Special Situations
1. Management may make short-term changes, of no more than one pay period, in work days and/or arrival and departure times that are necessary to accomplish the work objectives of the unit. The changes must be administered fairly and equitably in the work unit affected. The Union will be notified of the changes in advance, when possible.



2. When in official travel status away from their duty station, employees attending training that exceeds 2 days shall be temporarily placed on a schedule consisting of five 8-hour days and will be guaranteed 8 hours on each training day.\*
  3. Employees not in official travel status who attend training will remain in their normal work schedule and record their actual hours of training and work. For example, employees released from local training are expected to return to their duties or otherwise account for their time through leave, credit hours, or flexing their hours.
  4. Supervisors of field employees working flexible work schedules may limit work to 8 hours on a given day if weather or work conditions warrant, provided they can fulfill the basic work requirement associated with the employee's FWS to accomplish a full pay period.
  5. Schedules under incidents (see Article 28).
- 8. Rest Breaks:** Authorized paid rest breaks, not to exceed 15 minutes approximately midway through each 4-hour period of the 8-hour workday, will be arranged by the employees with the work supervisor, as needed, so as not to interrupt the work of the organization. In addition, a 15-minute rest period is authorized within each 4-hour period of overtime worked. Additional paid rest breaks are not authorized for smoking.\*
- 9. Meal Breaks**
- a. Employees are required to take a minimum of 30 minutes for an unpaid meal break roughly halfway through their schedule on any day that they work more than 6 hours.
  - b. Employees who are required to work during their scheduled meal period shall be compensated at the appropriate rate. As to bona fide meal periods, see 29 CFR 785.19.
  - c. Supervisors may approve deviations to the requirement that an employee take a meal break on a case-by-case basis.
- 10. Overtime:** The parties at the appropriate level may negotiate provisions for use of overtime when requested by either party.
- 11. On-call:** On-call status is an assignment of coverage for call back to duty during specific nonduty timeframes during the administrative workweek. It does not include periods of seasonal nonduty status addressed in Article 23, or situations where the employee voluntarily makes themselves available for assignment outside their normally assigned duties (such as, irregular and occasional overtime assignments or Incident Management assignments).\*

An employee will be considered off duty and time spent in an on-call status shall not be considered hours of work if (5 CFR 550.112(l) and 5 CFR 551.431(b)):

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

The following procedures, arrangements, and descriptions will be used for the purposes of implementing on-call regulations.

- c. General Provisions:
  1. On-call assignments will be made to individuals that Management has determined are qualified and possess the necessary skills to perform the work.
  2. An employee may make arrangements for another individual to perform their on-call assignment. Management will provide employees who are on-call with a list of qualified

individuals the employee may contact for this purpose. The employee who was scheduled to be on-call will notify Management of the replacement.

3. In the event that an employee who is scheduled to be on-call is unable to do so due to illness or an emergency, the employee will notify Management, as soon as practical, and Management will make arrangements for on-call coverage.
  4. An employee in an on-call status will report as soon as practical, but will not be required to do so in less than 1 hour. A longer call-back radius (report time) may be negotiated at the Local level.\*
- d. Scheduling:
1. The supervisor will notify the employee of the specific on-call periods that the employee will be on-call after regular work hours and on nonwork days. Scheduling of on-call and changes thereto will follow the procedures described in Subsections 2.d and 2.e.
  2. An on-call period will be reasonable. Normally, employees are entitled to have at least 2 days per pay period when they are not on-call, at least 1 of which will be on their regular day off.\*
  3. On-call assignments will be scheduled on a rotational basis among those individuals who volunteer to be on-call. If there are no volunteers, individuals will be assigned on-call periods on a rotational basis.
  4. The employee shall not be on-call during periods of approved leave.
  5. An employee may have Union representation, if requested, during discussions with Management about requested changes to the employee's on-call schedule.
- e. Alternative procedures for scheduling on-call assignments and other arrangements associated with on-call assignments may be negotiated at the Local level.\*

## ARTICLE 19

### PAY AND PER DIEM

#### 1. Introduction\*

- a. The Parties agree that training on the topics of pay, per diem, and travel are important and should be included during new employee orientation and given periodically throughout employment.
- b. Upon the employee's request and if warranted due to negative financial impact(s), Management will provide a letter to the employee explaining the delay of his or her pay or reimbursement of authorized travel expenses.

#### 2. Pay

- a. Employees are responsible to submit accurate and timely Time and Attendance (T&A) reports. It is understood that in some situations the employee may be dependent upon others to submit his or her T&A reports. Management agrees to provide approved reports of T&A for pay purposes to the National Finance Center. Management agrees to provide notice to the employee and employee's supervisor if a timesheet is missing. If the employee provides T&A profile access to Management and the employee is unavailable or unable to submit their timesheet, then Management will submit a "base 80" timesheet on their behalf. The employee will submit a corrected T&A, if needed, as soon as possible.
- b. Management will assist any employee who does not receive a paycheck by Friday afternoon following the scheduled payday. Management agrees to follow up with the National Finance Center on lost, stolen, or late paychecks in accordance with National Finance Center procedures. Management will take action to make payments to employees to cover late checks, normally within 3 business days from employee contact with the Albuquerque Service Center (ASC).
- c. Paperless statements of earnings and leave (SEL) are preferred as per U.S. Department of Agriculture (USDA) Policy, but hard copies will be provided upon request to an employee without electronic access to the statements.
  1. Upon request to the Human Resources Management (HRM) Contact Center by an employee who is unable to access their SEL for a pay period, Management will provide the employee with a hard copy within 10 days.
  2. For ongoing receipt of mailed hard copy SEL, an employee may submit a waiver request to HRM at any time. (Note: Employees on appointments of 60 days or less will receive a hard copy SEL and do not need to submit a waiver.) Examples of when waivers are appropriate include:
    - a. An employee does not have access to the Employee Personal Page.
    - b. An employee does not have access to the Internet.
    - c. An employee has a disability.
    - d. An employee needs special access equipment.
    - e. An employee has a geographic, language, or literacy barrier.
 HRM will approve or deny the waiver request, and communicate the decision to the employee in writing within 28 days of the request. Denials are grievable.
  3. Waiver requests by employees on 1039 appointments will automatically be approved in writing within 28 days of the request.
- d. Employees will be authorized a reasonable amount of official time and equipment use to access and print their SEL, process waiver requests, and to ensure their paycheck was deposited.
- e. Back Pay: Interest on back pay to employees shall be paid in accordance with current law.

### 3. Per Diem\*

- a. Travel and per diem will be administered in accordance with FSH 6509.33 Chapters 300 and 301 and any supplemental agreements.
- b. Employees in travel status, including employees temporarily detailed to another duty station, will receive the per diem rates determined by the General Services Administration, in accordance with the FTR for that geographic area.
- c. Long-term details: All terms of a detail including lodging arrangements, reductions in the maximum per diem rate, travel reimbursement, travel home during the detail, work schedules, and the travel savings shared benefits program will be discussed and documented in writing between Management and the employee before the detail commences.
- d. Field per diem: Field per diem rate will be paid equal to the per diem rates established in the FTR for that geographic area unless a lesser amount has been negotiated at the intermediate or local level.
- e. Travel vouchers will normally be submitted within 5 business days of returning from travel or every 2 weeks if on continuous travel and processed in a timely manner in accordance with Agency policy. If the employee does not submit their own travel voucher, the employee will be notified, as soon as practical, when their travel voucher has been submitted.
- f. Advances: Under normal conditions, Management will plan trip assignments so that an employee who does not have a Government Travel Charge Card has sufficient time to request and receive a travel advance to use on the assigned trip. The amount of the advance is subject to the limitations stated in Federal Travel Regulations.
- g. If travel arrangements cannot be made far enough in advance to obtain a travel advance, the Agency will make alternative arrangements, which could include providing direct payment for transportation and lodging expenses.
- h. In situations where a government vehicle is assigned to a work unit, if the vehicle is not both available and suitable for the task to be accomplished, the employee may, with prior approval of the supervisor/approving official, be authorized to use their Privately Owned Vehicle (POV) as advantageous to the government and be compensated at the “if no government vehicle available rate.”
- i. Local parties may negotiate arrangements for employee use of Government-Owned Vehicle (GOV) and POV that do not conflict with laws, regulations, or this Master Agreement.

**4. Remote Worksites:** Impact and implementation of changes made to remote work sites or the establishment of new worksites are subject to local level negotiations. When Management proposes a remote-site allowance for U.S. Office of Personnel Management (OPM) approval, the Local Lodge will be given an opportunity to review and comment on the proposal. The Local Lodge may propose that a site be considered remote or an existing remote worksite be changed.

**5. Hazard and Environmental Differential Pay:** Hazard pay and environmental differential pay will be authorized and paid in accordance with appropriate regulations 5 CFR 532.511; 5 CFR 532.513; 5 CFR 532 Subpart E, to include Appendix A for Federal Wage System Employees; 5 CFR 550 Subpart I for General Schedule Employees; and FSH 6109.11 Chapter 10. Some environmental differentials are payable only if protective facilities, devices, or articles of clothing have not practically eliminated the hazard. In accordance with OPM guidelines, new hazard or environmental differential percentages for existing environmental categories, or new categories of environmental differential pay, may be negotiated nationally and submitted to OPM for approval.

### 6. Overtime and Compensatory Time

- a. The Parties agree that an employee directed (orally or in writing) to work in excess of 8 hours a day or 40 hours a week by his/her supervisor or authorized Management official has been

“officially ordered” with respect to overtime work. An employee who performs such work is entitled to be paid at the overtime rate or earn compensatory time in accordance with 5 CFR 550 and 5 CFR 551.

- b. Compensatory time off is time off from regularly scheduled work in lieu of overtime pay for irregular or occasional overtime hours previously worked. Compensatory time may not be granted in lieu of regularly scheduled overtime that is established in a tour of duty, regardless of whether the overtime is scheduled within the 40-hour basic workweek or outside the 40-hour basic workweek, unless the employee is using a flexible work schedule as defined in Article 18.3.b.
- c. Eligibility
  - 1. General Schedule (GS) employees whose basic rate of pay is equal to or less than the maximum rate of a GS-10 may request compensatory time off in lieu of overtime payment.
  - 2. Only employees exempt from the Fair Labor Standards Act of 1938 as amended whose rate of pay exceeds the maximum rate of grade GS-10 may be required to take compensatory time off in lieu of receiving overtime payment.
  - 3. For an employee to receive compensatory time off in lieu of paid overtime, the employee must request it in writing.
- d. Use and payment of compensatory time
  - 1. An employee must use accrued regular compensatory time off to which she/he is entitled in accordance with FSH 6109.11 Chapter 30. Regular compensatory time expires if the employee does not use their compensatory time within 26 pay periods from the pay period it was earned. Employee must use compensatory time off before they are granted approval to use annual leave, unless it would cause the employee to forfeit annual leave at the end of the leave year. Employees are entitled to payment of expired compensatory time at the overtime rate that was in effect when the compensatory time was earned.
  - 2. The pay period after compensatory time has expired, ASC-HRM will notify the employee and their supervisor that the employee is eligible for payment of expired compensatory hours and will inform them of the required documents needed to pay out the funds.
  - 3. Within a pay period of notification, the supervisor will submit the required documents to the ASC-HRM. The ASC-HRM will process regular compensatory time payments upon receipt of required documents within two pay periods.

## **7. Standby**

- a. An employee will be considered on duty and time spent on Standby Duty shall be considered hours of work if the employee (Reference 5 CFR 550.112(k) and 5 CFR 551.431(a)):
    - 1. Is restricted to his or her living quarters or designated post of duty,
    - 2. Has his or her activities substantially limited, and
    - 3. Is required to remain in a state of readiness to perform work.
  - b. Employees who are involuntarily placed on standby, regardless of the methods Management uses to restrict use of personal time and to maintain their readiness for work (for example, beepers, cell phones), will be compensated in accordance with applicable Federal pay regulations. Employees who voluntarily restrict their activities and/or use electronic communication devices to be available for duty after work hours are not on standby. The Local parties may further negotiate matters concerning scheduling, rotation, and hardships.
- 8.** Employees will not be required to provide coverage for call back to duty under conditions more restrictive than those provided for in Article 18.11 unless they are in pay status.

- 9. Call Back Compensation:** An employee who is called back to duty is compensated beginning from the time they report to their duty station or start to perform work. Such employee will be compensated a minimum of 2 hours of overtime compensation for each callback period. The 2-hour minimum does not apply to work performed at employees' residences; however, such work is compensable in accordance with pay and overtime regulations. Note: Time spent at individual's personal residence preparing to depart on a fire assignment is not compensable.
- 10. Travel Pay:** Employees shall be compensated for travel time as authorized under 5 CFR 550 and 551, the Fair Labor Standards Act of 1938 as amended, and Federal regulations. Normally, employees will not be expected to travel without being eligible for compensation. However, if the employee is expected to travel on Government business without entitlement to compensation, he or she will be notified in advance and provided the reason(s). When an employee cannot otherwise be compensated for travel time, the employee may be eligible for compensatory time for travel, in accordance with 5 CFR 550.1401(n) and FSH 6109.11 Chapter 30. In most circumstances, compensatory time for travel will be forfeited if it is not used within 26 pay periods after it is earned.

## ARTICLE 20

### LEAVE

#### 1. Annual Leave

- a. Annual leave is a benefit and accrues automatically. However, supervisors approve when the leave may be taken. This decision is made after considering the needs of the Forest Service and the employee's request. Annual leave requests shall be approved except for legitimate job-related reasons. Annual leave should be requested and approved as far in advance as practical. Procedures for scheduling annual leave are subject to negotiation at the local level.
- b. An employee whose personal, religious beliefs require the abstention from work during limited periods of time will be granted annual leave (or credit hours, compensatory time off, leave without pay) upon request for such periods, unless the presence of the employee is necessary for efficient operation of the workplace. Upon request, an employee may be granted work for the sole purpose of accumulating compensatory time to cover time lost for meeting those religious requirements, as long as such work is consistent with the efficient operation of the workplace. Compensatory time for religious observation is covered in 5 CFR 550.1002.
- c. An employee will be granted accrued annual leave or leave without pay (or credit hours, compensatory time off) if requested in case of death of a family member. A limited amount of sick leave may also be used (see Subsection 2.d below). Management will make every effort to grant annual leave or leave without pay in case of death of other relatives or friends.
- d. An employee will be granted a total of up to 12 weeks of a combination of annual leave and/or leave without pay during any 12-month period to care for a "family member" as defined at 5 CFR 630.201 in the event they have a "serious health condition" as defined at 5 CFR 630.1202. If required by the nature of the health condition, leave will be granted on an intermittent basis.\*

#### 2. Sick Leave

- a. Sick-leave notification:
  1. The employee shall provide advance notice for prearranged medical, dental, or optical examination or treatment.
  2. An employee who is absent due to unforeseeable illness or injury shall notify their supervisor or acting supervisor as early as practicable on the first day of such absence, or, if unable for a legitimate reason, as soon as possible.
- b. Earned sick leave may be used for medical appointments and for illness of the employee. An explanatory note and/or oral report by the employee when a physician's services were not required will be accepted unless the employee is under valid sick leave restriction or there is a reasonable suspicion of abuse. Advanced sick leave may be approved for serious illness or disability per FSH 6109.11, Chapter 30.
- c. If there is reasonable indication that sick leave is being abused, the employee shall be informed in writing, including special provisions for future leave approval and his or her right to grieve. Abuse of sick leave is not necessarily related to the frequency of sick leave. In cases of suspected leave abuse, the employee may be required to provide a "medical certificate" as defined by 5 CFR 630.201.
- d. Sick leave will be granted when the employee provides care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment. Sick leave can also be used to make arrangements necessitated by the death of a family member or attend the funeral of a family member. The amount of sick leave that can be used is limited by law and regulation, as defined by 5 CFR 630.401(b).

- e. Sick leave will be granted when the employee provides care for a family member with a serious health condition, as defined at 5 CFR 630.1202. The amount granted shall be no greater than that limited by governmentwide regulations, as defined by 5 CFR 630.401(c).
- f. The use of sick leave is appropriate when the employee would, as determined by the health authorities having jurisdiction or by a health-care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.
- g. Employees may use sick leave when they must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.
- h. In addition to sick or annual leave, employees may be granted, in a calendar year, up to 7 days of administrative leave to serve as a bone-marrow donor or up to 30 days of administrative leave to serve as an organ donor.
- i. For sick leave, the definition of family member is found in 5 CFR 630.201(b).

### **3. Maternity and Paternity Leave**

- a. The granting of leave for maternity/paternity reasons may be a combination of sick leave, annual leave, and leave without pay. An employee should make known his or her intent to request leave under this Section as soon as practical, including approximate dates.
- b. Medically necessitated maternity/paternity leave:
  - 1. Pregnancy and childbirth are treated like any other “serious health condition” as defined by 5 CFR 630.1202.
  - 2. A pregnant employee will be allowed to work as long as she and her health-care provider feel is wise, prior to delivery of the child. The maternal employee should consult her health-care provider regarding any working conditions that she or her supervisor perceives as potentially harmful. Management will make a reasonable effort to adjust working conditions when necessary.
  - 3. The agency will grant leave to an employee incapacitated to perform the duties of her position due to pregnancy or childbirth (see Subsection 2.b and Section 4).
  - 4. The agency will grant leave (including sick leave) to an employee to care for a family member during the mother’s period of “incapacitation” (as defined in 5 CFR 630.1202) due to pregnancy or childbirth. The agency will also grant leave for an employee to care for his/her child with a serious health condition (see Subsection 2.e and Section 4).
  - 5. Continued employment will be ensured in the same or like position for an employee who wishes to return to work, unless termination is otherwise required by termination of appointment, reduction in force, or other unrelated reason.
- c. Employees will be granted, upon request, 12 weeks of leave without pay and/or annual leave in the year following the birth or placement of the employee’s or their domestic partner’s child. Upon request, leave without pay or annual leave on an intermittent schedule will be granted consistent with the efficient operation of the workplace.
- d. An employee covered under this Section may request telecommuting (see FSM 6162) or “child at work” arrangements in lieu of or in addition to Subsections 3.b and 3.c above within the first year of birth or placement of a child covered under this Section. Local parties may negotiate dependent-at-work policies.

### **4. Family and Medical Leave**

- a. By reference, the provisions of the Family and Medical Leave Act of 1993 as amended, and the policies of its implementing regulations (5 CFR 630 Subpart L) are incorporated into this Master



Agreement. Key components of the Act are contained in Section 2, Sick Leave, Section 3, Maternity and Paternity Leave, and this Section. See also the Federal Employee Paid Leave Act of 2019 and Pregnant Workers Fairness Act.

- b. Eligible employees are entitled to a total of 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reasons:
  - 1. The birth of a child or children of the employee and the care of such children.
  - 2. The placement of a child with the employee for adoption or foster care.
  - 3. The care of a spouse, child, or parent of the employee, if such spouse, child, or parent has a serious health condition.
  - 4. A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.
  - 5. 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.
- c. The Department of Labor FMLA forms WH380-E (for employees) or WH380-F (for family members) will normally be used and are adequate for medical documentation.
- d. An employee may elect to substitute paid time off for any or all of the period of leave taken as provided for in 5 CFR 630.1205.

#### **5. Military Leave**

- a. Military leave will be granted to employees who are members of the National Guard or Reserves in accordance with 5 USC 6323. Such employees who are full-time Federal civilian employees whose appointments are not limited to 1 year will be granted 120 hours of military leave per fiscal year. Military leave is prorated for part-time career employees and employees on uncommon tours of duty. Employees with temporary appointments that do not exceed 1 year or with intermittent work schedules are not entitled to military leave. Military leave can be used for active duty or training. Unused military leave may be carried over to the following fiscal year but may never exceed 240 hours in any single fiscal year.\*
- b. If an employee is called on duty as a member of the National Guard or the Reserves and has used all his or her military leave, he or she may be granted leave without pay upon request or may be granted annual leave or may use compensatory time if he or she desires. Use of alternate work schedule for military duty may be negotiated at the appropriate level.

#### **6. Excused Absence and other types of Leave\***

- a. Excused absences may be granted to employees for participation in activities in accordance with Agency regulations.
- b. Supervisors may excuse infrequent absences and tardiness of less than 1 hour on the part of the employees. Each case shall be considered on its merits.
- c. Employees may be excused for the time needed to attend the funeral services of a fellow employee within the local commuting area.
- d. Weather and Safety Leave may be granted, in accordance with 5 USC 6329c, 5 CFR Part 630, Subpart P, and consistent with the OPM Governmentwide Dismissal and Closure Procedures. This type of leave may be appropriate when weather or other safety-related conditions prevent employees from safely traveling to, or safely performing work at an approved location due to an act of God, terrorist attack, or other applicable condition.
  - 1. Ensuring employee safety is the primary consideration when determining whether to close a Forest Service office. Management retains the right to determine the operating status of

its facilities. Office closure procedures will be in accordance with Office of Personnel Management (OPM) "Government Wide Dismissal and Closure Procedures."

2. The status of Government operations outside the Washington, DC area will be communicated to employees in the affected area using methods commonly employed by the Agency for this purpose.
  3. Generally, employees who are telework program participants will not receive weather and safety leave, since they are not usually prevented from performing work at an approved location due to a weather or other safety-related emergency. When determining Weather and Safety Leave eligibility, specifically, whether a Telework Participant should have "reasonably anticipated" a severe weather event and/or emergency, management considerations may include, but are not be limited to the following:
    - a. Whether or not the Agency issued any advanced notice of severe weather event and/or emergency;
    - b. Availability of severe weather event, emergency, and/or operating status announcements through local news broadcasts/forecast;
    - c. The availability and access to agency notification systems (phone recordings, emails, and websites) which provide operating status announcements; and
    - d. The availability and access to social media for advanced notice of severe weather or other emergency situation.
  4. The agency may not provide weather and safety leave to a telework participant who is not prevented from working safely at an approved telework site.
  5. Employees with situational/ad hoc telework agreements, but who might not telework on a regular basis, will be encouraged to telework periodically, as scheduled with their supervisor, to ensure that the employee is able to maintain their telework readiness if they are expected to work in the event of an office closure due to inclement weather or other safety issue.
  6. Employees will not be required to complete ad hoc/situational telework agreements simply to avoid granting weather and safety leave during office closures.
  7. As it applies to this Section:
    - a. Emergency employees are employees who are expected to report to their worksite or begin teleworking (as permitted) on time regardless of whether the office is closed for weather or safety reasons.
    - b. Critical and or Emergency Employees will be notified of event specific changes in their status within a reasonable timeframe or as soon as practicable.
    - c. As prescribed in 5 CFR 630.1605 emergency employees generally do not receive weather and safety leave. However, during certain emergencies, Management may determine that the circumstances have made traveling to or performing work at the worksite unsafe for emergency employees. In these situations, Management may either require the emergency employee to work at another location (to include a telework site) or determine that circumstances justify providing weather and safety leave to emergency employees.
  8. Procedures for dismissal of employees and communicating with employees to use Weather and Safety Leave are negotiable at the local level.
- 7. Care-Center Visitations:** Annual leave or leave without pay will be approved to allow a parent or guardian the opportunity to visit and analyze the day-care, classroom, or elderly-care facility of a dependent. The amount of leave authorized will be appropriate to the situation.

**8. Leave Without Pay**

- a. Employees who do not have leave to their credit and wish to take leave for emergencies or other necessities may be granted leave without pay upon request. Denials must be based on legitimate job-related reasons. Employees may also be granted leave without pay upon request if they have leave to their credit, but, for valid reasons, choose not to take it.
- b. Leave without pay shall be granted upon request to disabled veterans needing medical treatment, examination, or absence from duty in connection with their disability, and to reservists and National Guard personnel for military duties.
- c. Leave without pay may also be granted on an extended basis:
  1. For educational purposes.
  2. While awaiting action on a retirement.
  3. While awaiting action on an Office of Workers' Compensation Programs claim.
- d. Granting advanced sick leave or advanced annual leave in lieu of leave without pay will be examined in each individual case and may be granted in accordance with FSH 6109.11 Chapter 30.

**9. Court Leave**

- a. Employees who are called for jury duty shall notify the Agency as early as possible and will be granted court leave. Employees will submit jury duty pay to the Forest Service, except the employee may retain payment received for expenses.
- b. Employees summoned to appear in a nonofficial capacity as witnesses in judicial proceedings involving the U.S. Government, the Government of the District of Columbia, or a State or local government on behalf of a party are authorized to receive pay without charge to leave. Absences for employees summoned in cases involving only private parties may be covered by appropriate leave.

- 10. Holiday Leave:** In areas where 7-days-a-week staffing is necessary, scheduling the use of holiday leave shall be fair and equitable. The procedures used are a matter for local level negotiations.

## ARTICLE 21

### PERFORMANCE MANAGEMENT

1. Performance management will be done in accordance with Departmental Regulation 4040-430 Performance Management (the Performance DR).
2. **Coverage:** Coverage under this program is based on an employee's type of appointment, per 5 CFR 430 Subpart B. The following employees are covered:
  - a. All competitive service employees, whether temporary or permanent, that are expected to meet the minimum appraisal period (90 days). This includes temporary 1039s.
  - b. Bargaining unit employees with excepted service appointments that are expected to meet the minimum appraisal period (90 days).
3. **Performance Management Procedures**
  - a. Employees will be provided with a copy of their Performance Standards when the Rating Official issues the standards at the beginning of the Rating Period. In addition to the items outlined in the Performance DR, performance discussions are expected to include guidance from the Rating Official on how the work performed impacts the mission of the Agency.
  - b. Employees are responsible for providing input to their Rating Official concerning the development of the Performance Plans including performance elements, standards, and measures. Employees must also ensure they have a clear understanding of their performance expectations and how their performance relates to the mission of the Agency.
  - c. Employees and Rating Officials will engage in discussions on performance standards and measures, and the milestones to be used for measurement will be mutually recognized. Measures shall be attainable, which means that it must be known by the rating official that the employee has the knowledge to accomplish the objective and it is within the span of control of the employee to accomplish the objective.
  - d. Performance discussions will be held with Permanent Seasonal Employees, as well as Temporary Employees, no less than 30 days after entering pay status. The Rating Official will meet with them for a performance discussion at least quarterly while they are on duty.
  - e. Consistent with the Performance DR, supervisors may utilize supplemental standards in order to define expectations in a way that is clear to employees.
  - f. Employees who are approved for telework should not be held to a higher or lower production standard than those who are not utilizing the flexibility of telework. Management will comply with the Employee Rights and Telework Articles.
  - g. Any significant changes to performance expectations, standards, or measures during the year must be reflected in the Performance Plan and revised in accordance with the Performance DR. However, employees must have a minimum of ninety days to perform under the modified standards before receiving a performance rating based on the new standards.
  - h. If an employee is unable to meet Performance expectations because of a medical condition it is the responsibility of the employee to follow available processes, such as reasonable accommodation and hardship processes, including any necessary documentation, and to notify the Rating Official of the potential impact to performance.
  - i. If Management implements a new process for ensuring supervisor approval of WGI before they are processed, the Agency will notify the Union within fourteen (14) days after Management receives notification of the change. If the Union believes the new process creates an adverse impact to employees, the Parties will meet to negotiate in accordance with Article 11.
4. **Performance Ratings for Union Officials**

- a. Employees who are Union officials are not rated for their representational work (Union duties). Employees are only to be rated on Agency-assigned work.
  - b. Union officials will be expected to perform Agency work at the Fully Successful level or above. The performance expectations will be adjusted for official time used to perform representational work from the performance of the agency assigned work, taking into consideration any impact on productivity and/or timeliness due to the performance of representational work.
- 5. Unacceptable Performance:** If at any time during the rating period, the rating official deems an employee's performance to be deficient they will take action in accordance with the Performance DR. Whenever possible, actions to place an employee on a Demonstration Opportunity Plan will be taken early enough in the fiscal year to allow the employee to improve their performance to a fully successful level prior to being given their rating of record for the year.\*
- 6. Contents of a Demonstration Opportunity Plan (DO Plan)**
- a. Identifying Information: The employee's name, title, series, grade, and organizational location.
  - b. Length of Demonstration Opportunity Period. The length of the initial opportunity period will typically be 30 calendar days. This period may be extended by written notice, in accordance with the Performance DR.
  - c. Elements and Deficiencies: The critical element(s) and performance standard(s) for which the employee's performance is at the unacceptable performance level and a description of the exact nature of the deficiencies.
  - d. Expectations: Advice and/or guidance on what the employee must do to raise their performance to the fully successful performance level. Expectations may be clarified at this time. However, additional duties or standards may not be added to the employee's performance plan during a DO Plan.
  - e. Management Assistance: A statement describing any assistance the agency will provide the employee to bring the performance up to the fully successful level. Assistance may include, but is not limited to, counseling, closer supervision, special resources, training, more frequent performance reviews, memoranda written to the employee explaining ongoing errors and how to correct them, assistance with organizing workload, and samples of acceptable work products.
  - f. Potential Consequences of Failure: A statement that failure to improve performance to the successful performance level in any critical element (that is, the level of performance required for retention in the position) may result in reassignment, a reduction in grade, or separation of the employee from the agency.
  - g. Employee Assistance Referral: A referral to the Employee Assistance Program (EAP) (FSM 6143): However, an employee cannot be compelled to seek EAP assistance.
- 7. Meetings During the DOP:** The rating official will meet with the employee regularly for the duration of the DOP to reevaluate performance and counsel the employee on how to improve. Union representation will be provided upon the employee's request. However, DOP meetings will not be postponed by more than 1 day to obtain a union representative. The Parties will use the most economical and efficient methods to conduct the DOP meeting, including use of current communication technologies whenever practical in accordance with Article 5.3. The role of the Union representative in a DOP meeting is limited in scope, and the representative will not be disruptive in the meeting.\*
- 8. Performance-based Action:** Actions may be taken consistent with 5 USC 43 or 5 USC 75 and will be in accordance with the Departmental Regulations and this Agreement.
- a. For actions taken under 5 USC 75 procedures in Article 22.6.g will be followed.
  - b. For actions taken under 5 USC 43, the following procedures apply:

1. Notice of Proposed Adverse Action: An employee whose reduction-in-grade or removal is proposed is entitled to at least 30 days advance written notice that informs the employee of:
  - a. The nature of the proposed action.
  - b. The specific instances of unacceptable performance by the employee on which the proposed action is based.
  - c. The critical elements of the employee's position involved in each instance of unacceptable performance.
  - d. The timeframe for submitting a reply.
  - e. The right to be represented by a National Federation of Federal Employees (NFFE) representative, an attorney, or other representative.
  - f. The right to make an oral and/or written reply and to receive a written decision with appeal rights.
2. Decision: After full consideration of the case, where warranted, Management may remove, demote, or reassign the employee. The decision will be made by a different management official than the official who proposed the action. The decision letter to an employee stating that action under this Article will be taken will inform the employee
  - a. of the option to appeal the action to the Merit Systems Protection Board (MSPB) if applicable or through the negotiated grievance procedure, but not both;
  - b. that the employee that he or she will be deemed to have exercised his or her option to raise the matter under one procedure or the other at the time the employee timely files a written grievance or files a notice of appeal under the applicable MSPB procedures.
  - c. time limits (number of days) to appeal under the negotiated grievance procedure and the MSPB appeals procedure.
- c. If the employee is the subject of an action based on unacceptable performance related to a disability, the employee may file for disability retirement. Upon the employee's request in such a case, Forest Service will allow the employee to take sick leave or leave without pay (LWOP) and delay the action to allow a determination to be made concerning the disability retirement.

## ARTICLE 22

### DISCIPLINE AND ADVERSE ACTIONS

1. Discipline is defined for the purposes of this Article as any disciplinary or adverse action taken under 5 CFR 752 against an employee that results in a letter of reprimand, suspension without pay, reduction-in-pay or -grade, or removal from the Forest Service, except for performance actions taken under Article 21 of this Master Agreement.

#### 2. General

- a. Management shall determine when the need arises for disciplinary or adverse actions. Disciplinary actions and adverse actions will be taken in accordance with applicable laws, rules, and regulations in effect at the time of the action. The specific penalty for an instance of misconduct shall be tailored to the facts and circumstances of the situation. Procedures for disciplinary and adverse actions are described in this Article.
- b. The objective of discipline is to correct employee behavior and to prevent the recurrence of misconduct.
- c. Management and the Union agree that it is important that the supervisor/employee relationship encourage early recognition and resolution of potential conduct situations that could lead to disciplinary or adverse action.
- d. When Management becomes aware of potential misconduct or misconduct by an employee, the employee will be contacted as soon as practicable and instructed to discontinue the misconduct. Management will not knowingly allow instances of misconduct to continue for the purpose of increasing the severity of a potential penalty.
- e. When discipline is initiated, it will be within a reasonable time period after the incident in question, or after Management knew or reasonably should have known of the incident.
- f. Discipline against employees must be based on just cause, consistent with applicable laws and regulations, and fair and equitable.

#### 3. Penalty Determination

- a. In order to determine the appropriate penalty for an Employee such as a disciplinary or adverse action, the Employer will consider the relevant factors as determined by governing law (for example, applying the factors articulated by the Merit Systems Protection Board in *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (1981) to applicable adverse actions).
- b. The Parties recognize that discipline may be progressive in nature, however the progressive sequence of discipline is not required. It is understood that some offenses may be cause for severe action, including removal, irrespective of whether previous disciplinary or adverse actions have been taken against the employee.

#### 4. Counseling/Cautionary Situations

Whether issued orally or in writing, counseling is a regular part of daily supervision. Supervisory counseling actions are not considered formal discipline and will not be placed in the employee's Official Personnel Folder (OPF). Supervisory counseling actions include oral or written counseling, admonishment, instruction, expectation, caution, or warning. Written counseling letters will include the specific reasons for the letter and the expectations for the employee. Counseling letters are not grievable.

#### 5. Inquiries and Misconduct Investigations

- a. Misconduct investigations (including Harassment Assessment and Reporting Team inquiries for purposes of this Subsection), if warranted, will be in accordance with the standards set forth in

USDA Personnel Bulletin No. 751-3 and laws rules and regulations in effect at the time of the investigation.

- b. Prior to issuing a letter of reprimand or a notice of proposed discipline, the official issuing the letter or notice, or his or her designee, shall undertake an inquiry and/or investigation to obtain pertinent facts relating to the situation.
- c. Employee rights during examinations are described in Article 4.
- d. To the extent practicable, the official(s) conducting the inquiry or investigation will try to obtain information directly from the affected employee, before contacting others.\*
- e. Generally, if Forest Service Law Enforcement is used to conduct misconduct investigations of employees, the officer or agent used to conduct the investigations should be from outside the Region. This is not intended to prevent law enforcement supervisors from conducting supervisory inquiries of employees within their chain of command.\*
- f. Inquiries and investigations will be completed in a timely manner. Management will propose disciplinary action, if warranted, in a timely manner after completion of the inquiry or investigation.\*
  - 1. For supervisory inquiries, the affected employee may request information from their supervisor about the status of an inquiry at any time, but not the substance. The response will specify whether the inquiry has been completed or when closure is expected, if known.
  - 2. For misconduct investigations, Management will notify the subject of the investigation that it is completed within 30 days after the investigation is completed. If the investigation is not completed within 90 days from the date the subject of the investigation was first examined, the employee may request the status of the investigation and Management will provide the information within 14 days thereafter. For misconduct investigations, if no disciplinary action is warranted, the employee will be notified in writing within 30 days of final determination.
- g. Once Management has been notified that the Union is representing the employee(s) in reference to a specific matter, Management will notify the representative of any additional meetings with the employee(s) relevant to that matter. This notification will allow reasonable time for the representative to attend the meeting(s). A copy of any correspondence to the employee from Management will be sent to the Union representative at the same time as it is sent to the employee.
- h. Criminal investigations: The provisions of this Section do not apply to criminal investigations.

## **6. Discipline**

- a. Before deciding on a particular penalty, agency officials should consider all the pertinent factors as described in USDA Table of Penalties.\*
- b. Decision Letters will inform the employee how many years the letter will be retained in the agency's official disciplinary case file. The retention period will be determined in accordance with the Records Management Handbook (FSH 6209.11 Chapter 40).
- c. Employees will be afforded access to any closed discipline files pertaining to the employee.
- d. Provisions common to all discipline except letters of reprimand taken under 5 CFR 752:\*
  - 1. In the event an employee is issued a notice of proposed discipline, that employee must be afforded and made aware of all the rights and privileges due him or her under 5 CFR 752 and this Master Agreement.
  - 2. Management will state in sufficient detail the reasons for proposed discipline and provide the employee copies of any evidence to support the proposed action.



3. The employee will be granted a reasonable amount of duty time to prepare an answer to any proposal.
  4. Time limits for the employee's response may be extended upon written request.
- e. Letter(s) of Reprimand:
- Letter(s) of reprimand will be clearly titled and sufficiently specific to support the letter being issued and what the employee can do to improve or take needed corrective action. The employee will be advised of his or her grievance rights. The letter will advise the employee that the reprimand will be retained in the Official Personnel Folder (OPF) for a period of 1 year. At the time it is removed from the OPF, the employee will be notified in a confidential manner.
- f. Suspension of 14 days or less:
- The following applies to an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less. Such an employee is entitled to:
1. At least 7 days advanced written notice stating the specific reasons for the proposed suspension.
  2. A reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.
  3. Representation by a National Federation of Federal Employees (NFFE) representative, an attorney, or another representative.  
 Note: The employee will notify management, in writing, of whom their representative is and any changes that may occur. If there are mitigating circumstances where written designation cannot be made prior to a representational need, verbal designation by the employee will be sufficient and the designation will be documented as soon as practicable.
  4. A careful consideration of the evidence and the employee's response by the deciding official, including any mitigating factors. The deciding official shall decide:
    - a. To withdraw the proposed discipline;
    - b. To institute a lesser discipline; or
    - c. To institute the proposed discipline.
  5. A written decision and the specific reasons therefore, at the earliest practicable date.
  6. The opportunity to grieve the decision through the negotiated grievance procedure contained in Article 9. The written decision shall advise the employee of this right. If the employee chooses to use the negotiated grievance procedure, he or she must represent himself or herself or be represented by the Union.
- g. Suspension for more than 14 days, removal, furlough without pay for 30 days or less, or reduction-in-pay or –grade (adverse actions):
- The following applies to an individual in the competitive service who is not serving a probationary or trial period under an initial appointment, or who has completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less; and a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions. Such an employee is entitled to:
1. At least 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, stating the specific reasons for the proposed action.

2. A reasonable time, never less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.
3. Representation by a National Federation of Federal Employees (NFFE) representative, an attorney, or another representative.

Note: The employee will notify management, in writing, of whom their representative is and any changes that may occur. If there are mitigating circumstances where written designation cannot be made prior to a representational need, verbal designation by the employee will be sufficient and the designation will be documented as soon as practicable.

4. A careful consideration of all the facts and evidence of the case, including the Douglas factors and the employee's response, if any. The deciding official shall decide:
  - a. To withdraw the proposed discipline;
  - b. To institute a lesser discipline; or
  - c. To institute the proposed discipline.
5. A written decision and the specific reasons therefore, at the earliest practicable date.
6. The decision letter informing the employee of his or her option to appeal the action to the Merit Systems Protection Board (MSPB) or through the negotiated grievance procedure, but not both, and informing the employee that he or she will be deemed to have exercised his or her option to raise the matter under one procedure or the other at the time the employee timely files a written grievance or files a notice of appeal under the applicable MSPB procedure. If the employee chooses to use the negotiated grievance procedure, he or she must represent himself or herself or be represented by the Union.

#### **7. Alternative Discipline**

- a. In accordance with the provisions of USDA Personnel Bulletin No. 751-3, the Forest Service encourages the use of alternative discipline whenever appropriate. Alternative discipline provides an opportunity to better manage caseloads, reduce administrative costs, and rehabilitate employees for productive Government service.
- b. Alternative discipline agreements will promote the efficiency of the service and may contain nontraditional penalties such as community service, donation of annual leave to the leave transfer program, use of leave-without-pay instead of suspensions, or combinations of these or other agreed-to alternatives.
- c. Employees may offer suggestions for alternative discipline to the deciding official.
- d. The option to enter into an alternative discipline agreement is voluntary on the part of the employee. When offered an alternative discipline agreement, the employee will be informed in writing that they may discuss the alternative discipline agreement with a Union representative before signing. Employees will not be required to make a decision on an offer of alternative discipline before receiving a written decision on the proposed discipline.
- e. In cases where the appropriate penalty is removal, alternative discipline may not be used. However, a proposed removal that is mitigated at the decision stage may be a candidate for last chance agreement.

#### **8. Termination of Probationary/Trial Employees**

- a. The Parties recognize that the probationary/trial period is an extension of the examining process.
- b. Terminations of probationary/trial employees for conduct or performance reasons will take place only when reasonable doubt exists as to the appropriateness of continued employment. Employees will have an opportunity to demonstrate their performance and conduct for continued employment to the fullest extent possible during their probationary period. If a decision is made to terminate an

employee during the probationary period, a written notice will be issued to the employee containing the reasons for the action and its effective date. The reasons will include any agency conclusions on performance and/or conduct deficiencies.

- c. Discipline of probationary/trial employees that is less than removal will follow the same procedure, above, except the employee will be advised in writing of his or her right to grieve the decision, according to Article 9.

**9. Termination and Discipline of Temporary Employees:** Refer to Article 24.

## ARTICLE 23

### PERMANENT SEASONAL EMPLOYMENT

1. Seasonal employment, as authorized in 5 CFR 340 Subpart D, means annually recurring periods of work of less than 26 pay periods each calendar year. Seasonal employees are permanent employees who are placed in nonduty/nonpay status and recalled to duty in accordance with pre-established conditions of employment.
2. A permanent seasonal employment agreement must be executed between the Forest Service and the seasonal employee prior to initial appointment. The template in Appendix H will be used for the executed agreement and maintained in the employee's electronic Official Personal Folder (eOPF). Management and the seasonal employee will discuss the terms and conditions of the employment agreement. The employee and Management must sign and date the agreement. Management will provide the employee with a copy. There will be no change in any terms of employment without notifying the employee and the Union. Any permanent changes will require a new agreement.\*
3. Annually, the supervisor and the employee will communicate to establish the starting and ending dates two pay periods in advance of the action. Upon request, the Local Lodge will be provided copies of the employee's employment agreement.
4. Management will determine the length of the season, subject to the condition that it be clearly tied to the nature of the work. The season (including the beginning and ending dates) must be defined as closely as practicable so that an employee will have a reasonably clear idea of how much work he or she can expect during the year. The employee is obligated to work for the minimum period specified in the employment agreement. The length of the season may be extended by mutual agreement between Management and the employee.
5. Upon request by the employee, the guaranteed minimum tour may be reviewed to determine if the minimum tour should be increased or decreased.
6. Release and recall procedures must be established in advance and uniformly applied. They may be based on performance, seniority, veterans' preference, other appropriate indices, or a combination of factors (5 CFR 340.402(d)). These procedures are negotiable at the appropriate level.
7. When a seasonal employee is called back during their nonduty/nonpay status period (for example, to attend a training session), the employee will normally be called back to full-time status rather than intermittent status.
8. Should Management need to permanently reduce seasonal tours below the minimum guaranteed tour, the following options apply:
  - a. Reductions in Force (RIF) procedures as outlined in 5 CFR 351, or
  - b. Negotiation of other procedures nationally in accordance with Article 11.
9. In case of a temporary reduction (for the current year), furlough procedures will be used pursuant to Article 33 of this Master Agreement. Furloughs more than 30 days follow 5 CFR 351 procedures, and those less than 30 days follow 5 CFR 752 procedures.
10. Seasonal employees serving under career appointment may move to other positions in the same way as other regular career employees (5 CFR 340.402).
11. Seasonal employment may not be used as a substitute for full-time employment or as a buffer for the full-time workforce (5 CFR 340.402).

## ARTICLE 24

### TEMPORARY/TERM EMPLOYEES

1. The authority and definitions for temporary and term appointments reside at 5 CFR 316 for competitive service and at 5 CFR 213 for excepted service appointments. FSH 6109.12, Chapter 60 and this Article provide direction on recruitment, selection, employment, and separation for these appointments.
2. A term appointment is appropriate for positions of a specified duration when work is expected to last more than 1 year but not more than 4 years. Long extensions or consecutive term appointments indicate a permanent need and should be staffed accordingly.\*
3. Temporary employees who have been selected competitively and successfully completed their tour of duty will be eligible for rehire the next season without further competition, in accordance with 5 CFR 316.402. Rehire eligibility will remain in effect for up to 3 years from the date of separation from the appointment on which eligibility is based. The determination to appoint rehire-eligibles will be made by Management according to the qualifications and suitability required by the positions.\*
4. When the Forest Service rehires a temporary employee, the employee may be rehired to any position with the same series, grade, and qualification requirements as the original appointment and on the same major subdivision. A major subdivision is defined as forest, regional office, station, Northeastern Area Office, Civilian Conservation Center, or Washington Office for both position limitations and employee rehire eligibility. Upon request, employees will be given a copy of the SF-50 to document the rehire action. If an organizational structure is established that does not fit into the categories listed above, the Parties may negotiate a different definition for major subdivision.
5. Management will have a list of temporary employees eligible for rehire or extension of appointment that will be used in planning next season's recruitment.
6. If the temporary employee works for 90 days or more, Management will provide the employee a performance appraisal at least 7 days prior to termination and will discuss whether the rating will affect chances of rehire. In conjunction with the appraisal, the employee will be advised of his or her right to grieve the rating. For notices of termination for misconduct, refer to Section 16 of this Article.
7. Temporary employees who are interested in rehire will be given the best available information prior to separation concerning opportunities for rehire with that unit the following season. They will also be informed as to how rehire eligibility works. This will give them the opportunity to apply for other Forest Service positions for which they have no rehire eligibility and be considered based on their qualifications. The list of temporary employees with rehire eligibility will be provided to the Local Lodge upon request.\*
8. Within 30 days of a temporary employee being hired, the employee will receive written notice of their approximate length of employment.
9. Whenever possible, temporary employees will be given a minimum of 2 weeks' notice as to their termination date at the end of their season.
10. Within 14 days of a temporary or term employee reporting for duty, the employee will receive access to computer systems necessary for entering timesheets and accessing their earning and leave statements.
11. The Forest Service will observe the time limitations for temporary employment in positions and successor positions. Successor positions for temporary positions are as defined in 5 CFR 316.401(c). When considering whether a position may be refilled or not, the time limits in the regulations apply to the same or successor positions in the same major subdivision and in the same commuting area. Commuting area definitions can be found at Article 35.8.d.\*

12. When filling permanent positions from external sources, the units will give consideration, in accordance with applicable law, to qualified temporary employees who apply for the positions.
13. Temporary and term employees who have an initial appointment of at least 1 year will be advised in writing of any eligibility for the Federal Employees Health Benefit Program.
14. Competitive temporary recruitment notices for Bargaining Unit positions will be publicized for a minimum of 7 working days prior to closing date.\*

**15. Separation or Reduction in Grade**

- a. In addition to the rights set forth in Section 16 in this Article, temporary employees may seek reconsideration of the separation or reduction in grade based upon misconduct or poor performance by submitting the request in writing to the Forest Supervisor or other appropriate impartial official.
- b. The request for reconsideration must be submitted within 5 days of the effective date of the action. The appropriate Management official shall provide a copy of the request to the Union within 2 days of receipt.
- c. Upon the employee's request, a meeting shall be convened to consider information provided by the employee in support of his or her reconsideration request. The appropriate official will reconsider the action and reply to the employee within 7 days of receipt of the reconsideration request or meeting, whichever is later. This decision will be final. The employee shall have the right to Union representation throughout this procedure.
- d. The reviewing official will order appropriate remedial action if the adverse action was unwarranted. Participants in this process will be granted reasonable official time.
- e. This procedure shall be null and void should a change in law occur that will allow temporary employees use of negotiated grievance procedures for separation or reduction in grade.

**16. Termination and Discipline of Temporary Employees\***

- a. The provisions of this Section do not apply to termination due to lack of work, funds, or expiration of appointment.
- b. Notice of termination for misconduct will be issued at least 1 working day in advance, except for cases where the employee is being terminated for a crime for which imprisonment could be imposed or in cases where the employee is guilty of substance abuse or is a threat to others. If the termination will also result in loss of rehire eligibility, a statement to that effect will be included in the termination notice.
- c. A notice of termination will be provided to the employee in writing and will contain the reasons for the action, including notice of loss of rehire eligibility as well as their applicable reconsideration rights.
- d. A notice of disciplinary action will be provided to the employee in writing and will contain the reasons for the action, including the employee's right to grieve the disciplinary action in accordance with Article 9.

## ARTICLE 25

### EQUAL EMPLOYMENT OPPORTUNITY

#### 1. Equal Opportunity

- a. Management and the Union will cooperate in providing equal opportunity for employment, training, and promotion, and will not discriminate because of age, race, gender, religion, color, national origin, sexual orientation, marital or familial status, disability, lawful political affiliation, or other non merit factors. The Parties agree to cooperate in providing equal opportunity for all employees in the implementation of Forest Service and Union programs.
  - b. Each Party agrees to advise the other of equal opportunity problems of which they are aware. The Parties will jointly seek solutions to such problems.
2. **Civil Rights Committees:** At least one member of Civil Rights Committees will be a Union representative. On units where such committees are not established, the Union will be afforded the opportunity to be involved in Equal Employment Opportunity (EEO) issues likely to affect Bargaining Unit employees.
  3. Washington Office EEO Counselor contact information will be posted at all duty stations and on the internet and kept current.
  4. Employees actively contributing to the advancement of EEO practices may be recognized for their actions. The Union may nominate such persons for recognition (see Article 17).
  5. The Union at the appropriate level will be given an opportunity to review EEO/Affirmative Employment Plans, as appropriate.
  6. The appropriate Union official will be given reasonable notice of and provided reasonable time to be present at Alternative Dispute Resolution (ADR) sessions.
  7. The role of a Union official representing the interests of the bargaining unit is to serve in the capacity of a technical representative. A Union official serving in this capacity does not speak for or represent the involved employee.\*
  8. The role of a Union representative who accompanies an employee during an ADR process is to assist and advise the employee in obtaining resolution.\*
  9. In the context of EEO complaint settlement or ordered relief from third-party proceedings, Management acknowledges its obligations under pertinent labor and civil rights laws and regulations, when such actions will affect conditions of employment for Bargaining Unit employees. Such actions include the obligation to provide notice and negotiate as appropriate under Article 11.
  10. **Workforce Diversity:** The Union and Management support the goal of becoming a multicultural organization with a diverse workforce.

## **ARTICLE 26**

### **EMPLOYEE ASSISTANCE PROGRAM**

#### **1. General**

- a. The Forest Service shall maintain an employee assistance program (formerly called CONCERN) meeting the requirements of applicable laws, regulations, and guidelines found in Public Laws 91-616 and 92-255. The Union and Management, including Local parties, shall discuss and negotiate any Management-proposed changes or recommendations relative to the program for employees with medical/behavioral problems.
- b. Employee participation in the program shall be voluntary, although supervisors have a responsibility to identify poor job performance and refer an employee to this program as corrective action.
- c. An employee may bring a Union representative to any discussion in connection with this Article.\*
- d. Management will publicize the employee assistance program on official bulletin boards, in orientation of new employees, and in employee assistance program updates in the electronic communications system.

#### **2. Policy**

- a. The Parties acknowledge that the employee has the primary responsibility to maintain acceptable performance and for taking any actions or treatment necessary to maintain it. When an employee sincerely seeks treatment in order to maintain or regain acceptable performance or conduct, Management will provide assistance, create an atmosphere of understanding, and attempt to remove the effects of social stigma associated with the problem.
- b. Management will attempt to provide employees with the appropriate assistance to overcome problems that contribute to poor performance or conduct.
- c. It is a basic function of a supervisor to identify poor job performance and to take corrective action.
- d. Management recognizes alcoholism, other drug dependencies, and mental illness as illnesses. Employees who have these illnesses will receive the same careful consideration and respect as employees who have other illnesses. The same consideration will be given to employees who have other personal problems that contribute to poor performance or conduct. Employees who may be impacted by other employees or family members with these illnesses will receive the same careful consideration and respect.
- e. Diagnosis and treatment should be accomplished by referral of employees to outside professional treatment and assistance sources.

#### **3. Responsibilities and Guidelines\***

- a. When a supervisor, through daily job contact, observes that an employee is experiencing difficulties in maintaining his or her job performance, the supervisor will discuss the apparent difficulties with the employee.\*
- b. If the employee is unable to correct his or her job performance difficulties through his or her own efforts, Management will refer the employee to the Employee Assistance Program.
- c. The focus of corrective discussions by supervisors is restricted to the issue of job performance or conduct and the possible job-related consequences.\*
- d. Conduct that has medical aspects, such as conduct that evidences emotional disorder, impaired judgment, or alcohol or drug abuse (subject to provisions of Article 43.4), will be addressed as medical problems in an effort to provide rehabilitation to the employee. An employee who refuses professional help or is unable to improve his or her performance or conduct with the assistance of a medical rehabilitation program may be subject to disciplinary action or separation.



- e. Supervisors shall consider the guidance of the referral sources in establishing reasonable expectations for an employee's recovery time.
  - f. Participation in the program shall not jeopardize an employee's job security or his or her opportunity to compete for promotion.
  - g. Sick leave is an appropriate form of leave for treatment or counseling sessions.
  - h. The program advisor shall maintain an up-to-date listing of community facilities for treatment of medical/behavioral problems. Such listing shall include, when known, the cost of such services and eligibility requirements.
  - i. In most circumstances, a disciplinary action may be held in abeyance if the employee enters an appropriate rehabilitation program, permits the counselor to report to Management on the employee's attendance in the program, and is making observable progress in conduct and/or performance on the job.\*
- 4. Confidentiality:** Except as required by law (5 USC 522a) or regulation (5 CFR 297.401), medical history records, including those containing behavioral information, will not be disclosed without the employee's written consent. When such information is disclosed without the employee's consent, except to those officers or employees of the U.S. Department of Agriculture who have a need for the record in the performance of his or her duties, the employee will be notified, unless such notification is prohibited by law or regulation. The notification will state the date of disclosure, to whom the information was disclosed, and the nature and purpose of the disclosure.\*

## ARTICLE 27

### SAFETY AND HEALTH

1. **General:** The Parties mutually agree to cooperate in common efforts to create and maintain a safe and healthy workplace, safe and healthy working habits, and conditions to minimize accidents and prevent lost work time due to illness or injury. A safety and health program will be administered in accordance with FSM 6700, as may be changed or amended, and Executive Order 12196. Employees involved in activities or representation pursuant to this Article shall receive official time for such activities, subject to the limitations in Article 5. The Parties agree that changes to safety equipment used by bargaining unit employees is an important topic.

The Parties agree it is a violation to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner retaliate against any employee because the employee has raised any safety issues pursuant to 29 CFR 24.100(a) and 29 CFR 24.102.

2. **Workplace Safety and Security:**\* Workplace facilities occupied on a regular basis will have a written workplace security plan, which will be evaluated annually. The union will be given the opportunity to provide feedback in the development and revision of these plans and will be provided a final copy. The Agency is ultimately responsible for ensuring that there is a plan. Each plan, notwithstanding national direction on workplace security, will be developed to meet local situations and may be subject to impact and implementation bargaining. At a minimum, the plan must address the following:
  - a. Occupant emergency plans.
  - b. Security of buildings and surrounding areas, such as parking lots.
  - c. Workplace violence, including but not limited to the procedures for reporting concerns and for establishing threat assessment protocols, to include properly trained threat assessment teams, in accordance with the USDA Handbook on Workplace Violence Prevention and Response.
  - d. Continuation of Operation Plans, including current contacts and a list of positions essential for continued operation, which are updated when there are changes.
3. **Agency Safety and Health Inspections:** Management will conduct an annual safety and health inspection by qualified personnel of Forest Service facilities that are regularly used. The Union will be notified and invited to participate at least 14 days prior to these safety and health inspections. Management will send the Union a copy of reports from the inspections. All first aid equipment will be part of this inspection and their contents shall be updated to meet published agency standards.\*
4. **Local Safety and Health Programs:** The local and intermediate parties may negotiate the establishment of safety and health programs not in conflict with the Master Agreement or supplemental agreements, such as:
  - a. Health services.
  - b. Preventive medicine.
  - c. Other health and safety issues related to the local work environment.\*
5. **Programs for Wellness Activities:** The Parties recognize the benefits of a physically fit and healthy workforce and agree upon the appropriate arrangements whereby employees may voluntarily participate in a wellness program, which would include administrative leave not to exceed 3 hours per week, if workload permits. Normal workload should not prevent employees from being eligible to participate in the wellness program, including use of administrative leave. The individual supervisor has the responsibility to determine whether a particular employee, or group of employees, can be spared to participate in fitness activities based on specific or unusual work assignments.

- a. The specific details for each unit's wellness program will be left to the Local parties. However, if disagreement arises through negotiations, or application of local agreements, 3 hours per week of administrative leave is the default.
  - b. The Local parties may mutually agree to exempt administrative leave as a provision of their wellness program. If use of administrative leave in lieu of duty time is not feasible, Local parties are encouraged to consider some reimbursement for fees associated with off-duty wellness activities.
  - c. The use of administrative leave for wellness activities is authorized only in accordance with a personal fitness plan (PFP), signed and approved by the supervisor. The PFP must specify the authorized activity/activities which are being performed and the authorized time at which they will be performed.
    - 1. For employees on a flexible work schedule, wellness activities should be performed during, immediately preceding, or immediately following an employee's already established work schedule, unless specified otherwise in an employee's PFP.\*
    - 2. For employees on fixed work schedules, wellness time must be taken during their established work schedule.
  - d. Administrative leave for wellness activities should not be granted when greater than 4 hours are previously scheduled for sick or annual leave or on non-workdays.
  - e. Administrative leave for wellness is not intended to be the routine granting of additional work hours in a pay period. Authorization for administrative leave for wellness activities may be withdrawn where employees exhibit a continued pattern of earning credit hours, compensatory time, or overtime in conjunction with administrative leave for wellness.
  - f. Employees whose normal work schedule does not entitle them to night pay or night shift differential but who elect to exercise between 6 p.m. and 6 a.m. are not entitled to night pay or night shift differential.\*
  - g. Employees may not be paid Sunday premium pay when in leave status, including Administrative Leave. Sunday premium pay may only be paid for periods when an employee performs work on Sunday. Only employees who are regularly scheduled to work on Sundays due to the nature of the work (e.g., field work, laboratory work, or CCCs) may be granted administrative leave for fitness activities on a Sunday.
  - h. Time commuting to and from an employee's duty station is not eligible for administrative leave for wellness.
  - i. Administrative leave for wellness will be coded using TC 66 and 06 descriptor code. It is the employee's responsibility to ensure that they are participating in wellness activities during the period for which they are claiming administrative leave. The employee's submittal of their T&A certifies that the employee participated in fitness activities during the time administrative leave was charged.
  - j. These provisions do not affect the physical fitness requirements or policy for those employees who are covered by arduous duties covered by firefighters and Law Enforcement Officers.
- 6. Safety and Health Committees\***
- a. If Management establishes a local Safety committee to review local health and safety programs and formulate recommendations regarding ongoing problems and useful improvements, the union will be afforded the opportunity to fully participate as representatives of the bargaining unit on such committees and any subgroups.\*
  - b. In the absence of a local Safety and Health Committee, the Union will be provided safety policy documents to review prior to Management approval.

## 7. Health and Safety Policies

- a. Management will provide safe and sanitary working conditions and equipment, consistent with standards promulgated under the Occupational Safety and Health Act of 1970 (OSHA). Consistent with 29 CFR Chapter XVII, Management shall post notices informing employees of the protections and obligations provided for in the OSHA.
- b. The Parties at the national level agree to meet at least annually to review a safety and health program and to make recommendations. This meeting may be combined with another national meeting, including virtual meetings as appropriate. Management agrees to provide the Union, on a case-by-case request, with available, relevant agency information on safety and health, insofar as it is compatible with the Privacy Act of 1974 as amended.
- c. The parties, in the course of normal duties, shall encourage employees to work safely and to report any observed unsafe or unhealthy conditions to the employee's immediate supervisor. Stewards and other representatives of the Union, in the course of performing their normally assigned responsibilities, are encouraged to observe and report unsafe practices, equipment, and conditions, as well as environmental conditions in their immediate areas that may represent safety and health hazards. The Health and Safety Code Handbook (FSH 6709.11), including applicable regional and forest supplements, will be provided to employees upon request. The local parties are encouraged to work together to resolve issues related to employee health and safety as they arise, which includes ways to improve safety conditions.
- d. Consistent with applicable policy all employees will wear or use protective clothing and/or equipment of the type required, approved, and supplied for safe performance of their work. Management agrees to provide any special and/or unusual safety equipment or supplies (such as personal protective clothing or equipment and devices) necessary as identified in an approved job hazard analysis or Forest Service Handbook (FSH 6709.11 Chapter 70) which includes first aid kits, hardhats, high-visibility vest, eye protection, dust masks or NIOSH approved respirators, gloves, appropriate footwear not covered by this master agreement, lifelines, or coast guard approved PFDs.\*

Before purchasing PPE, supervisors are encouraged to directly engage their employees to get input on what PPE is adequate to meet employees' needs, reasonable and within budget. An intent of this provision is to avoid wasteful spending on unsuitable PPE. Equipment and supplies will be replaced when determined they are no longer acceptable for their intended purpose. Employees may request an inspection of supplies or equipment suspected to be defective and supervisors shall treat such requests as a priority.

The Union may negotiate at the local level the type of safety equipment and safety supplies.

## 8. Reimbursements for fire and field safety boots

- a. Management will reimburse bargaining unit employees for the cost of fire and field safety boots, subject to Agency funding at the national level. Employees may submit multiple reimbursement requests, but the total of all submitted requests in the three-year period will not exceed \$500 (five hundred dollars). Reference FSH 6509.11k, Chapter 40, Section 49. Submitted reimbursement requests may include all shipping, handling, taxes (if applicable by state), and vendor surcharges.
- b. Eligibility. Supervisors will use the following criteria to determine eligibility:
  1. Fire safety boots: Permanent and temporary bargaining unit employees (fire employees and militia) with qualifications that require a light, moderate or arduous fitness rating that are documented on a current and valid Incident Qualification Certification System (IQCS) card are eligible for the reimbursement to off-set employee costs to purchase, resole or refurbish fire safety boots meeting the requirements set out in Forest Service Handbook (FSH 6709.11).

2. Field safety boots: Permanent and temporary bargaining unit employees who spend at least 25% of their time performing field work that requires safety boots as identified through one or more of the following: (1) employee's official position description, (2) FSH 6709.11, or (3) an approved Job Hazard Analysis, are eligible for the reimbursement to off-set employee costs to purchase, resole or recondition field safety boots meeting the requirements set out in Forest Service Handbook (FSH 6709.11).
  3. Employees have 45 days from the date of earliest expense to submit a request in the Agency-designated system, including copies of receipt(s), for supervisory review and approval of reimbursement. Management will review requests for completeness and accuracy within 30 days of submission and inform the employee if their request is deficient. In the event the 45-day limit is missed, a justification should be submitted for approval by the employee's respective supervisor or Line Officer.
  4. A new or returning employee, may purchase boots after their official job offer but before their official effective date in order to have their boots ready for work. An employee must be in pay status when submitting Reimbursement claims for Fire and Field Safety Boots and must also certify that they are not knowingly leaving the Agency within 45 days of submission.
  5. All exceptions for special projects or unique circumstances may be approved by the Local Line Officer.
9. Safety plans (SP), Job Hazard Analyses (JHA), Risk Assessments (RA) and Risk Assessment Worksheets (RAW) will be reviewed at least annually by the Local parties and/or safety committees. Management must provide access to copies of SP, JHA, RA, RAW, and safety data sheets (SDS) to the employees and the Local Lodge. The format for providing this information is negotiable at the Local level.
10. Management agrees to provide sanitary facilities, water, and indoor environmental conditions (including lighting; heating; relative humidity; ventilation; air quality; and absence of pests, airborne pathogens, and irritants) in work areas in accordance with all health and safety laws and regulations (for example, OSHA). Union or employees may identify a concern that the sanitary facilities, water, indoor environmental conditions, and/or space are not adequate to protect the health and safety of an employee in any work area. Management will initiate a reasonable process to investigate the hazard. Inspections will be made in accordance with required state and federal standards. Results of the investigation will be shared with the Union.
- If the investigation reveals that a hazard exists, management will take corrective action to the extent feasible within a reasonable amount of time. Whenever such conditions cannot be readily abated, Management shall inform the Union and the parties shall arrange a timetable for abatement, including a schedule of interim steps to protect employees. Management must notify affected employees of the condition and make a reasonable attempt to reassign employee duties, as appropriate. The parties may also agree to other steps appropriate to the circumstance, such as relocation, telework, or holding informational meetings with affected employees. Any bargaining obligations will be addressed in accordance with Article 11.
- In facilities not controlled by the Forest Service, management will request corrective action at that location within a reasonable amount of time. Actions being taken will be communicated to employees and the Union as soon as possible.
11. **Unsafe Working Conditions:** Safety Empowerment Authority: Employees are empowered to identify threats to personal safety and hazards, including physical, psychological, and social safety. Empowering employees to report unsafe conditions is one of the most important cultural aspects of the Forest Service. Employees may use the "yellow card" to indicate a safety risk is present. Once identified, management will address unsafe or unhealthy working conditions as appropriate.

- a. Management will annually advise employees, in writing, that they may report any apparent unsafe or unhealthy working conditions without risk of retaliation.
- b. Management will provide each employee information about their Safety Empowerment Authority within 30 days of entering on duty. Management will physically print Safety Empowerment Authority Cards and distribute them annually, as needed.
- c. National New Employee Orientation and other employee orientations will include modules regarding "Safety as a Core Value" to include definitions of social, psychological and physical safety and practical examples through panel discussions or other exercises. This will include the "real-life" application of the "safety card" and how that works in live time while at work.
- d. Safety is a core value of the Agency and should be addressed in appropriate forums such as district safety meetings, briefings, tailgate meetings, 6 Minutes for Safety, etc.
- e. When an employee feels that he or she is subject to conditions so severe that even a short-term exposure to such conditions would be detrimental to health and safety, he or she should report the circumstances to the immediate supervisor. The supervisor will inspect the work area or substance in question and analyze the situation to ensure that it is safe (or may be safely handled) before requiring the employee to carry out the work assignment. If any doubt regarding the safety of existing conditions is raised by the supervisor, an appraisal will be obtained from the appropriate Management official before proceeding. Safety and health specialists may also be consulted by supervisors, employees, managers, or Union officials in these situations. The Local Lodge will receive, upon request, a copy of any documentation of the inspection or appraisal of the alleged unsafe working conditions.
  - 1. Agency inspections will be conducted promptly in response to employee reports of imminent danger conditions, potentially serious conditions, and for other than serious safety and health conditions in accordance with 29 CFR 1960.28 (d)(3).
  - 2. An inspection may not be necessary if, through normal Management action and with prompt notification to employees, safety and health committees, and the Union at the appropriate level, the hazardous condition(s) identified can be abated immediately.
- f. If the supervisor determines an unsafe or unhealthy circumstance exists and the supervisor cannot readily correct the hazard, the supervisor will take preventive action as specified in Section 10 above. The employee or group of employees who continue to believe that work is being required under conditions that are unsafe or unhealthy beyond the normal hazards inherent in the operations in question have the right to file a grievance. An employee or the Union may request an OSHA inspection at any time.
- g. In the absence of immediate access to the supervisor, the employee may suspend his or her work whenever any environmental condition or combination of conditions (including, but not limited to, temperature, relative humidity, wind, precipitation, and air quality) become so extreme as to pose an immediate danger to employee health and safety that cannot be readily mitigated by the use of appropriate, approved protective equipment or technology. The employee will then promptly contact the supervisor as appropriate.\*
- h. Employees may alternately choose to report any unsafe working condition anonymously through the electronic safety reporting system.

## **12. Hazardous Materials**

- a. No employee will be required or permitted to handle potentially hazardous materials without the proper training and information as prescribed by Federal law or regulation. As required by laws and regulations (for example, OSHA), a chemical exposure-monitoring plan will be provided for employees working with hazardous materials that pose a threat of long-term physical damage, including appropriate medical examinations and testing at the Agency's expense.

- b. Employees will be made aware of any exposure to hazardous materials when required by OSHA regulations.
- c. Management will make every reasonable attempt to ensure that hazardous or poisonous substances are properly marked and stored in accordance with Federal labeling and storage regulations. Upon discovery of noncompliance with Federal labeling and storage regulations, Management will immediately initiate corrective action.

### **13. On-The-Job Injury or Illness**

- a. The Agency will take appropriate action to secure emergency treatment for an employee during duty hours for job and non-job-related injuries or illnesses, if the employee's condition is such that they cannot arrange treatment for themselves. Employees shall report to their supervisor all injuries or occupational illnesses that occur on the job, and the information will be entered into the Agency's electronic reporting system. Management will provide assistance in case the employee is unable to do this. This requirement in no way affects the employee's rights and benefits under Office of Workers' Compensation Programs (OWCP) regulations. Management shall expeditiously process and forward to OWCP all documentation that is required by OWCP within the Agency's control when an employee sustains an on-the-job injury or contracts an occupational disease. Upon request, copies will be provided to the employee or the personal representative designated in writing by the employee. Management agrees to provide employees with assistance in processing claims under the Federal Employees Compensation Act.\*
- b. Where documented medical evidence shows the work environment is contributing to a medical problem, Management will correct identified safety hazards or will make every reasonable effort to place the employee in a suitable environment and/or provide alternate work until the hazard is corrected.

**14. Temporary Accommodation:** When employees are temporarily unable to perform their regularly assigned duties because of documented confirmed illness or injury, but may be capable of returning to or remaining in a duty status, Management will consider employee input and may detail such employees to work assignments Management determines to be available and compatible with the employee's physical condition, or Management may temporarily tailor the employee's regularly assigned duties to the physical limitations to the extent Management determines such changes are feasible and productive.

**15. Permanent Injuries/Disabilities:** When an employee is permanently injured on the job, the agency will first attempt to accommodate the employee in their original position.

- a. If the employee cannot be accommodated in their original position, the agency shall make every effort to place the employee in another appropriate position. The employee will be consulted regarding their skills and interests related to placement. At a minimum, placements will take into account the following factors:
  - 1. Maintaining the employee's pay grade, including keeping them on a career ladder if they were on one when injured.
  - 2. Employee's qualifications, including those that may have been obtained from prior work experience and/or experience gained outside the Forest Service.
  - 3. Employee's geographic preference.
  - 4. Short-term training needs.
  - 5. Any special needs or considerations identified by the employee and/or medical practitioner.
- b. If a temporary employee is permanently injured on the job, Management will provide information about where to seek certification under Schedule A to assist with future employment opportunities.

- c. The employee will remain in the same retirement system as the position they were in when they sustained the injury, in accordance with PL117-225 the First Responder Fair RETIRE Law.

**16. Blood Borne Pathogens Program**

- a. The Agency must establish an exposure control plan for employees who could be "reasonably anticipated," as the result of performing their job duties, to encounter blood, body fluids visibly contaminated with blood, or body fluids where it is difficult or impossible to differentiate between body fluids in accordance with 29 CFR 1910.1030.
- b. Blood borne pathogens testing: When an employee believes he or she has been exposed to blood borne pathogens in the line of duty, the employee will be encouraged to take the appropriate test as soon as possible to establish a baseline and to file the appropriate documentation (for example, CA-1s and CA-2s). Employees shall be retested as directed by appropriate medical personnel. In any location where tests are not free, or where the employee has concerns about free testing clinics, the Forest Service will pay for the tests in accordance with regulations governing payment for employee testing.\*
- c. Vaccinations: The agency will comply with OSHA requirements for employer-provided vaccinations of employees at risk (for example, Hepatitis-B vaccinations). Vaccinations will be provided at no cost to employees.
- d. No employee will be required to perform CPR or to expose themselves to body fluids without the appropriate protective equipment listed above, except at his or her own discretion.

**17. Occupational Health and Safety Training:** Management will inform all employees of safe working habits and practices appropriate to their job, with special emphasis on orientation of new employees. Management recognizes the need for training and orientation regarding occupational health and safety where appropriate, to ensure employee safety and a minimum loss of work time due to injuries. For a list of trainings on relevant safety topics, supervisors and employees may consult The Health and Safety Code Handbook (FSH 6709.11) and OSHA's website. Safety trainings can be requested and assigned in accordance with Article 30 (Employee Training).

**18. Law Enforcement:** Employees with law enforcement responsibilities will be properly trained and equipped to accomplish the job, providing for safety to employees and the public in accordance with FSM 5300.

**19. Communications**

- a. Employees will be provided with two-way communication devices when identified as necessary by a JHA, RA, or RAW or as otherwise appropriate for the protection of the employee.\*
- b. A Satellite Emergency Notification Device (SEND) GPS locator, or equivalent is to be used only as a backup to Forest Service approved two-way communication devices.
  - 1. SEND GPS locators will be used primarily in emergency situations where two-way communication devices are not working or are unavailable to employees.
  - 2. The SEND GPS data will be stored no longer than 30 days, unless they are part of an ongoing administrative inquiry, investigation or subsequent law enforcement investigation.
  - 3. Employees will be provided information on the Standard Operating Procedures (SOPs) of the SEND units. These SOPs include a description of the tool's capabilities and limitations. Additional implementation procedures for field use of SEND units are appropriate for local level negotiations.\*

**20. Notification of Serious Accidents and/or Fatalities:** For serious accidents or fatalities involving an employee the following procedure will be followed:



- a. Official release of information to the media or public will only be made by the responsible Management official. Release of identity to the media or public will not be made until next of kin has been notified.
- b. The Forest Service Council President be notified as soon as possible but normally within 24 hours. If the Forest Service Council President cannot be notified, then the General Vice President will be notified.

## **21. Safety Reviews and Coordinated Response Protocol (CRP)**

Methods that result in organizational learning without employee blame such as the Coordinated Response Protocol (CRP) and Facilitated Learning Analysis (FLA), will be used when safety incidents are reported or accidents occur. However, this does not preclude any other investigation by civil authorities or other agencies.

- a. Employee Participation in Safety Reviews Conducted by the Forest Service:

Employee rights in examinations are described in Article 4. All examinations associated with safety reviews (that are intended for organizational learning without employee blame) are voluntary examinations. Employees shall not be disciplined for declining to participate in a safety review or to answer any questions in a safety review.

- b. Union Participation in Safety Review Teams:

The FSC President, General VP, or their Designee, will be invited to participate as a team member in all Chief's level safety reviews, including interagency serious accident investigations and Chief's delegated FLAs or Learning Reviews.\* Two Union Representatives will be authorized to deploy with Coordinated Response Protocol Teams for reviews. Additional Union representatives may be authorized by mutual agreement between the FSC President, or designee, and the CRP Coordinator, considering the complexity of the incident.

1. The representative serving on such teams will be expected to keep all the confidences that all team members must keep.
  2. The FSC President will be provided copies of all reports related to serious accidents or fatalities after the review process is complete.
  3. When a bargaining unit employee is involved, the Union at the appropriate level will be invited to participate as a team member when the Agency uses processes that result in organizational learning without assigning blame such as FLAs, Learning Reviews, or After-Action Reviews conducted at intermediate and local levels. The Union will be provided a copy of the final report after the review process is complete.
  4. The Union, at the Local level, shall be given the opportunity to review and make recommendations on all reports of unsafe conditions, minor safety incidents, or near misses and will be provided a copy of management's actions, if any, to abate the conditions.\*
  5. Union representatives will not participate on teams formed for the purpose of criminal or disciplinary investigations. However, this does not preclude Union representation in Weingarten situations (see Article 4).
- c. The FSC President, FSC General VP, or their Designee, will be given notice when outside agencies are conducting safety reviews or similar investigations that involve Forest Service Bargaining Unit Employees, so that they may provide advice and representation to employees.

## **22. Safety Training for Union Representatives**

- a. Within budget constraints, when formal safety training is being offered on an organized unit, the Union safety representative will be invited.

- b. When no formal safety training is available, a qualified Forest Service safety officer will be considered for providing training for Union representatives.\*
- c. Within budget constraints and in accordance with Article 5, the Union is authorized to designate up to 10 Union representatives to attend both the Forest Service-sponsored Facilitated Learning Analysis training and annual Coordinated Response Protocol Training.\*

**23. Safety Meetings:** Each work unit will hold meetings that contain safety topics on a regular basis.

## ARTICLE 28

### FIRE, INCIDENTS, AND OTHER HAZARDOUS WORK

1. While employees have all of the rights of this Master Agreement, this Article focuses on when they respond to fire, prescribed burns, incidents and other hazardous work. The Forest Service will use a strategic, risk-based approach, commensurate with the threats and opportunities, and use the full spectrum of fire and land management actions. (See Incident Response Pocket Guide.) Management and the Union are committed to our value of safety and will adhere to risk management principles.

The Parties agree to continue strengthening the quality of the work environment, in line with our core values of safety and diversity. It is our shared responsibility to ensure employees feel physically, psychologically, and socially safe. Our Code and Commitments calls upon everyone to empower one another, invest in relationships, model integrity, protect one another, learn from mistakes, and be treated with respect and dignity.

Our mutual commitment to support a safe and resilient workforce also means continued emphasis on employee wellbeing. The Parties encourage employees to take advantage of the wide array of services and resources available through the Employee Support and Wellbeing program.

2. The provisions of this Article apply to all employees assigned to incidents regardless of whether they are firefighters. Fire duties need not be reflected in a militia employee's position description unless criteria contained in Article 14.1 are met.
3. **Union Representation at Incidents\***
  - a. Union officials or their designees have the right to represent Bargaining Unit employees at all incidents. The Union may designate a sufficient number of representatives to assure up to 24-hour coverage, based on representational need, at any incident where Forest Service employees are present.
  - b. When a Human Resources Specialist (HRSP) is dispatched to an incident with Forest Service employees, the CVP or designee will be notified. Notification to the Union will be within 24 hours after the HRSP is dispatched. That notification will inform the CVP or designee of the location of the incident and the name of the Incident Commander. The IC will be notified of the name and contact information of the CVP or designee and that information will be posted at the incident command post and in the daily Incident Action Plan (IAP).
  - c. The need for an onsite Union representative(s) will be based upon anticipated or actual representational workload as determined by the appropriate Council Vice President (CVP). If the appropriate CVP or designee determines a need to send a Union representative(s) to an incident command post, they will contact the Incident Commander (IC). The IC or designee will make arrangements for dispatch of the specified Union representative(s) designated by the CVP or designee to the incident. When a representative is dispatched, dispatch will be through the normal incident dispatch procedures. Initially, one Union representative may be dispatched. Based on anticipated or actual representational workload, as agreed upon by the CVP or designee and Incident Commander, additional Union representatives may be dispatched.
  - d. Union representative(s) will check in with the IC or designee on arrival and departure.
  - e. When assigned in official capacity as a Union representative, overtime and compensatory time are not authorized.
  - f. When a dispute arises from a situation on an incident, the timeline for raising that issue to the appropriate official under Article 9 will not start until the day after the employee returns to their official duty station. If the grievant is dispatched to another incident or temporary duty assignment that prevents them from preparing and presenting a grievance in a timely manner, the time limit will be extended as stated in the first sentence of this paragraph.

4. **Restricted Facilities:** Management will not unduly restrict employees to facilities while not on duty time. Employees will not be disciplined for leaving and returning to camp if it does not involve misconduct.
5. **Spot Change Tour of Duty:** After the first day on an incident, individuals are spot changed to a first 8-, 9-, or 10-hour daily tour of duty, depending upon their weekly tour of duty. The individual resumes their normal daily tour of duty on the day following return from the incident. For a 2-day incident, the unit may elect to not spot change the individual's daily tour of duty.
  - a. For a 1- or 2-day assignment, or during an initial attack assignment that extends beyond 24:00 hours and into the next day, an individual's daily tour of duty will not be spot changed at 00:01 hours. This means that initial attack hours worked after midnight until the individual's regularly scheduled tour of duty begins will be considered overtime.
  - b. Inadequate Food or Lodging
    1. Inadequate food or lodging situations should be the exception. When nonexempt employees are in a "coyote-out" situation where they are unable to be supported by the incident with adequate food or lodging, they will be in pay status the entire time they are working, sleeping, or eating (Comp. 39 Gen. B-230414, 1/10/90).
      - a. Adequate food: meals ready to eat (MREs), sack lunches, military-type rations, hot can, or similar meals.
      - b. Adequate lodging: sleeping bags, blankets, or equivalent coverings to provide adequate protection from the elements for sleeping based on conditions on the ground.
    2. Employees must be in nonexempt status to qualify for compensation. Exempt employees may only be compensated for on-shift time.
    3. ICs are responsible for determining when an inadequate food or lodging situation exists. This must be documented on the Crew Time Report, SF- 261, in the remarks section. Hours recorded for an inadequate food or lodging situation count as hours of work for computation of the 2:1 Work/Rest ratio.
6. **Hazard Pay**
  - a. The Parties agree to make every effort to minimize placing employees at risk or in working conditions where hazards cannot be practically eliminated. The act of firefighting is an inherently hazardous activity as these employees are called upon to provide immediate response where firefighting hazards may not be practically eliminated in a timely manner. Careful consideration should be made before placing other incident personnel in a role that meets the criteria outlined for hazard pay associated with firefighting; ensuring the duties they perform and role they serve are vital to the operation and cannot wait for hazards to be practically eliminated to properly safeguard the employee.
  - b. Hazard pay may be paid only to employees who are assigned hazardous duties or duties involving physical hardship for which a differential is authorized. It may not be paid to an employee who performs a hazardous duty on their own, without proper authorization, either expressed or implied. See 5 CFR 550.904(a).
  - c. Prescribed Burns
    1. The Agency's National Prescribed Fire Review in 2022 found firefighting activities associated with prescribed burns now qualify as inherently hazardous activities because changing conditions, exacerbated by climate change, have created hazards that may not be practically eliminated in a timely manner. Consistent with the Review's recommendation, the Parties agree employees performing firefighting activities on prescribed burns will receive hazard pay for this work.

NOTE: This provision will not become effective until (i) the Office of Personnel Management (OPM) publishes a final rule authorizing hazard pay for prescribed burns; (ii) OPM publishes implementing guidance; and (iii) the Parties fulfill any resultant bargaining obligations. Employees will not receive retroactive hazard pay for work on prescribed burns that occurred before the effective date of this provision.

2. A written burn plan for any prescribed fire will be made available to the Union upon request.

d. Fire Incidents

In accordance with 5 CFR 550.902 and 5 CFR 532.511, firefighting and actions and operations that directly support control of a fire will receive hazardous duty pay (General Schedule employees) or environmental differential pay (Federal Wage System employees). The following definitions apply:

1. Firefighting – Participating as a member of a firefighting crew in fighting forest and range fires on the Fireline before the fire is controlled. This includes single resource personnel assigned to fire line duty. Personnel assigned firefighting duties are not entitled to hazard pay for any shift that starts after the declaration of an official control time and date.
2. Firefighting Crew – A member of a firefighting crew is any person or group assigned to the fireline for suppression of the wildland fire or in support of the suppression activity. The person or group should be assigned to the Incident Action Plan (IAP) for the day. This can also be documented and approved by the Incident Supervisor, Incident Commander or local Line Officer.
3. Actions and operations that directly support control of the fire – Activities to extinguish the fire; ground scouting; spot-fire patrolling; line prep & snagging; and backfiring. Such activities do not include personnel engaged in non-suppression activities such as media tours to the Fireline, incident personnel driving to the fire to observe activities, drivers delivering tools or personnel.

e. Other Hazardous Duties

In accordance with 5 CFR 550.904(a), General Schedule employees will receive hazardous duty pay for other specified hazardous duties, including such things as:

1. Traveling Under Hazardous Conditions – When travel over secondary or unimproved roads to isolated mountain top installations is required at night, or under adverse weather conditions (such as snow, rain, or fog) which limits visibility to less than 30 meters (100 feet), when there is the danger of rock, mud, or snow slides.
2. Work in Rough and Remote Terrain – Working on cliffs, narrow ledges, or near-vertical mountainous slopes where a loss of footing would result in serious injury or death, or when working in areas where there is the danger of rockfalls or avalanches.
3. Groundwork Beneath Hovering Helicopter – Participating in ground operations to attach an external load to a helicopter hovering just overhead.
4. Flying – Individuals, except GS-2181 pilots, who are on board the aircraft during limited control flights. This includes aircrew members participating in wildland fire and all-hazard aviation missions. Hazard pay for flying activities is related to the use of the aircraft, not the work of the occupants. If the flight is undertaken under unusual and adverse conditions which threaten or severely limit control of the aircraft, then hazard pay is warranted. Hazard pay is not authorized for situations such as flying passengers from a work center to a location to fix equipment when there are no adverse conditions that threaten or severely limit the aircraft.

5. Limited Control Flights – Flights undertaken under unusual and adverse conditions (e.g., extreme weather, maximum load or overload, limited visibility, extreme turbulence, or low-level flights involving fixed or tactical patterns) which threaten or severely limit control of the aircraft.

To be considered a low-level flight, the mission must require performance of a substantial part of the flight, other than landing or taking off, at altitudes of less than 500 feet above ground level in daylight or at less than 1000 feet at night.

6. Experimental Parachute Jumps – Participating as a jumper in field exercises to test and evaluate new types of jumping equipment and/or jumping techniques.

## **7. Arduous Medical Program**

- a. Health Screen Questionnaires (HSQ), OF-178s, Self-Certification Statements, and other medical forms that are completed in the medical records system are treated as confidential with access available only to individuals within the Medical Qualifications Program.
- b. The cost of any medical examinations for Forest Service employees that are required by the Agency will be borne by the Agency, including travel expenses. All such medical examinations will be performed on official time.
- c. Management will collect data on the number of arduous employees that are determined to be:
  1. Medically Qualified
  2. Not Medically Qualified
  3. Medically Qualified with an Informal Waiver
  4. Not Medically Qualified – Information Needed (i.e., sent to the formal waiver process)
  5. Medically Qualified with a Formal Waiver
  6. Formal Waiver Denied
  7. Employee declined the formal waiver process
  8. Medically Qualified with an MRB waiver
  9. MRB waiver denied
  10. Employee declined MRB process

Upon request by the Union, but no more than quarterly, management will provide the above information to the Union at the appropriate level and in accordance with the Privacy Act. Management agrees to notify NFFE-FSC via email should the ability to collect data change OR 90 days prior to a change in operating systems.

- d. The Parties agree that employees are required to complete the medical history questions in FS-5100-41 electronically before scheduling an examination. However, if an employee is uncomfortable and/or unsure about answering questions 2, 3, 5, 6, 11, 12, 71, 83(a), 84, 85, and 86, then the employee can choose to not answer these questions and instead discuss those questions during medical examination. For the questions that the employee is not required to answer, there will be a third option for the employee to select, which will be, “Discuss with medical provider.” Thereafter, the medical provider will document in FS-5100-41, Part C, any medical concerns related to the unanswered questions.

The above paragraph will appear as a statement before the employee initiates the electronic medical history and examination form, FS-5100-41. The Agency will ensure that the employee and medical provider guides are updated with this information.

## **8. Work Capacity Test Program**

- a. In accordance with Agency policy and the Work Capacity Test (WCT) Implementation Guide, all employees participating in fire operations, regardless of position description, will be required to meet the fitness standards (FSH 5109.17).
- b. Any changes to the implementation, standards, or terms of the Work Capacity Testing program, or Arduous Medical Program will be negotiated by the Parties in accordance with Article 11.

#### **9. All-Hazard Response**

- a. The Agency responds and supports all-hazard responses by providing trained personnel to use their skills, capabilities, and assets without requiring significant additional training and preparation. Support to cooperators requiring Forest Service resources will be consistent with employee's core skills, capabilities, and training.\*
- b. Agency employees will be provided with appropriate risk mitigation (for example, vaccinations, personal protective equipment, etc.) to operate in the all-hazard environment to which they are assigned.
- c. All employees involved in all-hazard response will be supported and managed by an Agency leader, Agency liaison, or interagency incident management team.

#### **10. Dispatch of Employees**

- a. Appropriate arrangements and procedures such as notification to employees and how to contact employees are negotiable at the appropriate level.
- b. Resource orders will specify the length of assignments if known.
- c. If unforeseen circumstances occur that may require an employee to return home prior to completion of the assignment, the employee may request early release from the assignment and if approved travel will be paid in accordance with the Federal Travel Regulations.

**11. Cover and Severity Assignments:** Management will schedule adequate shift lengths, up to 16 hours for non-emergencies, for off district resources to complete logistics, administrative tasks, and equipment preparation and rehabilitation.

**12. Managing crews successfully depends on quality relationships, regular communications, clear expectations, and transparent decision making. Establishing fair and transparent processes for things such as scheduled overtime, training opportunities, and rotations for off-district assignments are recommended and are negotiable at the appropriate level. See Articles 18, 19, and 27.**

**13. Employees with Family Responsibilities and Fire Duties:** Fire managers and supervisors should utilize Agency family-friendly policies, including the Article 42 hardship request process, to ensure safety and flexible work assignments for employees with family responsibilities such as pregnancy, child care, elder care, etc.

**14. On-Call (Call Back) Protection:** Procedures for scheduling an employee for on-call status are found in Article 18.11. Employees will not be disciplined or retaliated against for not being available for call-back when not scheduled for on-call status.

**15. FLSA Exemption Modifications for Emergency Assignments:** An exempt employee's FLSA status is determined on a workweek basis when performing emergency work (5 CFR 551.211(f)). An exempt employee becomes nonexempt for each week the primary duties (more than 50%) are defined as FLSA nonexempt for the period of the emergency. In this case, the employee will change their FLSA status in Paycheck8 Pay Options to nonexempt. Refer to the Interagency Incident Business Handbook (Chapter 10 Exempt/Nonexempt Positions) for a list of positions to determine if the fire position is nonexempt or exempt.

#### **16. Professional Liability Insurance (PLI)**

- a. Bi-annually or upon review of the FSH 5109.17, Management and the Union will discuss which positions may become eligible for PLI.

- b. “Temporary fireline managers” are eligible to be reimbursed for up to one-half of the cost incurred for professional liability insurance including any administrative processing cost charged by the insurance company. To qualify, these “temporary fireline managers” must meet one of the following three criteria:
  - 1. Provide temporary supervision or management of personnel engaged in wildland or managed fire activities,
  - 2. Provide analysis or information that affects a supervisor’s or manager’s decision about a wildland or managed fire, or
  - 3. Direct the deployment of equipment for a wildland or managed fire.
- c. Information about PLI, including policy and procedures, is available on the Albuquerque Service Center, Budget and Finance website, Miscellaneous Payments FS-6500-229.

**17. Scheduling, Pay, and Per Diem:** Article 18 (Work Schedules), Article 19 (Pay and Per Diem), the Fair Labor Standards Act (FLSA), and the Interagency Incident Business Management Handbook apply to all fire-related operations.

Employees directed to work shifts more than 12 hours will receive reimbursement for meals and incidental expenses in accordance with Federal Travel Regulations, unless meals are provided, regardless of actual miles from the official duty station or residence.

**18. Qualification Review Committees**

- a. When a Qualification Review Committee (QRC) is established on a Unit with bargaining unit employees, the Union may designate a representative as a non-voting member.
  - b. The QRC will avoid using or establishing arbitrary standards.
  - c. The role of the union representative is to review individual QRC operating plans and to facilitate fair, transparent, and effective fire and aviation management qualification determinations consistent with the operating plans in each QRC.
  - d. If the committee does not recommend the individual to be certified for the qualification, the committee will provide a written statement documenting the criteria needed to be completed in order to be recommended for certification such as, Forest Service Fire and Aviation Qualifications Guide (FSFAQG) prerequisite training, FSFAQG qualification prerequisites, incomplete tasks or incomplete entries.
- 19.** Management will invite early engagement in accordance with Article 11 when the agency participates in developing Interagency policies or procedures affecting bargaining unit employees and will fulfill any resultant bargaining obligations.
- 20. Rest and Recovery:** To assist in mitigating fatigue, after completion of a 14-day assignment and return to the home unit, three mandatory days off will be provided (also referred to as "3 after 14"). During extended periods of activity in support of local fire management, personnel will have a minimum of 2 days off in any 14 day period.
- 21. Inhalation Hazards in the Wildland Fire Environment:** All employees should understand the risks associated with inhalation hazards and learn how to reduce exposure. The Parties agree to continue to work together to inform employees, gather data, and reduce employee exposure to inhalation risks.
- a. Consistent with the procedures in Article 11 for early engagement:
    - 1. In light of the immediate dangers and adverse effects of smoke and particulate inhalation, the Parties will work together to conduct a timely evaluation of monitoring and rehabilitation methods suitable for wildland firefighters (e.g. oxygen therapy, nutritional support, and hydration). The intent of this evaluation is to implement effective strategies as soon as practicable.



2. In areas where the data does not yet exist, the Parties will work together in developing a monitoring strategy and implementation plan that will inform research related to inhalation hazards, long-term health effects, rehabilitation, and effectiveness of mitigations.
    - b. Management will make every effort to ensure adequate rest and recovery from on-shift exposure to smoke in accordance with Incident Response Pocket Guide (IRPG). Management will seek to avoid locating fire camps in drainages, valleys, or low-lying areas where smoke can concentrate at night or under inversion conditions. If camps can't be moved, management will provide appropriate mitigation where possible to ensure adequate rest and recovery from smoke exposure (e.g. clean-air sleeping trailers, hotel rooms, and appropriate medical rehabilitation).  
If the situation cannot be mitigated and the Air Quality Index (AQI) is greater than 200 for more than 48 hours, management will document what mitigations were attempted and the results. The Union at the appropriate level will be notified and provided the documentation in accordance with Article 27.11.
    - c. Management will identify possible smoke sensitive areas (roads, communities, other project areas where non-firefighting work is occurring) and monitor smoke impacts. When heavy smoke is expected or present, management will notify employees and plan work accordingly.
- 22. Firefighter Health and Wellbeing:** Fire leadership will engage employees in a discussion of the importance of maintaining mental and physical wellness by utilizing the following resources during pre-, mid-, and post-season check-ins:
- a. Pre- and Mid-season: "A Preparedness Guide for Wildland Firefighters and Their Families" ([https://fs-prod-nwgc.s3.us-gov-west-1.amazonaws.com/s3fs-public/publication/pms600.pdf?VersionId=F2gJdZLTNcd7ceDW\\_o0fTeQb67IC0ymD](https://fs-prod-nwgc.s3.us-gov-west-1.amazonaws.com/s3fs-public/publication/pms600.pdf?VersionId=F2gJdZLTNcd7ceDW_o0fTeQb67IC0ymD)) and other resources as appropriate.
  - b. Post-season: "Reset: Firefighter and Family Members Reintegration Guide" ([https://www.fs.usda.gov/sites/default/files/fs\\_media/fs\\_document/Reset-Guide.pdf](https://www.fs.usda.gov/sites/default/files/fs_media/fs_document/Reset-Guide.pdf)) and other resources as appropriate.
  - c. Other Agency resources include the Casualty Assistance Program / Critical Incident Stress Management, Employee Assistance Program, Federal Employee Health Benefits, and addiction and suicide-prevention services.

Consistent with the procedures in Article 11 for early engagement, the Parties will work together to develop and implement a peer support program as part of a comprehensive firefighter well-being program.

## ARTICLE 29

### GOVERNMENT-FURNISHED QUARTERS

#### 1. Purpose

- a. The Forest Service has employees widely dispersed throughout the country. Many of the duty locations are in remote locations. Over the history of the Agency, government-provided housing has been developed as an option for employees. In some locations, residing in government-provided housing is required or the only option available. Generally, government-provided housing is to be a transitional step to gaining permanent housing in the community. The intent of the parties is to administer Government-provided housing fairly, impartially, reasonably, and without discrimination. The assignment of Government housing or quarters is primarily based on the need to fulfill the mission of the Forest Service.
- b. To achieve reasonable uniformity in the rental rates charged to government employees, the Forest Service entered into an Interagency Agreement with the Department of Interior (DOI) regarding management of government furnished quarters. The Forest Service must follow the Interagency Agreement with DOI while it is in effect and the U.S. Office of Management and Budget Circular A-45R, in addition to complying with the provisions of this Article.
- c. This Article applies to all Forest Service owned housing, including those located on Civilian Conservation Corps (CCC) sites.

#### 2. National Housing Strategy

- a. The Parties recognize it is essential to develop a modern National Housing Strategy that addresses the following key goals:
  1. Preserve and Sustain a Sufficient Inventory of Housing
  2. Increase Affordable Housing Opportunities
  3. Provide Funding to Support Housing Priorities
  4. Promote Housing Stability
- b. Management will strive to expand the options available for housing consistent with employees' different housing needs and preferences, such as family housing, ADA-compliant, gender non-specific housing, bunkhouses, apartments, barracks, cabins, travel trailers, campers on a pad with hookups, mobile homes, etc.

#### 3. Assessing Employee Needs

- a. Management will conduct national Quarters Needs Assessments, normally annually, to provide current housing inventory status and any anticipated changes required to meet staffing needs. This assessment will inform the National Housing Strategy and investment decisions to provide adequate housing to Forests in implementing mission critical activities.
- b. In addition, Management will conduct periodic local housing surveys to assess satisfaction, quality, and affordability. These surveys will be conducted every other year and when employees vacate property. Results of these surveys, including any union generated surveys, will be used to inform local operations and national strategy.
- c. Local housing surveys will include all FS employees who live in or may need government housing (e.g., permanent seasonal, temporary, or permanent employees in geographically remote duty locations).
- d. Management will engage the Union in developing, distributing, and evaluating assessment and survey data. Management will consider any information or feedback provided by the Union. This engagement and consideration will occur in a timely fashion at the appropriate level.

- e. Quarters Inventory - Management will notify the Local Lodge when a new or updated survey is being done and give the Union a reasonable opportunity to review the collected data and also provide a copy upon request. An updated survey may include the number of planned tenants and adjustments to inventories (e.g., contracted services). When the Forest Service conducts a quarters inventory survey that includes an onsite visit, the Union and employees will be given an opportunity to participate. Management will ensure that the Union's and employees' comments are considered in any assessments.
4. Upon request, Management will disclose the availability and type of government housing available, if any, during job offer discussions with employees or whenever employees notify their supervisors of changes in circumstances.

#### **5. Quarters Deductions Responsibilities**

- a. Management will submit a SF-52 Personnel Action for quarters deductions as soon as notified of housing needs.
- b. Management will process the personnel action required for quarters deductions immediately, normally within 2 pay periods.
- c. Employees should monitor their Leave and Earnings Statements for quarters deductions. If an employee discovers rents are not being collected, they must notify their supervisor immediately who will validate the date the SF-52 was submitted.
- d. If an employee was incorrectly charged at a higher rate due to administrative error, the employee will be reimbursed for the difference retroactive to the effective date of the incorrect rate, including interest.
- e. When quarters deductions are not timely and correctly processed, then upon employee request Management will work with the employee on a payment plan prior to initiating debt collection.

#### **6. Eligibility and Required Occupancy**

- a. All employees are eligible for government housing regardless of job title, grade, organizational component, etc. Assignments to government housing are subject to availability, and employees will be given priority over non-employees (e.g., contractors, volunteers).
  - b. Management will require employees to occupy Government quarters only when it is necessary for the protection of Government property or for providing necessary service to the public (5 USC 5911(e)).
    - 1. When Management determines the Forest Service mission cannot be accomplished without requiring employees to live in Government housing, it will document this determination in an SF-50, the PD, and the job announcement.
    - 2. If rent is required, such payments are tax-exempt and are processed as pre-tax payroll deductions; Management will note the tax-exempt status on the employee's SF-50.
    - 3. Seasonal or short-term habitation of lookout towers, guard stations, lean-tos, and tents are not considered rental housing under OMB Circular A-45R and are provided rent free.
7. **Term of Occupancy:** To ensure relative stability and predictability for employees, rental agreements initiated after the effective date of this agreement will be for at least one but no more than three years.

#### **8. Local Negotiations**

Local housing policies and supplemental rental agreements may be negotiated locally, but this may not conflict with Federal law or Government-wide rule or regulation, FLRA caselaw, or this Master Agreement. Local Parties must balance employee needs and preferences for housing against the agency's need to effectively and efficiently fulfill the mission of the Forest Service. Examples of topics for local negotiations include:

- a. Procedures for assigning housing that affect conditions of employment (e.g., considering family size, tour of duty, position/grade level);
- b. Storage square footage, availability, and vehicle storage;
- c. Procedures for employees requesting to perform maintenance/improvements themselves;
- d. Emergency procedures;
- e. Cleaning responsibilities;
- f. Pest control;
- g. Quiet hours;
- h. Guest access;
- i. Phone use procedures for tenant-shared landlines;
- j. Pet policies;
- k. Procedures for notifying employees of available housing;
- l. Short-term occupancy (“hoteling”); and
- m. Exceptions to standard rental agreement terms of 1-3 years.

**9. Violations of Housing Policies and Rental Agreements**

- a. Management will normally give employees notice and a reasonable opportunity to rectify violations of rental agreements before taking action to terminate the lease.
- b. Violations of rental agreements by the agency are grievable.
- c. In cases where employees have violated their rental agreement or housing policy, Management will take action that is corrective not punitive. In most circumstances where an employee violates the rental agreement, Management may terminate the housing agreement with notice in accordance with Subsection 15.b of this Article.
- d. Employee misconduct in government housing may result in disciplinary action in accordance with Article 22.

**10.** As soon as practical, Management will review all local housing policies and ensure compliance with law, rule (including OMB Circular A-45R), regulation, Forest Service policies, and this Agreement.

**11. Rents**

- a. The Agency will take all legal steps available to reduce or offset rent rates under special or existing authority.
  - 1. Management will normally use the survey method of evaluation rather than the appraisal method when setting base rates. To ameliorate housing costs in those nearest established communities that are uniquely influenced by economic circumstances, community housing costs that are over 30% higher than the latest regional average will be "capped" at the latest regional average plus 30%. OMB Circular A-45 at 6.
  - 2. Management will utilize the isolation deduction according to OMB Circular provisions.
- b. Monthly rent includes and covers the cost of government furnished water, sewer, electricity, fuel, Wi-Fi/phone service, furnishings and appliances, snow removal, and trash collection.
- c. If employees are provided non-dormitory (e.g., not barracks or bunkhouses) Government housing of a size either excessive or inadequate to that which the prudent employee would have selected in the private community, Management will reduce rent to employees where possible by either:
  - 1. Locking off unused bedrooms and bathrooms.
  - 2. Or, in rare circumstances, reducing the base rental rate by up to 10 percent in direct proportion to the degree of the excess or deficiency. This reduction will not continue

beyond one month after the availability of either an appropriate Government rental unit or private rental housing. OMB Circular A-45 at 11-12.

## **12. Implementation of Revised Rental Rates**

- a. If the rate increases, the occupant will be furnished a copy of the data element determinations on which the rental rate is based.
- b. If the rate increase is \$100 or more above the existing monthly rate, Management will stage implementation to increase the base rental rate quarterly over the course of 1 year. If the rate increase is \$200 or more, \$300 or more, or \$400 or more above the existing monthly rate, Management will stage implementation to increase the base rental rate quarterly over the course of 2 years, 3 years, or 4 years, respectively.

## **13. Reconsiderations and Appeals**

- a. Employees have the right to request a reconsideration of their rental rates by using the step 1 grievance procedure. Employees also may appeal a denial of a reconsideration request by using step 2 of the grievance procedure. See FSM 6445.2 and Article 9.
- b. Management will notify employees of these rights in the Notification of Adjustment to Quarter Rental Rates.
- c. The approving official for all requests for reconsideration of rental rates is the Director of Procurement and Property Services or designee for establishing rental rates, and RF or Station directors for adjusting rental rates. The approving official for all appeals is the Deputy Chief for Business Operations or designee. These officials cannot be the same individual.
- d. If a rate change has gone into effect and an appeal has been determined to be in favor of the employee, the employee will be reimbursed for the difference retroactively to the effective date of the rate change, including interest.
- e. Decisions on appeal are final per OMB Circular A-45R, page 20, therefore Article 10 does not apply to these disputes.

**14. Relocation Incentives:** Relocation incentives will normally be processed within two pay periods after receiving the signed Continuing Service Agreement (CSA) and proof of residency at the new duty location. When residency is in government provided housing, the rental agreement should be executed as soon as possible after acceptance of formal job offer.

## **15. Changes to Housing Assignments**

- a. Management recognizes the importance of stability in housing. Management will strive to avoid creating instability in housing for employees and will not unreasonably exercise its right to assign housing.
- b. Management will not terminate housing assignments without providing at least 30 days' written notice, except in the event of exigent circumstances.
- c. Employees who take a new Forest Service position within their local commuting area will have the option to remain in their assigned housing for the term of their agreement.

**16. Safe and Healthy Housing:** The following provisions are in conjunction with Article 27, FSH 6709.11, and FSH 7309.11. For the definitions of condition of housing (e.g., obsolete, poor, fair, good, excellent) refer to the most current version of the iQmis Inventory Instructions.

- a. All Government-owned or -leased quarters must be inspected annually to ensure occupant health and safety. The Facilities Safety Inspection Checklist form will be used to document unsafe facility conditions and corrective actions. In addition to the items on the checklist, inspections will include lead in paint and water, asbestos, radon, and mold.

- b. Occupant(s) and the Union will receive a 14-day notice prior to inspections except when delay would cause immediate damage to employees' and/or Government property.
- c. Living quarters will also be inspected for leaks of flammable fuels or any other safety or sanitation hazards immediately prior to occupancy by employees.
- d. Immediate action must be taken to correct any health or safety hazard.
- e. The purpose of safety and health inspections is not to inspect Government furnished housing and quarters for criminal activity.
- f. Management will not assign quarters that are physically obsolete, in poor condition, or do not meet health and safety requirements. Management will schedule such quarters for rehabilitation, modernization, renovation, replacement, or disposal within 30 days of their being classified as obsolete or poor.
- g. Rent revenue will only be used to maintain and operate Forest Service quarters. Where rent collected is insufficient to cover the costs of maintenance, Management remains obligated to bring a property to at least fair condition (by rehabilitating, modernizing, or renovating it), or will replace or dispose of the housing.
- h. Upon request by the Forest Service Council at the National and each Regional level, but not more than once a year nationally and per Region, Management will provide the Union with normally maintained data on expenditures related to housing.
- i. The Forest Service will ensure housing is accessible to employees with disabilities. Employees may use the Reasonable Accommodation process accordingly.

#### **17. Maintenance Requests**

- a. Forest Service quarter occupants will report any hazardous, unsafe, and unsanitary conditions to the appropriate Line Officer. Immediate action must be taken to correct any health or safety hazard.
- b. Employee requests for other repairs and upgrades may be submitted to Management's designated Point of Contact at any time. Management will normally respond in writing to employee maintenance requests within 7 days, with the plan and timeframe for completion, if known. Management will not unreasonably deny repair requests. Denials will state the reason(s).

#### **18. Rent Adjustments and Relocation.**

- a. Adjustments to the basic rental rate are permitted for such circumstances as excessive heating and cooling costs, poor condition, and lack of potable water. Such conditions should not be permitted to continue any longer than absolutely necessary.
- b. If emergency or exigent circumstances require occupants to relocate for safety purposes, or for the Government to effect necessary repairs, alternate temporary or permanent housing must be furnished by the Government. Relocated occupants will continue to pay rent for up to 14 days in alternative housing at the same rate as at their uninhabitable unit. After 14 days, relocated occupants will pay rental rates in accordance with this circular for the replacement housing unit.

**19.** While employees are strongly encouraged to have renters' insurance, they may file claims for personal property damage or loss under the Military Personnel and Civilian Employees Claims Act ("MPCECA") 31 USC 3721. See FSH 6509.11h.

**20. Searches:** Government housing or quarters used by employees exclusively for residential purposes will not be searched without a search warrant unless the person who exercises dominion or control of a specific area, either individually or in common with others, consents freely and voluntarily, or the warrantless search is permitted by law. Residential areas include bedrooms, living rooms, kitchens, basements, bathrooms, and any additional areas that may be specified in the rental agreement. No coercion will be used to obtain permission to search housing or quarters. (This general statement does

not modify, add to, or subtract from the settlement agreements regarding searches in *NFFE v. Yeutter*, Case No. 88-3505, United States District Court District of Columbia (USDC DC) and *NFFE v. Madigan*, Case No. 92-0553 (USDC DC), which are binding on the Parties.)

- 21. Transporting Unopened Alcohol:** When an employee is working and living in an isolated area with only Forest Service transportation, the employee may transport unopened alcoholic beverages as part of his or her regular groceries, providing alcohol is allowed at the site.

## ARTICLE 30

### EMPLOYEE TRAINING

1. The Parties recognize the value of a well-trained workforce and the need for a well-planned and effective training effort. The Parties agree that training efforts are to be aimed at improving job performance, providing for career development, or meeting Forest Service needs as determined by Management. The Parties further mutually agree to encourage employee self-development.
2. Management has the responsibility to implement an annual Individual Development Plan (IDP) for each employee and identify present and future organizational training needs, utilizing the agency's Learning Management System (LMS), which is currently AgLearn. Employees should work with Management to identify training and development opportunities that address their immediate needs and long-range career goals (see FSH 6109.13 Chapter 20.4).
3. The employee and supervisor are encouraged to have ongoing discussions throughout the year regarding the employee's individual career development.
4. **Administration**
  - a. Scheduling:
    1. Recognizing the need for flexibility, Management retains the right to schedule and assign employees to training, determine the investment to be made in training, and to select training methods and facilities. Management will make an effort to schedule training so that employees will not have to travel on weekends. For those employees enrolled in work-related classes not scheduled by Management, Management agrees to make a reasonable effort to enable an employee to adjust their work schedule, if feasible, in order to attend.
    2. Overtime for training is handled in accordance with 5 CFR 550, 5 CFR 551, and 5 CFR 410.
  - b. Records: Management agrees to maintain an electronic database of employee training. Employees are encouraged to provide documentation of all relevant training taken, whether at official expense or at their own expense.
  - c. Expenses:
    1. Management agrees to consider reimbursement of expenses incurred by an employee in attendance at officially approved work-related courses on their own time.
    2. The parties will make an effort to identify cost-effective and efficient training opportunities.
  - d. Use of Equipment: Management agrees to make available to all employees enrolled in approved training courses all reasonable and customary equipment necessary, if available, on the premises of the activity at mutually agreeable times during the employee's on-duty and off-duty hours.



## ARTICLE 31

### TELEWORK AND REMOTE WORK

1. The Parties will follow USDA DR 4080-811-002 and associated Frequently Asked Questions (FAQs) addressing Telework and Remote Work except as modified by the provisions of this Article. Where there are conflicts between the USDA DR or FAQs and this Article, the Parties will follow this Article. Where this Article is silent on a topic, the Parties will follow the USDA DR and the associated FAQs.
2. The following definitions for this Article are taken from USDA DR 4080-811-002 and, in some instances, summarized as follows:
  - a. **Alternate Worksite.** A work location, other than the official worksite, that satisfies all requisite Federal health and safety laws, rules, and regulations pertaining to the workplace, where an employee performs their official duties.
  - b. **Official Duty Station/Official Worksite.** For the purposes of this Article, the terms “Official Duty Station” and “Official Worksite” are synonymous. The official duty station is the management-approved location where employees regularly perform their official duties.
  - c. **Routine Telework.** Regularly scheduled telework that occurs on a recurring basis and is part of an approved telework schedule.
  - d. **Situational Telework (also referred to as ad hoc, episodic, unscheduled, and intermittent).** Telework that is approved on a case-by-case basis, where the hours worked were not part of a previously approved, ongoing, and regular, telework schedule.
  - e. **Telework.** A work arrangement in which an employee performs and completes official duties and responsibilities from an alternate worksite. Telework may be authorized for an entire duty day or a portion of one. Telework does not include the following: work performed while on official travel status; work performed at another USDA office; work performed while commuting to or from work; remote work; or mobile work.
  - f. **Unscheduled Telework.** Telework that is authorized in response to specific duty status announcements issued by Office of Personnel Management (OPM) or authorized USDA officials for use during period of inclement weather or other emergency situations, or with prior supervisory approval, telework used to maintain productivity during short-term disruptions to normal operating procedures.
  - g. **Remote Work.** A workforce flexibility arrangement under which an employee is scheduled to perform work within or outside the local commuting area of their Mission Area, agency, or staff office’s worksite and is not required to report to the Mission Area, agency, or staff office worksite on a regular and recurring basis.
  - h. **Remote Work Agreement.** The Remote Work Agreement documents, in writing, the remote work arrangements that a supervisor approves for their remote work eligible employee.
  - i. **Remote Work Arrangement.** A work arrangement in which:
    1. The employee performs assigned official duties and other authorized activities at an approved alternate work location, typically the employee’s residence, within or outside of the local commuting area of the Mission Area, agency, or staff office worksite;
    2. The employee performs such duties and activities on a regular and continuing basis; and
    3. The employee is not required to physically report to the Mission Area, agency, or staff office worksite on any frequent, regular, or recurring basis.

The approved alternate worksite is, for pay and other purposes, the employee's official duty station, as indicated on the employee's SF-50, per 5 CFR §531.605, "Determining an employee's official worksite."

### 3. Telework

- a. Management will make telework eligibility determinations and telework frequency determinations in a fair and equitable manner.
- b. Telework Participation — Employee participation in the telework program is voluntary except in emergency situations as described in Subsections 3.m and 3.n of this Article.
- c. Official Duty Station — A teleworker's official duty station will remain unchanged if the employee reports physically to their official worksite at least twice each biweekly pay period on a regular and recurring basis for a total number of hours equivalent to a total of two full workdays (e.g., 16 hours for employees on an 8 hour/day work schedule, 18 hours for employees on a 5/4/9 work schedule, or 20 hours for employees on a 4/10 work schedule). If a holiday falls on a teleworker's day to work onsite or the teleworker takes leave on a scheduled onsite day, it is not required to add an alternate day or equivalent hours to the employee's requirement to physically report to the official worksite for that specific biweekly pay period.
- d. As long as the duty station requirements in 3.c. are met, and based on the duties of their position, eligible employees may be authorized to telework a portion of their workday on every day of the pay period.
- e. In accordance with 5 CFR §531.605(d)(2), Management may make an exception to the twice-in-a-pay-period standard in 3.c. in appropriate situations of a temporary nature, such as the following:
  1. The employee is in temporary duty travel status away from the official worksite.
  2. The employee is temporarily detailed to work at a location other than a location covered by their Telework Agreement.
  3. The employee is recovering from an injury or medical condition or is experiencing a temporary personal hardship approved under Article 42.
  4. The employee is affected by an emergency (e.g. safety and health emergencies) which temporarily prevents them from commuting to their official worksite.
  5. The employee has an extended approved absence from work (e.g., on paid leave).

Note: For a temporary exception to apply, the employee must be expected to return to the official worksite on a regular and recurring basis in the future. Temporary exceptions must be reviewed by Management at least once every 3 months and should generally not exceed 6 months.

- f. Management may call employees back to the office, even on scheduled telework days. When doing so, Management will provide notice as far in advance as possible, but generally no less than 48-hour notice unless there is an emergency. If Management is unable to give advance notice and employee is called into the official worksite on a scheduled telework day, the employee may be granted duty time for the time that the employee spends traveling from the alternate worksite to the official worksite subject to applicable travel regulations. This paragraph does not apply to general callback of employees following extended telework due to emergencies.
- g. Telework Eligibility — The Parties agree the following provisions apply to Management's telework eligibility determinations:
  1. All employees, regardless of tenure, grade, job series, title, or supervisory designation are presumed eligible for some amount of telework (subject to supervisory approval) unless prohibited by other exclusionary provisions of the USDA DR, by the Telework Enhancement Act, or this Article.

2. Most positions are eligible for telework unless the positions do not have any portable or administrative work that can be accomplished from an alternate worksite and one of the following applies:
    - a. Position duties require daily physical presence;
    - b. Position responsibilities require daily access to specialized equipment located at the official worksite; or
    - c. Position activities require daily access to classified or other sensitive materials.
  3. Employee Temporary Eligibility: Supervisors may provide employees who are in positions that are not normally eligible to telework the option of teleworking on a temporary basis under the following circumstances:
    - a. Recovery from an injury or medical condition;
    - b. Emergency conditions that prevent an employee from commuting to and working at the official worksite, such as a weather emergency or public health crisis; or
    - c. The employee has an approved personal hardship request under Article 42.
  4. Employee Ineligibility based on Performance or Conduct. There may be situations where Management deems a position eligible for telework but the employee occupying the position is not eligible. Management may identify employees as ineligible for telework based only on the following criteria:
    - a. Performance. The employee's performance is below fully successful. In such circumstances, supervisors are required to initiate corrective action in accordance with USDA DR 4040-430.
    - b. Conduct. An employee may be found ineligible for telework if the employee was subject to formal disciplinary action, adverse action, or was placed on a leave restriction within the previous 12 months. Management will make these conduct-based ineligibility determinations on a case-by-case basis.
  5. Employee Permanent Ineligibility. An employee is permanently ineligible for telework for misconduct specified in the Telework Enhancement Act.
- h. Telework Agreements:
1. All approved telework arrangements must be documented on a Telework Agreement using the automated form in use by the Agency.
  2. The Parties have developed a mutually-agreeable Telework Agreement form that is consistent with this Article. Management will seek the Union's input on changes to the Telework Agreement form and the Parties will ensure changes are consistent with this Article.
  3. Telework Agreements remain in effect until a change is initiated. Employees will not be required to recertify Telework Agreements annually.
  4. Permanent changes (e.g., change in position, supervisor, or change requested by management or employee) will require a new or updated Telework Agreement to be completed. For situations when an employee gets a new supervisor but remains in the same position with the same duties, a new agreement is required, but Management will continue to offer the same telework terms (type of telework, number of days or equivalent hours) unless there is a business need to alter the terms or the employee requests a change.
  5. A new Telework Agreement is not required for temporary changes in position or supervisor (e.g., due to detail, temporary promotion, or assignments of a short duration).

6. With supervisory approval, employees on approved Telework Agreements may make short term changes (less than 30 days) or perform situational telework on days they are not scheduled to telework. In these situations, an employee will not be required to complete an additional agreement documenting the situational telework or short-term change.
- i. Eligibility Notification and Initiating a Telework Agreement
    1. Supervisors will notify employees of their eligibility to telework by initiating a Telework Agreement within 90 days of an employee starting a new position. This notification will include the employee's Continuity of Operations Plan Status to identify if their position is Emergency Essential or Mission Critical. Eligible employees will respond by completing the agreement to request telework, or to opt out of telework. Where an employee requests telework arrangements in the agreement, their supervisor will respond to approve, modify, or deny the request within 10 working days.
    2. Where an employee has not heard from their supervisor on their telework eligibility, the employee may submit a request to their supervisor. Within 10 working days of receiving the employee's request to telework, Management will review the request and initiate the notification outlined in Subsection 3.i.1.
  - j. Modifying a Telework Agreement.
    1. Management may change, suspend, or terminate an employee's Telework Agreement in accordance with Subsection 3.l of this Article. The employee will be given a minimum of 45 days advance written notice, except in emergency situations where the time frame may be shorter. The notice will include the reason, as described in Subsection 3.l of this Article, effective date, and any appeals/grievance procedures available to the employee. Where possible, employees who request a hardship accommodation under Article 42 to continue to telework may be permitted to continue teleworking until the hardship process is completed, unless the reason for the management-directed change is due to the employee's performance or conduct.
    2. Employees requesting a change should give as much advance notice as possible, generally at least 7 days in advance, when they want to modify or terminate their Telework Agreement. Management may delay the agreement modification if space considerations necessitate a delay.
  - k. Subject to local negotiations, employees who telework 3 or more days per week may be required to share desks or office space under normal operating conditions and absent employee health and safety concerns.
  - l. When denying, terminating, or modifying (e.g. changes in type of telework and/or frequency of telework) an employee's Telework Agreement, the supervisor will demonstrate and document one of the following:
    1. Changes in employee or position eligibility in accordance with Subsection 3.g of this Article;
    2. Continuation of telework will interfere the employee's ability to attain or return to a fully successful performance level; or
    3. Other business need to alter the terms of the Telework Agreement.
  - m. Short term Unscheduled and Emergency Telework
    1. Provisions related to performing telework during short term office closures (for example, weather-related closures) are covered under Section 5.b of the USDA DR and by Article 20.6.d. Generally, employees with Telework Agreements are not eligible to receive Weather and Safety Leave. Consistent with Article 20.6.d and in accordance with 5 USC § 6329(c), employees will be granted weather and safety leave when weather or other

- safety-related conditions prevent them from safely traveling to or safely performing work at their normal worksite, their telework site, or other approved location.
2. Employees under approved Telework Agreements who are working in the office when an early departure is announced due to weather or safety generally may receive weather and safety leave for the amount of time required to commute home, if they complete the remaining time (if any) in their workday either by teleworking or taking leave or other paid time off once they arrive home.
- n. Extended telework due to emergencies.
1. Under 5 USC §7106(a)(2)(D), and in accordance with applicable laws, Management has the authority to take whatever actions may be necessary to carry out the Agency mission during emergencies. The Parties understand that this authority includes but is not limited to ordering employees to telework for extended periods of time even in the absence of a Telework Agreement.
  2. Upon request, the Union at the appropriate level will be provided with the emergency policy or authority which is being relied upon to direct emergency telework.
  3. When Management orders employees to telework due to major emergencies such as a major health emergency, significant damage to a facility making it unusable, or other long-term disruption of the work at the traditional worksite, employees in positions that normally would not be eligible to telework may be provided weather and safety leave if Management does not provide any other form of work (including temporary telework eligibility under Subsection 3.g.3.b above).
  4. Equipment for emergency telework will be provided as described in Subsection 3.r below.
  5. The Parties agree that provisions specific to the nature of the emergency that requires extended telework may be negotiated, as appropriate, when such an emergency exists.
- o. Dependent Care — Teleworkers are not prohibited from teleworking while dependents are present at their telework location. However, employees may not use duty time for providing dependent care or any purpose other than official duties. Time used to care for dependents may be accounted for by using breaks, meal periods, appropriate leave, or flexing hours.
- p. Telework Grievances — Employees may file grievances related to telework in accordance with Article 9. Nothing in the USDA DR is intended to modify the agreed upon grievance procedures found in Article 9.
- q. Time, Attendance, Performance, Safety —
1. Supervisors may authorize teleworking employees to participate in flexible and compressed work schedules or other flexible work arrangements, similar to the way that non-teleworkers may participate in these alternative work schedules.
  2. Management will evaluate all teleworkers and non-teleworkers under the same employee performance management system and affording the same professional opportunities, assignments, and treatment with regard to work projects assigned, appraisal of job performance, awards, recognition, training and development opportunities, promotions, and retention incentives. This includes work requirements such as reporting on accomplishments and tasks completed during the workday.
  3. In-person meetings between the supervisor or other representatives of the Forest Service and the employee will typically occur at the official duty station.
  4. Employees are required to follow Forest Service procedures for accurately coding time spent teleworking (currently, in Paycheck8, use Descriptor Code ‘11’ for Routine telework and ‘17’ for Situational telework).

5. When teleworking, an employee is required to work from their approved alternate worksite as specified in their Telework Agreement. Supervisors may authorize telework from several alternate worksites. Temporary authorizations for changes in the location of designated alternate worksites do not require a new Telework Agreement.
  6. Safety – Management will provide guidance to employees regarding establishing ergonomically safe workstations at telework locations.
- r. Government Furnished Equipment for Telework
1. Management will provide support for any USDA-furnished device and service employees use while teleworking.
  2. USDA DR 3170-001, Section 5.b allows for one computer and one phone per person. When feasible, the computer will be a laptop so it can be used at both the official and alternate worksites. Management will approve replacement of desktop computers with laptops, when possible, to facilitate a mobile and telework-ready workforce.
  3. Employees who telework must keep Government property and information safe, secure, and separated from their personal property and information.
  4. Management and employees are responsible for ensuring the government furnished equipment is documented either on the Telework Agreement or other Forest Service documentation.
  5. Management may authorize government equipment for employee use at the alternate worksite, including surplus ergonomic equipment (for example, chairs, standing desks), subject to equipment availability and budget.
  6. Employees who are required to telework in emergency situations will be provided with the necessary government furnished equipment (GFE) to adequately perform their tasks at an alternate worksite. Additionally, consistent with 5 CFR §550.409(b), in emergency situations Management may grant additional special allowance payments, based on a case-by-case analysis, to offset the added expenses incidental to performing work from home (or an alternative location mutually agreeable to Management and the employee).
- s. Upon request, and consistent with the Privacy Act, the Union at the National Level will be provided copies of reports provided to the USDA as required by the Telework Enhancement Act.

#### **4. Remote Work**

- a. Parties will follow the USDA DR as it relates to remote eligibility. Additionally, in considering employee requests and subsequent approvals or denials, Management will follow the criteria and procedures in the USDA DR.
- b. Upon request, but no more often than twice per year, the Union at the national level will be provided a list of bargaining unit positions that are remote eligible and a sanitized list (no PII) of bargaining unit employees that have approved Remote Work Arrangements (including duty station location and organizational level).
- c. Positions that require access to confidential documents will not be automatically excluded from consideration as remote-eligible.
- d. Management will base any geographic limitations on remote work arrangements on business needs such as travel requirements and other mission requirements.
- e. Positions that are advertised and filled as remote positions will be identified as remote on the applicable organizational chart, and “remote position” will be noted on the employee’s SF-50.
- f. The details of the remote work arrangement will be in accordance with government law and regulation and must be discussed with the employee. The arrangement will be documented through a written Remote Work Agreement. At a minimum, the Agreement will specify:

1. Official duty station;
  2. Procedures for any government supplied equipment;
  3. Arrangements for storage of government vehicles, if appropriate;
  4. Travel reimbursements in accordance with the USDA DR and Federal Travel Regulations.
- g. Employees may request to work remotely, to change an existing Remote Work Agreement, or terminate an existing Remote Work Agreement following the procedures in Section 8.b of the USDA DR. Additionally:
1. When there is a change in supervisor and not a change in duties, a new agreement is not required, however the supervisor and employee will discuss the terms. Management will continue to offer the same remote terms unless there is a business need to alter the terms and in such cases a new agreement will be required and all relevant procedures in the USDA DR will be followed.
  2. An employee requesting a change must discuss the request with their supervisor. In addition to the items set out in the USDA DR, employees may consider addressing the need for the request, the benefits to the employee and any potential benefits to the Agency.
  3. Where Management denies an employee's request for remote work arrangement, Management will provide the written rationale for the denial in accordance with the USDA DR, including Section 6.e.2, within 28 days of the employee's request.
  4. The Parties will follow the DR for employee requests to terminate remote arrangements. Management may deny an employee's request to terminate a Remote Work Arrangement due to business needs outlined in the USDA DR, including office space limitations. If the requested location cannot be accommodated, Management will work interactively with the employee to identify and consider other options. See USDA DR for process and timeframes. Management will not be responsible for any costs related to voluntary relocations.
- h. If Management terminates a remote work arrangement based on a change in the requirements of a position, Management will provide the employee with reasonable notice (generally up to 90 days) and process a change of duty station as appropriate. In these circumstances, unless otherwise agreed to when the remote work arrangement was approved, Management will authorize travel reimbursements in accordance with Federal Travel Regulations.
- i. Government Furnished Equipment for Remote Work
1. Management will provide support for any USDA-furnished device and service employees use while remote working.
  2. USDA DR 3170-001, Section 5.b allows for one computer and one phone per person. When feasible, the computer will be a laptop so it can be used both at the remote worksite and while on official travel. These allowances do not prevent management from supplying the employee with any additional devices for their work (e.g. extra monitors, tablets, personal data recorders, etc.).
  3. Employees who work remotely must keep Government property and information safe, secure, and separated from their personal property and information.
  4. Management and employees are responsible for ensuring the government furnished equipment is documented either on the Remote Work Agreement or other Forest Service documentation.
  5. Management may authorize government equipment for employee use at their duty station, including surplus ergonomic equipment (for example, chairs, standing desks), subject to equipment availability and budget.

6. Employees who are required to work remotely in emergency situations will be provided with the necessary government furnished equipment (GFE) to adequately perform their tasks at an alternate worksite when their duty station is negatively impacted by the emergency. Additionally, consistent with 5 CFR §550.409, in emergency situations Management may grant additional special allowance payments, based on a case-by-case analysis, to offset the added expenses incidental to performing work at an alternative location, away from their duty station, and mutually agreeable to Management and the employee.
  7. Employees who work remotely will not be responsible for mailing/postage costs associated with their work as preapproved by their supervisor and subject to law and regulation.
  8. Management will provide necessary office supplies to employees working remotely upon request and subject to Agency policy. Any shipping costs associated with requested office supplies/government furnished equipment will be paid by Management.
- j. Where a position has been designated remote eligible and requires the use of a government-owned vehicle (GOV), Management will assist employees to identify and arrange a storage location at a nearby government location.
  - k. Remote employees will be treated equitably as set out in Section 7.d of the USDA DR. This includes equitable treatment for wellness and fire assignments.
  - l. Consistent with Article 20 of the Master Agreement and in accordance with 5 USC 6329c, employees will be granted weather and safety leave when weather or other safety-related conditions prevent them from safely performing work at their duty station or safely traveling to and performing their work at another approved location.
  - m. Supervisors will consider opportunities for informal virtual engagement with and between employees.
  - n. The Parties have developed a mutually-agreeable Remote Work Agreement template that is consistent with this Article. Management will seek the Union's input on changes to the Remote Work Agreement template and the Parties will ensure changes are consistent with this Article.
  - o. Remote Work Agreements remain in effect until a change is initiated. Employees will not be required to recertify Agreements annually.
  - p. Remote Work Grievances — Employees may file grievances related to remote work in accordance with Article 9 of the Master Agreement. Nothing in the USDA DR is intended to modify the agreed upon grievance procedures found in Article 9 of the Master Agreement.



## ARTICLE 32

### WORKFORCE RESTRUCTURING AND PLACEMENT SYSTEM

1. **Pre-Workforce Restructuring and Placement System (Pre-WRAPS) Process:** Prior to use of the WRAPS process, the parties at the appropriate level may develop and use a noncompetitive placement plan for employees affected by downsizing or changes to the organization. Any plan developed must conform with rules established by the National Parties to ensure general service-wide consistency.\*
2. **Workforce Restructuring and Placement System (WRAPS):\*** WRAPS is a system for identifying and placing employees who are affected by the abolishment of an encumbered position(s). Placements from the WRAPS involve priority consideration for agency vacancies involving noncompetitive reassignment, repromotion, or voluntary change to lower grade or reduced tour. Affected employees do not receive priority consideration for promotion or reassignment to positions with higher promotion potential than that previously held on a permanent basis. For the purposes of this Article, the following terms are defined:
  - a. **Affected employee:** An employee who has been identified as subject to displacement due to the abolishment of a position in his or her same competitive area and competitive level.\*
  - b. **Vacancy:\*** A position that Management decides to fill, regardless of whether the agency issues a specific vacancy announcement:
    1. Within the commuting area of the affected employee that is of a duration more than 120 days.
    2. Outside the commuting area of the affected employee that is not being filled on a time-limited basis.
    3. Exceptions are listed in 5 CFR 330.609.
  - c. **Competitive area:** For purposes of defining the competitive area under WRAPS, the same definitions will be used as in Appendix C.\*
  - d. **Commuting area:** For purposes of defining the commuting area under WRAPS, the same definition will be used as in Article 35.8.d.\*
  - e. **Competitive level:** The same definition will be used as in Article 35.8.e.\*
3. **Identification of Positions to Be Abolished:** For the purposes of this Article, positions to be abolished are those encumbered positions that Management has decided to eliminate within the current or next fiscal year for lack of funds, lack of work, or through changes in organization. Decisions will be made through an analysis of workload; an assessment of the projected program of work, including anticipated budgets; and an analysis of the workforce, including the kind of skills, the number of positions with those skills needed, and the locations of those positions. The Parties agree that such changes will be subject to notification requirements to the Union as articulated elsewhere in this Master Agreement. Civil Rights Impact Analysis will also be conducted as required by agency regulations.\*
4. **Employees Subject to Displacement:\*** When reductions-in-force (RIFs) and WRAPS are being conducted simultaneously within a given competitive area, the order of displacement will be in accordance with RIF identification procedures. The RIF identification order will be used to identify who goes on WRAPS for potential placement outside the competitive area. WRAPS will not be used for placements of employees in the competitive area when a RIF is also being conducted in that competitive area, unless the vacancy will not be filled through RIF, in which case WRAPS procedures will be used as appropriate. When WRAPS is being conducted alone and more than one employee is covered by the category, preference will be given to employee(s) according to leave service computation date (SCD), most service first in categories (1), (2), and (5), below. Employee(s) in

category (6) will be identified according to leave SCD, least service first. Only employees identified in categories (3) through (6) will be registered in the WRAPS database for placement.

- a. Order of identification:\* When one or more positions have been identified for abolishment within the same competitive level and the same competitive area, Management will identify employees subject to displacement in the following order:
  1. Employees who formally decide to retire under optional retirement rules; employees who make a voluntary, irrevocable written decision within 10 days of being notified of Management's decision to abolish a position within their competitive level. Retirement effective dates must be within 75 days of the original notice.
  2. Employees who make a voluntary, irrevocable written decision to resign or who have accepted in writing an offer of employment outside the Forest Service with an effective date within 75 days from the date of notification of the decision to abolish a position(s) in the employee's competitive level. This written election must be received from the employee within 10 days of the Subsection 4.b.1 notification of Management's decision to abolish a position(s). The timeframe may be shorter or longer as may be mutually agreeable between the employee and Management.
  3. Employees who are under a specific RIF separation notice.
  4. Employees under RIF who are released from the competitive level through demotion.
  5. Employees who make a voluntary, irrevocable decision to be designated as the affected employee.
  6. Other employees in the competitive level including those who are on a time-limited assignment (e.g., detail or temporary promotion) away from the competitive area.
- b. Notifications:
  1. When there are multiple employees in the same competitive area and competitive level, and Management has decided to abolish some but not all of the positions, employees in the affected competitive level and competitive area will be notified by letter.\* Responses to the notice will be used in the order of identification (Subsection 4.a). The letter will contain or reference:
    - a. The rationale for the abolishment(s).
    - b. The title, series, grade, organizational unit, and duty station of the position(s) to be abolished in the competitive level.
    - c. The number of employees in the competitive level.
    - d. Voluntary options available for employees to retire, resign, be placed outside the Forest Service, or be the affected employee to be placed on the WRAPS list.
    - e. National information about voluntary options to retire, resign, be placed outside the Forest Service, or be the affected employee to be placed on WRAPS.
    - f. Information about Voluntary Early Retirement Authority (VERA) and/or Voluntary Separation Incentive Program (VSIP) options, if applicable.
    - g. Response timelines for any actions to be initiated by the employee.
    - h. Notice of the availability of employee assistance program services.
    - i. An initial point of contact for additional information.
  2. When Management identifies the affected employees, the affected employees will be notified by letter, in person if possible.\* The letter will contain:

- a. An explanation of the reasons why the position that precipitated the employee's being affected was identified, including linkages to program of work, budget, and/or organizational changes as determined in the unit's workforce analysis (see Section 3).
  - b. How the subject employee was identified in accordance with the process contained in Subsections 4.a and 4.b, including the employee's SCD.
  - c. Person(s) to contact for any additional information regarding contents of the letter.
  - d. Appropriate use of official time, travel, and access to Government facilities and equipment, including the employee's self-initiated placement and/or employment efforts.
  - e. A statement that the letter serves as the official agency certification of the employee's eligibility for U.S. Department of Agriculture (USDA) Career Transition Assistance Plan (CTAP).
  - f. Reference to dispute resolution forums available in Article 9.
  - g. WRAPS registration procedures and a copy of the employee's preregistration record.\*
3. A copy of these notices will be given to the Local Lodge and, if a "formal discussion" is held, Union representation will be honored as identified in Article 5.4.\*
- c. WRAPS registration procedures:\*
1. Affected employees will be registered on a national, password-protected WRAPS database. Management will preregister the employees once they have been notified that they will be placed on WRAPS. Preregistration will create a record in the database that will automatically include listing the employee for positions in his or her current commuting area, series, and grade.
  2. Each employee will be asked to do the following:
    - a. View his or her record.
    - b. Identify his or her last three jobs and the major duties involved.
    - c. Record the grade(s) that he or she will voluntarily accept and up to 10 geographic preferences.
    - d. Identify his or her interest in local commuting area time-limited vacancies less than 1,040 hours or 1,040 hours or more of duration.
    - e. Specify any special needs associated with placement.
    - f. Identify erroneous information in the official record.
    - g. Where an employee's access to computers is limited, the employee will view, record preferences, and identify corrections on a hard copy. The employee will send the hard copy information to Human Resource Management (HRM) and HRM will verify the information and enter it into the database.
  3. After an employee's preferences are received, the employee will be offered the opportunity to communicate with HRM to discuss other series for which they may be qualified for noncompetitive placement and the implications of their grade and geographic preferences and to make changes within 5 days of that discussion. After the employee enters their preferences, HRM will enter the occupational preferences for which the employee qualifies.\*
  4. Unless there are exigent circumstances, registration will generally occur within 14 days of initial preregistration. In addition, unless the agency HRM contact is notified of circumstances that warrant an exception prior to that time, activation will occur on the

15th day. When notification about exigent circumstances has occurred, the registration will be incorporated into the system as soon as possible after the exigency has been resolved.\*

5. Once registered, an employee may view his or her electronic record in the WRAPS database at any time. The employee will be offered the opportunity to make changes in his or her geographic and grade preferences during the first 3 workdays of every calendar month. Notice will be provided electronically. After his or her initial registration is activated, whenever the employee wishes to change his or her occupational preferences, he or she will need to contact HRM, who will enter the occupational preferences for which the employee qualifies.\*
6. “Read only” access to the WRAPS employee database will be provided to the Union at the national level. WRAPS reports available in the database for this access will be sanitized to protect employee privacy interests. Access to individual information will not be shared below the intermediate level. Summarized statistical information may be shared to the local level.\*
7. If an affected employee has been registered on WRAPS and receives a career ladder promotion, his or her profile will be updated to reflect the new grade. The 60-day voluntary placement period will start anew and the employee will have the opportunity to update his or her preferences. Furthermore, an updated CTAP eligibility notice will be re-issued to the employee.

## **5. Placement from WRAPS\***

- a. Placement support:\*

  1. Employees will be counseled and afforded every opportunity to find a new position based on organizational needs and their career goals and personal needs.
  2. In accordance with U.S. Office of Personnel Management (OPM) guidelines, Management may consider retraining the employee or modifying qualification standards, excluding positive education requirements, to allow the employee to meet the qualifications of a vacant position within a specified period up to 365 days of occupying the position.\*
  3. Management will pay transfer-of-station benefits for affected employees who are reassigned as authorized by Forest Service policy.
  4. Affected employees on details will be provided opportunities to continue placement efforts, with Management affording them accommodations to mitigate any adverse effects created by the detail (for example, physical isolation and access to communications).
  5. Outplacement services for affected employees, consistent with the agency CTAP policy, may be negotiated at the appropriate level.

- b. Government placement programs: Management will offer identified employees enrollment in and an explanation of placement assistance programs operated by other agencies for which they are qualified, including:
  1. The Interagency Career Transition Plan for permanent employees in surplus positions administered by OPM and other government wide programs.
  2. The USDA Reemployment Priority List and CTAP.
  3. The Workforce Innovation and Opportunity Act of 2014 (Public Law 113-128) programs.
- c. Placement in time-limited vacancies: When an employee has been placed in a time-limited vacancy from WRAPS, his or her placement priority will remain active if the time-limited position is less than 1,040 hours of duration. If the temporary assignment is 1,040 hours or more, the employee’s placement priority will be inactive until 60 days before the expiration of the time-limited assignment, at which time his or her placement priority will be reestablished in the

WRAPS data base and his or her 60-day voluntary placement period will start anew. The employee will not receive a new notice under Subsection 4.c.2 of this Article, but will have an opportunity to update his or her registration information. When an employee has been placed in a time-limited position, his or her career tenure and position of record are not affected.\*

- d. Order of placement:\* The following order of placement of employees will be observed. Except where otherwise noted, placements will be made from employees qualified for the position to be filled.
  1. Commuting area. When multiple employees are eligible for placement within a following subcategory, ties will be broken in order of leave SCD (most service first):\*Employee preference for location. When multiple employees are eligible for placement within a following subcategory, ties will be broken in order of leave SCD (most service first):
    - a. Direct matches (reassignments of the employee's job—80 percent or more accuracy standard of the position description—to a new location).
    - b. Matches within the same nationally established competitive level (without the suffix).
    - c. Matches at the same grade level.
    - d. Noncompetitive repromotion eligibles.
    - e. Voluntary changes to less than full-time, year-round tours of duty.
    - f. Voluntary changes to lower grades.
  2. Locations outside employee preferences. When multiple employees are eligible for placement within a following subcategory, ties will be broken in order of leave SCD (most service first):\*
    - a. Direct matches (reassignments of the employee's job—80 percent or more accuracy standard of the position description—to a new location).
    - b. Matches within the same nationally established competitive level (without the suffix).
    - c. Matches at the same grade level.
    - d. Noncompetitive repromotion eligibles.
    - e. Voluntary changes to less than full-time, year-round tours of duty.
    - f. Voluntary changes to lower grades.
  3. Nonselection of employees from the WRAPS shall be based on legitimate job-related reasons.
- e. Offers of placement:\*
  1. All offers of placement will be made through the employee's home unit and will be communicated to the employee within 2 days. The communication will include whether it is a contingent offer or firm offer.\*
  2. Multiple employees may be offered a specific position at the same time on a contingency basis if there is more than one employee on WRAPS who may potentially match the position. The person with the highest assignment rights will receive the offer as a firm offer. The other employees receive offers contingent upon the availability of the position should employees with higher assignment rights refuse the offer. Contingent offers will only be made to employees if all potential matches are outside the commuting area.\*
  3. If the employee with the highest assignment right refuses the offer, the assignment will then be made in the order of the matching process outlined in Subsection 5.d, above, for those employees who said they would accept a contingent offer. Only declinations when

the employee is reached for the assignment will count against the limit described in item (7), below.\*

4. An employee may have more than one contingent offer at a given time.\*
  5. Employees will have up to 3 days to respond to offers within their commuting area.\*
  6. Employees will have up to 10 days to respond to offers outside their commuting area.\*
  7. If an employee receives three offers outside his or her commuting area that meet his or her listed preferences and declines the offers, no further consideration will be given to the preferences of that employee.\*
  8. When an employee initiates or voluntarily accepts a move to a lower-graded position, grade and pay retention will be granted if the move has a positive effect on another employee and/or such action will assist Management in advancing its objectives and reduce or avoid adverse impacts on employees and the agency's mission.
  9. Unless otherwise placed, an employee will be given the opportunity to remain on the WRAPS list for a period of not less than 60 calendar days.\*
- f. Involuntary placement by directed reassignment:\* Any employee placed on the WRAPS may be subject to a directed reassignment. When Management exercises its right to make directed reassignments to employees from WRAPS, the following procedures will be followed:
1. An employee may be directed to an appropriate position within their commuting area at any time during the WRAPS listing. The order of these directed reassignments will be as described in Subsection 5.d.1 of this Article.\*
  2. After 60 days on the WRAPS list, all employees identified for displacement placed on the WRAPS may be subject to a directed reassignment outside their commuting area. The order of these directed reassignments will be as described in Subsections 5.d.2 and 5.d.3 of this Article, except that voluntary reductions in tour or voluntary changes to lower grade will not be directed.\*
  3. If the involuntary reassignment is within a forest, Job Corps Center, Washington Office, regional office, area, station, or technology and development center, a copy of the notification will be provided to the Local Lodge. If the reassignment is between units, a copy of the notification will be provided to the Council Vice President.
  4. The reporting date for directed reassignments will not be less than 60 days from the notification date unless agreed to by the employee. If the new position is in the same commuting area, the effective date may be less than 60 days.\*
  5. Employees will have 10 days to accept or refuse a directed reassignment outside of their commuting area.\*
  6. Employees who have been given a directed reassignment to another position within the Forest Service will be given priority placement consideration for a 2-year period following the effective date of their directed reassignment according to the following conditions:\*
    - a. Their former or like position has been reestablished and is announced.
    - b. The employee applies to the vacancy announcement of their former or like position.
    - c. In accordance with the Order of Consideration as identified in the Merit Promotion Plan, there is no one with greater placement rights to the vacancy.
  7. Employees will receive written notice of their priority consideration rights when they are given a directed reassignment.
  8. Priority consideration applicants will inform HRM in writing of their entitlement to their priority consideration.

**6. System Review and Evaluation:** For the purposes of this Section, the WRAPS system is defined as the content and functionality of the database and the content of the related standardized forms, letters, notices, and training materials used by Management to communicate its WRAPS-based actions to affected employees. System management, archiving records, operations, and maintenance are the exclusive responsibility of Management. However, each party will independently monitor the system. The parties will conduct periodic joint reviews.\*

a. WRAPS Database access:\*

Access to the database information will be limited. Management will provide authorized access for three National-level Union Representatives designated by the NFFE-FSC. These representatives will have full-time “non-edit” access to the entire content of the data, including job match and job offer information necessary to observe and assess the system function. They will also have access to extract standard reports and will be responsible for distribution to lower-level Union Officials, subject to the conditions below.

1. Information available or provided to both Management Officials and Union Officials shall be limited to information pertinent only to their respective area of responsibility, (e.g., National, Region, Forest, Station, Area).
2. Race, sex, and national origin (RSNO) data will not be provided to the Union in standard reports, but only by specific request as may be appropriate to the Union’s statutory right.

b. Standard reports:

Standard reports, including but not limited to those listed below, will be available in the Reports component of the database to provide information on the WRAPS status of affected employees, available vacancies, and placement efforts.

1. Employee Data:

- a. Employee Name
- b. Current Pay Plan, Series, and Grade
- c. Tour of duty
- d. Organizational unit
- e. Personnel Office Indicator (POI)
- f. Duty Location (commuting area)
- g. Nationally established Competitive Level (minus any R/S/A, or local subdivision)
- h. Voluntary Tour Reduction Indicator (yes or no)
- i. Voluntary Grade Reduction Indicator (yes or no)
- j. Number of Geographic Preferences
- k. SCD Leave
- l. WRAPS Status (active/inactive, and nature of action)
- m. Number of days on list
- n. Number of firm offers extended to the employee
- o. Number of level 2 offers declined by the employee (charged against three-offer limit)

2. Vacancy Data:

- a. Position Title
- b. Pay Plan, Series, and Grade
- c. Position Number

- d. Position Type (Permanent/Time-limited)
  - e. Organizational Unit
  - f. POI
  - g. Duty Location(s)
  - h. Tour of Duty (full-time/part-time/permanent seasonal)
  - i. Firefighter indicator
  - j. Date Entered on WRAPS
  - k. Number of firm offers made
  - l. Position Status (available, offer pending, filled from WRAPS, filled from other appropriate source, retracted)
  - m. Date position filled or otherwise removed from list
3. National Statistics:
- a. Total number of Employees registered (Running total since March 1, 2004)
  - b. Number of currently active Employees
  - c. Total number of open positions (Running total since March 1, 2004)
  - d. Number of currently available open positions
  - e. Number of placements from WRAPS (Running total since March 1, 2004)
  - f. Number of employees who left the agency by category (resignation, regular retirement, VERA, involuntary separation (including discontinued service retirement), transfer to other Federal agencies)
- c. Corrective Action:
- The respective Parties shall each designate a representative with authority to act on their behalf under the provisions of this Section. These Representatives will jointly examine any system problems, including those attributable to contract provisions, and will determine appropriate corrective action and initiate needed changes. Corrective action may take the form of system enhancements, refinement of functionality, or changes to process or procedure not inconsistent with provisions of this Article. When the Parties' representatives cannot agree on corrective actions or a corrective action would require the modification of contract provisions, the Parties' WRAPS representatives will jointly prepare a white paper with recommendations for action for Forest Service Partnership Council review.\*
- d. Joint review of the WRAPS will be conducted on an as-needed basis, within 10 working days of request of either Party.
  - e. The Parties agree that no provision of this Section shall preclude the Union's right to information necessary to its representational obligations under 5 USC 71.



## ARTICLE 33

### FURLOUGHS

1. This Article sets forth procedures that will be followed if Management determines it necessary to furlough career employees because of lack of work or funds or other nondisciplinary reasons.\*
2. Management will notify the Union at the appropriate level(s), depending on the scope of a proposed furlough, at least 15 days before the employees are notified. At that time, Management will advise the Union of the reason for the furlough; the number, names, titles, series, and grade of all employees affected; and the measure that Management proposes to take to reduce the adverse impact on employees. The employees will be given specific notice (30-days' notice for furlough of less than 30 days, 60 days for furloughs in excess of 30 days).
3. Furlough documents will be made available to the affected employee and to the Union.
4. The following furlough matters are appropriate for negotiations between the parties at the appropriate level:
  - a. The content of furlough notices.
  - b. The content of solicitation of volunteers for furlough.
  - c. Scheduling of consecutive or nonconsecutive furlough days.
  - d. Programs for counseling employees about furloughs and unemployment compensation, benefits, etc.
  - e. Provisions for keeping the Union informed of furlough developments.
  - f. Any impacts on Union representation during the furlough.
  - g. The process for recall from furlough.
5. Management will not schedule the number of workdays per week for the purpose of disqualifying furloughed employees from unemployment compensation.
6. **Furloughs for More Than 30 Days**
  - a. Where furlough involves only a segment of an organization within a commuting area and the furloughs are for more than 30 days, Management will consider the following:
    1. Detailing or reassigning employees to vacant positions.
    2. Restructuring of positions, including unfilled trainee positions, to allow adversely affected employees to fill positions.
    3. Waiving qualifications in order to assign an employee subject to furlough to a vacancy for which he or she might not otherwise qualify.
  - b. Management will not fill a vacant position, except by internal placement, when an employee on furlough in the same competitive area is qualified and available for a position at the same or lower grade from which they were furloughed.
  - c. If Management elects to use any of the above options in Subsection 6.a, the Local Lodge will be entitled to negotiate appropriate arrangements for implementation at the local level.
7. **Identification of Furloughed Employees**
  - a. Furloughs of 30 days or less:
    1. Volunteers: When it has been determined to furlough some, but not all, employees in the same competitive level within one Bargaining Unit, Management agrees to first solicit volunteers. If more volunteers are available than furloughed positions, selection will be based on the service computation date (SCD), starting with the longest reduction-in-force

(RIF) service computation. Nonselection of volunteers will be based on legitimate job-related reasons.

2. If a sufficient number of volunteers is not available for furloughed positions, selection for furlough beyond the volunteers will be based on SCD, starting with the least RIF service computation.
- b. Furloughs for more than 30 days will be performed in accordance with 5 CFR 351 and Office of Personnel Management (OPM) guidance.

### **8. Recall of Employees from Furlough**

- a. Furloughs of 30 days or less: When Management recalls employees to duty in the same competitive level, as defined in Article 35, from which they were furloughed, it will be in order of SCD ranking, starting with the longest RIF service computation. Recall from furlough for placement in other competitive levels is determined by the qualifications, availability, and SCD ranking of the furloughed employee.
  - b. Furloughs for more than 30 days will be performed according to 5 CFR 351 and OPM guidance.
9. Employees on furlough have rights at least equal to those they would have had if they had been separated and placed on the reemployment priority list.
  10. An Internet-based site and a toll-free number will be established to give furloughed employees a place to get updates on furloughs when away from work.
  11. Employees will be asked to provide the Servicing Human Resources Office and supervisors with updated contact information for callbacks (for example, phone number, personal e-mail address, address, etc.).

### **12. Scheduling**

- a. For furloughs of 30 days or less (short furlough), the total number of days that the employee may be furloughed shall not exceed 30 days (if consecutive) or 22 workdays (if noncontinuous).
- b. Furloughs can be for consecutive or nonconsecutive days, normally at the employee's option. Management will inform the employees how many consecutive days of furlough will qualify them for unemployment benefits. Management will consider employee personal needs such as child care and outside employment as relevant factors in determining which days will be worked during nonconsecutive furloughs. Furloughs will be recorded in the correct manner to ensure unemployment benefits are afforded to eligible employees.\*
- c. Management may reduce the number of days of the furlough if it finds that fewer days are necessary due to changed circumstances. To increase the number of days, a new notice and identification process is required. The parties will negotiate as appropriate.

### **13. Leave During Furloughs\***

- a. For hardship cases, Management will consider deferring a furlough for employees on sick leave.\*
- b. The provisions of leave restoration will apply to "use it or lose it" annual leave.
- c. Employees shall have the option of electing days of leave without pay in place of furlough.

### **14. Emergency Furloughs**

Consistent with 5 CFR 752.404(d)(2), advance written notice to employees with an opportunity to answer are not necessary for furlough without pay 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 a possible Government shutdown, it will:

- a. Notify the Union and provide copies of any official notices that advise the agency of a potential furlough.

- b. Provide Bargaining Unit employees potentially affected by such a furlough with written information addressing their rights, benefits, and obligations.
- c. Management may accept voluntary service to perform the work of a furloughed Bargaining Unit employee only if authorized by law.

**ARTICLE 34****TRANSFER OF FUNCTION**

1. Transfer of Function (TOF). TOF is the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected or the movement of the competitive area in which the function is performed to another commuting area. The TOF will follow 5 CFR 351. The parties at the appropriate level will negotiate per Article 11 to the full extent permitted by law.\*
2. Management will notify the Union at the appropriate level of a proposed TOF at least 15 days before employees are notified. At that time, Management will advise the Union of the reason for the TOF; the number, names, titles, series, and grades of all employees affected; and the measures that Management proposes to take to reduce the adverse impact on employees.
3. Competitive levels will be as described in Article 35.

## ARTICLE 35

### REDUCTION IN FORCE

#### 1. Policy: The agency will follow procedures articulated in 5 CFR 351.\*

- a. The decision to conduct a reduction in force (RIF) is a Management right. The implementation of a RIF will be administered by Management.\*
- b. In accordance with U.S. Office of Personnel Management (OPM) guidelines, Management may consider retraining the employee or modifying qualification standards, excluding positive education requirements, to allow the employee to meet the qualifications of a vacant position within a specified period up to 365 days of occupying the position.\*
- c. Government placement programs:\* Management will offer identified employees enrollment in and an explanation of placement assistance programs that are operated by other agencies, for which they are qualified, including:
  1. The Interagency Career Transition Plan (ICTAP) for permanent employees in surplus positions administered by OPM and other governmentwide programs.
  2. The U.S. Department of Agriculture (USDA) Reemployment Priority List and Career Transition Assistance Plan.
  3. The Workforce Innovation and Opportunity Act of 2014 (Public Law 113-128) programs.
- d. Outplacement services: Outplacement services for identified employees, consistent with the Agency's Career Transition Assistance Program policy, may be negotiated at the appropriate level.

#### 2. Notice

- a. Management will notify the appropriate level of the Union and give them a copy of the request for approval for RIF. This notification will be given at least 75 days prior to the effective date and takes the place of notification described under Article 11. In addition, Management is encouraged to provide information in accordance with Article 11.4. The 75-day notification will include name, title, series, and grade of employees affected; efforts that have been taken to avoid the RIF; and expected outcomes of the RIF. Retention Registers will be made available to the Union as soon as they are developed, which will be at least 60 days prior to the effective date.\*
- b. Sixty days prior to the RIF effective date, Management shall provide the Union a list of all positions that are considered trainee or developmental for RIF purposes, together with the SF-50s listing the name, position, and effective date of action assigning each incumbent to the position in question.
- c. The affected employees will be given a specific RIF notice at least 60 days prior to the effective date of the RIF. Retention Registers and other RIF documents will be made available to the affected employee.\*

#### 3. Procedures and Appropriate Arrangements

- a. When Management decides to implement a RIF, the Parties agree that RIF and Workforce Restructuring and Placement System (WRAPS) will be implemented simultaneously and that WRAPS is the procedure and appropriate arrangement for internal agency placement outside the competitive area. If either of the Parties at the intermediate or national level contends that a RIF situation is not conducive to the simultaneous use of WRAPS, the Parties agree to negotiate an alternative at the appropriate intermediate or national level.
- b. When RIF and WRAPS are implemented simultaneously:
  1. The RIF procedures will be used to identify the affected employees for RIF and the same employees will be the affected employees in WRAPS.

2. RIF procedures will be used for placement of affected employees within the competitive area.
  3. WRAPS procedures will be used for placement of affected employees outside the competitive area, but RIF timelines will take precedence.
- c. The National Parties will be given an opportunity to negotiate on the implementation and impact of anticipated multiple RIFs that result from organizational change involving more than one region or station. The intermediate parties will be given an opportunity to negotiate on the implementation and impact of anticipated multiple RIFs that result from organizational change involving more than one organized unit. For RIFs confined to one organized unit, the Local parties will be given an opportunity to negotiate on the implementation and impact of RIF(s). The terms of the local or intermediate level agreement reached must be approved by both parties at the intermediate level. The results of these local negotiations are not precedent setting. Further, if local negotiations include permissive rights, those negotiations do not serve as the agency's election to negotiate permissive rights.\*
4. **Early-Out Retirements in RIF:** Management will request that USDA approve early-out retirements in a significant RIF. The Union will be given an opportunity to give input into the letter submitted to USDA.\*
  5. **Leave Without Pay During RIF:** Management may, on a case-by-case basis, consider requests from employees who have received RIF notices for leave without pay (LWOP) up to a maximum notice period of 90 days of combined duty and leave status, following issuance of the notice, if such an extension will protect employee rights or avoid administrative hardship. Management may also consider requesting approval from OPM for an extension beyond 90 days when necessary to protect employee rights or to avoid administrative hardship. An amended notice includes the total number of days specified in the original notice plus the number of days of LWOP approved, not exceeding 90 calendar days after the delivery of the original notice. If the employee does not accept an offer of another Forest Service assignment, such LWOP may be canceled.
  6. **Personnel Files:** The Union and Management will jointly encourage each employee to see that their personnel file and employee data/skills documents (such as, OF 612, resume, biographical sketch, etc.) are up to date as soon as the RIF or reorganization is announced. Management will add to the personnel file appropriate changes or amendments requested by the employee. Both the personnel file and data/skills documents will be used to match employees with vacancies. Employees possessing skills in more than one area will designate those area(s) in which they wish to be matched for consideration for vacancies.\*
  7. **Hiring Freezes During RIF:** When a unit of the Forest Service determines that a RIF is necessary, a hiring freeze for the competitive area and competitive levels expected to be involved in the RIF will be implemented during the life of the RIF.\*
  8. **Competitive Areas and Competitive Levels**
    - a. The Parties acknowledge that the current Federal Labor Relations Authority (FLRA) case law states that competitive areas are nonnegotiable. In the event the FLRA changes its position or is overruled, either Party may propose to negotiate changes to the competitive areas.\*
    - b. The competitive areas that Management has determined it will use in the event of RIF will be listed in Appendix C.\*
    - c. In the event Management determines to change the competitive areas listed in Appendix C, it will notify the Union sufficiently in advance to permit early engagement (see Article 11) to address issues related to planned changes to the above described competitive areas. In addition, Management will provide sufficient notice to permit appropriate bargaining under Article 11 related to the proposed changes to the competitive areas. Any changes to the competitive areas will be listed in Appendix C.\*

- d. **Commuting area definition:** When commuting areas are used to define competitive areas for RIF, they are defined as any population center, or two or more neighboring ones, and the surrounding localities in which people can reasonably be expected to travel back and forth daily. Under this definition, the standard commuting area will be 49 miles. The local or intermediate parties by mutual agreement may develop a different definition in place of the 49-mile standard commuting area under this Subsection for employees within the management unit for which they have the authority to bargain under Article 11. They may seek assistance from the next higher level to reach agreement on a different definition. Before such agreements are finalized, they will be subject to joint review by the next higher (for example, intermediate) level. If the parties fail to reach agreement or the next higher level Parties fail to concur with the agreement, the standard definition will be used.\*
  - e. **Competitive level definition:** The Parties agree that OPM regulations define competitive level (see 5 CFR 351.403). If OPM regulations change, the definition of competitive levels will change accordingly. Employees are assigned to competitive levels based on their position of record. Currently, the competitive level generally consists of all positions in the same competitive area that are in the same grade (or occupational level) and classification series and that are similar enough in duties, qualification requirements, pay schedules, and working conditions so that the incumbent of one position could successfully perform the critical elements of any other position upon entry into it, without undue interruption.
- 9. Repromotion Rights:** If Management determines to fill the same or essentially identical position, the involuntarily demoted employee will be offered repromotion to the position or to intervening grades for a period of 2 years from the effective date of the demotion. The employee will retain repromotion rights to the grade level from which they were demoted. For other vacancies within the commuting area with the same or essentially identical duties for which an involuntarily demoted employee qualifies, the employee will be offered repromotion to the vacancy unless there is a legitimate job-related reason for not repromoting the employee. In the event that more than one employee qualifies, the highest service computation date ranking employee will be offered repromotion first.
- 10. Reemployment Rights:** Any employee separated through RIF will be offered reemployment to the first vacancy that Management determines to fill in the same commuting area for which the employee meets basic qualifications at the same or lower grade. If more than one separated employee is qualified for a particular vacancy, the offer will be made in retention standing order. If reemployment is below the employee's former grade level, the employee will have repromotion rights as provided in this Master Agreement. Reemployment rights will be granted for a period of 2 years from the effective date of the RIF for career and career conditional employees.\*

## Article 36

### UNEMPLOYMENT COMPENSATION

The Parties recognize that unemployment compensation is a high payroll cost with no productivity. It is also understood that the benefits governed by State laws vary greatly in their eligibility requirements and benefit amounts. The Parties agree to the following guidelines:

1. Call back of employees will be for legitimate job-related reasons and not for the purpose of disqualifying an employee from unemployment compensation.
2. Management will give printed information that explains the State law on unemployment compensation and the consequences of refusing employment while receiving such compensation to each less than full-time career employee and temporary employee. For these employees, Management will give the information annually. For seasonal and temporary employees, Management will give this information prior to starting their off-season.
3. A permanent employee who accepts off-season assignments in the Forest Service or other Federal agencies outside the commuting area will be paid travel costs and per diem as provided in the Federal Travel Regulation. Should the work with another Federal agency be the result of a proper second appointment, then travel and per diem may not be payable. If Government-owned or leased quarters are available, they will be provided rent free and per diem will be at a reduced rate in accordance with established region, station, area, or forest policy.
4. Offers of work outside the commuting area with the Forest Service, other Federal agencies, or private industry:
  - a. If an employee refuses an offer of work outside the commuting area during a period when unemployment compensation is being paid, the Forest Service will not appeal the continued payment of such benefits unless the Forest Service believes that State law disqualifies the employee because of such refusal. Similarly, the Forest Service will not contest the initial claim in eligibility by reporting such refusal unless the Forest Service believes that the refusal is disqualifying under governing State law.
  - b. Offers of employment outside the commuting area will not be made for the purpose of disqualifying an employee for unemployment compensation.
  - c. If a refusal is based on a genuine hardship situation for the employee, the Forest Service will not contest an unemployment claim.
5. Management will provide affected employees with appropriate forms, when available, from the State and general information on how to qualify for unemployment compensation. Eligible employees are determined by the appropriate State or governmental authority.\*



## **ARTICLE 37**

### **VOLUNTEERS AND GOVERNMENT-SPONSORED WORK PROGRAMS**

1. In accordance with law, nonemployee workers, such as volunteers and enrollees of Government-sponsored work programs, will not displace employees or positions or their grade-controlling duties. No Forest Service employee will be required or requested to perform as a volunteer. Employees will not be supervised by volunteers and enrollees of Government-sponsored work programs. Management will exercise due diligence to assure that employees are not at risk from nonemployee workers and will take prompt and appropriate action should incidents occur.\*
2. **Impacts**
  - a. The Parties recognize that such programs may impact the working conditions of Bargaining Unit employees. Furthermore, the Parties agree that adverse impacts, when identified by the Union, such as changes in duties, responsibilities, training, safety, availability of other amenities, are subject for negotiations, upon request, at the local level.
  - b. In order for the Union to determine adverse impacts, all available data concerning the use of such programs and the text of enabling authorities for them, the number of volunteers or enrollees, their assigned duties, work locations, periodic reports, or announcements will be provided to the Union upon request. The Union will be informed where to request the data if not available locally.

## ARTICLE 38

### CONTRACTING WORK OUT

#### 1. General\*

- a. Management will notify the Union of commercial activity reviews and A-76 processes pursuant to Office of Management and Budget Circular A-76 and functions planned for study concurrently with notice to field Management and will consider the Union's input.
  - b. In accordance with Article 11, Management agrees to notify the Union when a decision is made to contract out work that affects the conditions of employment of Bargaining Unit employees and will negotiate implementation, as appropriate.\*
  - c. Management will notify the Union of any change in applicable law, rule, or regulation relating to contracting out work that affects either the Union or Bargaining Unit employees.
  - d. Prior to conducting any cost comparison study of Bargaining Unit work, Management may consider innovative alternatives such as High Performance Work Organizations, Business Process Reengineering, etc.
2. Upon request, Management will provide the Union representative at the appropriate level with available and releasable information.\*
  3. The Union, upon request, may attend public bid openings and review independent Government estimates at the time of openings. They also may review in-house cost estimates under the provisions of the A-76 Circular.\*
  4. Management will provide appropriate assistance to employees adversely impacted by contracting out decisions. Parties at the appropriate level may negotiate specific appropriate arrangements.\*
  5. Management will post a notice to the workforce about employee responsibilities in regard to reporting fraud, waste, and abuse related to contracted services.\*

## ARTICLE 39

### VOLUNTARY ALLOTMENT OF UNION DUES

1. Any employee of the Forest Service who is a member of the National Federation of Federal Employees (NFFE) and is included within one of the consolidated bargaining unit covered by this Master Agreement may make a voluntary allotment for the payment of dues to the NFFE. Dues Withholding is voluntary on the part of the individual employee.
2. The NFFE-Forest Service Council (NFFE-FSC) will provide Management with a list of points of contact for NFFE-FSC Local Lodges for the purpose of dues deduction issues, at least annually. This list will include contact name, Local Lodge number, and dues amount. If the Local points of contact cannot be reached, then the point of contact is the NFFE-FSC Secretary-Treasurer.
3. **Dues Withholding and Transmittal:** Deductions will be made each pay period by the Agency and remittances will be made promptly each pay period to the National Office of the NFFE-IAM. The Agency shall also promptly forward to NFFE-IAM, a listing of dues withheld via electronic means, e.g. CD. The listing shall be segregated by Local and shall show the name of each member employee from whose pay dues was 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 Local listing shall be summarized to show the number of members for whom dues were withheld, total amount withheld, and amount due to that Local. Each list will also include the name of each employee member for that Local who previously made an allotment for whom no deduction was made that pay period, whether due to leave without pay or other cause. Such employees shall be designated with an appropriate explanatory term.
4. **Processing of New Dues Deductions**
  - a. The employee shall complete the SF-1187, "Request for Payroll Deductions for Labor Organization Dues" and shall file the completed SF-1187 with the designated Union representative.
  - b. The Local President or other authorized official of the Union will certify on each SF-1187 that the employee is a member in good standing of the Union; insert the amount to be withheld, and the appropriate Local number. The amount of dues certified on the SF-1187 by the authorized Union official shall be the amount of regular dues, exclusive of initiation fees, assessment, back dues, fines, and similar charges and fees.
  - c. Bargaining unit employees or Union officials may submit an SF-1187 Form that is complete, legible, and accurate to Human Resources Management (HRM) for processing.
  - d. If the form is complete and legible, HRM shall certify the employee's eligibility for dues withholding, insert the NFFE-IAM code (01) and, process it with the National Finance Center within five (5) work days after receipt, with dues deductions becoming effective as of the beginning of the first full pay period after it is processed. The effective date will be the date the SF-1187 is processed and entered into the system. HRM will provide a copy of the SF-1187 to the NFFE-FSC after it is processed.
  - e. If the form is incomplete, illegible, or the dues amount is less than the Local Lodge's dues amount as provided in Section 12 of this Article, HRM will return it to the local point of contact within 2 days of receipt, and the timeframes below will not begin.

If the completed form is legible, but the employee is not coded as being in the bargaining unit, the Local Lodge contact will be notified of the issue within 2 days of receipt. Within 14 days of receipt of the SF-1187, the employee's bargaining unit status will be corrected if it is in error, or the Local Lodge contact will be notified that the Agency believes the employee is not in the bargaining unit.

## **5. Termination of Dues Withholding**

- a. Cancellation of dues-withholding by an employee: Consistent with 5 USC §7115(a), authorization for dues allotments shall be irrevocable for a period of one year, except as stated in 5 USC §7115(b). At any time after this one year period, an employee may voluntarily revoke an allotment for the payment of dues by completing SF-1188, "Cancellation of Payroll Deductions for Labor Organization Dues", and submitting it to HRM. HRM shall process the revocation with NFC, immediately and will provide NFFE-FSC processed copies of the SF-1188 at the time the revocation is made effective.
- b. Reassignment or transfer out of the bargaining unit: Management is responsible for terminating dues withholding when the employee is reassigned, promoted, or otherwise permanently removed from the bargaining unit (5 USC 7115). HRM and the employee members have a mutual responsibility to assure timely revocation of an employee's allotment for Union dues when the employee is promoted or assigned to a position not included in the bargaining unit represented by NFFE-FSC.
- c. Management will terminate dues withholding at the end of the pay period during which HRM receives a notice from the NFFE-FSC Secretary-Treasurer or a Local of NFFE-FSC that an employee member has ceased to be a member in good standing.
- d. All deductions of Union dues provided for in this Article will automatically terminate in the event of loss of exclusive recognition.

## **6. Temporary Changes to Dues Withholding**

- a. Permanent seasonal employees for whom dues were withheld at the end of the previous season will have dues withholding reinstated by HRM when they return to pay status.
  - b. Employees for whom dues are withheld and who are temporarily removed from the bargaining unit (for example, seasonal supervision, details to unorganized units, temporary promotions) will have dues stopped when they are removed from the unit and will have withholding reinstated on the first full pay period following return to the bargaining unit.
  - c. Temporary employees who are rehired will need to submit a new SF-1187 for dues withholding.
7. Each pay period, Management agrees to furnish to electronic folder for NFFE Dues Information list of all employees including the organizational coding through level 5, name, position, title, grade, step, Bargaining Unit Status (BUS) code, Fair Labor Standards Act code, official duty station, position type (Permanent, Temporary, Permanent Seasonal, etc.), Local Lodge number, and dues withholding.
  8. When an employee or the Union believes that a Union member's dues withholding has been incorrectly discontinued, the Union or the employee may open a CRM case. Within 14 days of the first CRM contact, the dues will be reinstated or the person opening the CRM case will be notified as to the reason that the dues cannot be reinstated (for example, employee is in a non-bargaining unit position).
  9. It is the employee's responsibility to complete and submit Form AD-356, Dues Changes between Locals within a National Labor Organization, to HRM when they change from one Local Lodge to another. If the employee remains in the NFFE bargaining unit, dues withholding will continue regardless of whether the employee completes this form or not.
10. **Process for Annual Change in Dues Amounts:** By pay period 24 each year, the NFFE-FSC Secretary-Treasurer shall notify the HRM Pay Branch Chief in writing of any changes to the dues rate for each of the NFFE-FSC Local Lodges, which will be effective the 1st pay period of the next calendar year.
  11. If there should be a change in the dues structure or amount for a Local, the authorized Union official shall notify HRM. If the change is the same for all members of the Local, a blanket authorization may be used which includes only the Local number and the new amount of dues to be withheld. Only one

such change may be made each year in addition to the annual change described in Paragraph 10 above.

- 12. New Bargaining Units:** In the event that a new bargaining unit is organized, the NFFE-FSC Secretary-Treasurer shall notify the HRM Pay Branch Chief and the National Labor Relations Officer, as soon as practical, of which Local Lodge will be representing the bargaining unit. If a new Local Lodge is chartered for the bargaining unit, the notification will include the new Local Lodge number, the dues amount, the Local Lodge officers and their contact information.
- 13. Other Changes to Local Lodges**
  - a. In the event that the NFFE-FSC merges Local Lodges or otherwise changes representation for some bargaining unit employees, the NFFE-FSC Secretary-Treasurer will inform HRM Pay Branch Chief and the National Labor Relations Officer within 14 days of the change. The notification will include the following:
    - b. The Local Lodge numbers affected by the changes,
    - c. The nature of the change, and
    - d. Any other information necessary to implement the change, including names of affected employees, Local Lodge numbers to which they should be assigned, dues rates, and contact information for the Locals Lodges.
- 14.** When Local Lodges are abolished, the NFFE-FSC Secretary-Treasurer will notify the HRM Pay Branch Chief and the National Labor Relations Officer, and HRM will notify NFC which Local Lodge numbers are to be abolished.

## **ARTICLE 40**

### **PILOT PROJECTS/DEMONSTRATION PROJECTS**

The Parties recognize the need for more efficient operations within the Forest Service and agree that experimenting with different ways of completing various activities can benefit this objective.

When Management sets aside, waives, or changes any existing law, rule, regulation, or policy that affects working conditions, Management will give the Union notice in accordance with Article 11.

## ARTICLE 41

### CIVILIAN CONSERVATION CORPS

1. **General:** The intent of this Article is to address those aspects of the Civilian Conservation Corps (CCC) that are unique, such as the 24 hours a day, 7 days a week, and year-round nature of the residential program. Although this Article is exclusive to the CCC, the parties are still bound by all Articles of the Master Agreement. This Article addresses only those issues between Management and Bargaining Unit Employees (BUE).
2. **Relationship to DOL**
  - a. Although the Forest Service CCC program is responsible for Center operations in a manner that meets the programmatic requirements and goals established by the U.S. Department Of Labor (DOL), as agreed by the U.S. Department of Agriculture (USDA), it is understood that Forest Service CCC employees are covered by Office of Personnel Management (OPM) regulations, 5 USC 71, and the provisions of this Master Agreement. The parties shall not confuse the rights of students with the rights of employees.
  - b. The Parties agree that changes made by DOL, such as changes to the Policy and Requirements Handbook (PRH) that affect the working conditions of the BUEs, must be negotiated at the intermediate level (CCC National Office and Council Vice President for CCC) per Article 11 before implementation.\*
  - c. When changes to the Interagency Agreement between the USDA and the DOL are proposed by either the USDA or DOL, the Union will be provided copies of those changes within 30 days of the date the changes are known by the Agency.
3. **Special Safety Concerns:** General safety and health issues are covered in Article 27. However, the Parties recognize that the CCC working environment presents unique safety and health issues.
  - a. Immediate and appropriate action will be taken when a student's behavior has become disruptive or threatens the safety of an employee(s).
  - b. Any employee(s) who believes that their safety is jeopardized by a student who is demonstrating threatening behavior should immediately notify the on-duty supervisor. The on-duty supervisor will review the situation and take immediate action in accordance with law, Agency policy and the PRH. In an off-Center situation where a supervisor is unavailable, and the situation is beyond the employee's reasonable ability to resolve, the employee may contact appropriate Forest Service or local law enforcement for assistance.
  - c. Student(s) who threaten physical violence, assault, or sexually harass employee(s) will be removed from the Center as soon as practical. All incidents that involve physical assault will be referred to law enforcement.
  - d. All employees will receive current safety and health training on blood borne pathogens and the Center's Pandemic Workforce Protection Plan annually. New employees will receive this training as part of their orientation program, normally within 30 days after their reporting date.
  - e. The Parties recognize the stressful nature of CCC work, and employees are encouraged to discuss concerns with their supervisors. When supervisors become aware of an employee's stress-related illness, they will advise the employee of their rights to file a (CA-2) claim under the Occupational Workers Compensation Program. CCC employees who are suffering from workplace-related stress may also request reassignment or details, including details to other organizational units (that is, National Forest Systems, other CCCs, Research and Development) under the terms of Article 4.17.b and Article 42.

- f. The Parties agree that long-term vacancies in residential living, vocation, and education may represent a significant safety and health issue for students and BUEs, as such vacant positions should normally be filled in a timely manner.
4. **Shift Assignments** (see Article 18): Changes to shift assignments will be kept at a minimum. Shift assignments are subject to Local Level negotiations as provided in Article 18.



## ARTICLE 42

### PERSONAL HARDSHIP

1. **Introduction:** The purpose of this Article is to establish a process under which Management will consider employee requests for assistance with personal hardships. Management reserves the right to determine whether a personal hardship exists and what action, if any, should be taken. Management will consider hardship requests, but it is recognized that Management may not be able to satisfy the request. The employee may request assistance and advice through the Employee Assistance Program (EAP) and may authorize the EAP counselor to share information regarding the hardship situation with Management.

The provisions of this Article do not apply to Reasonable Accommodation requests for employees with disabilities.

2. Any employee may request a personal hardship consideration. Personal hardships are situations outside of the employee's reasonable ability to control that affect the health and/or welfare of the employee and/or family member as defined in 5 CFR 630.201. Some examples of hardship include, but are not limited to:
  - a. A specific long-term medical situation where services or care are more accessible in a specific location.
  - b. Special education needs for children related to physical or mental disability.
  - c. Significant and recurring harassment or discrimination against the employee or his or her family at work or in the community.
  - d. Specific situations such as divorce, reconciliation, sibling care issues, and eldercare.
3. **Process**
  - a. The employee will submit their request to Management for determination of whether a hardship exists and to request accommodation of the hardship. The request must be in writing and include the nature of the hardship and the accommodation requested. Requests should indicate whether they are long-term or short-term in nature.\*
  - b. When Management receives a personal hardship request, Management must first determine if a hardship exists. Before making the final determination, the Management official may request additional information from the employee and/or the employee may submit additional information to the Management official.\*
  - c. When Management has determined that an employee has a hardship, and upon request of the employee, Management will assist the employee in finding vacancies in the geographic location(s) in which they are interested.
  - d. Management will notify the employee as quickly as possible, but no later than 28 days, with a written decision on the hardship request. The decision will include a determination of whether a hardship exists and what can be done to accommodate the hardship.
  - e. Confidentiality regarding an employee's hardship situation will be maintained to the extent possible.
  - f. Alleged violations of this Article are grievable in accordance with Article 9.
  - g. Upon the employee's request, employees may be represented by the Union in this process.
  - h. When considering a hardship request, the decision should not create any hardship, loss of rights, or benefit to another employee. Changes or requests by individual employees that may affect working conditions of other employees shall be negotiated per Article 11 prior to implementation.

## ARTICLE 43

### DRUG AND ALCOHOL TESTING PROGRAMS

This Article contains the procedures and arrangements for drug and alcohol testing of employees and applicants as required by Executive Order 12564 and Omnibus Transportation Employee Testing Act of 1991 as amended (Public Law 102-143). The testing program will be administered in compliance with Public Law 100-71, the Health and Human Services (HHS) Mandatory Guidelines, the Department of Transportation Regulations, 49 CFR Parts 382 and 40, U.S. Department of Agriculture (USDA) Departmental Regulation (DR) 4430-792-2, and the USDA Plan for a Drug Free Workplace.\*

1. **Identification of Test Designated Positions (TDP):** Management has the right to designate positions for applicant and random drug and alcohol testing (Test Designated Position or TDP).
  - a. TDPs shall be only those positions that have duties and responsibilities documented in the position description, reflecting the assignment of actual work, that make the position subject to applicant and random testing. National Parties may agree to documentation other than the Position Description to identify TDPs. Employees may be designated for testing by:
    1. Executive Order TDPs. Positions listed in Appendix A of the USDA DR4430-792-2.
    2. Department of Transportation TDPs. Position descriptions that include the operation of vehicles requiring the possession of a Commercial Drivers License (CDL) are designated as TDPs. The Forest Service will not apply state CDL testing exemptions available under Department of Transportation (DOT) regulations; that is, USDA and Forest Service testing requirements take precedence over any State or local laws to the contrary.
  - b. Changes to Existing Positions: Management will notify an employee of any change in his or her TDP status. If an employee's position is newly included in the random testing program, or if the employee is detailed to a TDP, he or she is entitled to a 30-day written notice prior to being subject to random testing (not withstanding reasonable suspicion and post-accident testing).
  - c. An employee's TDP status will be reviewed by the supervisor and the employee annually at the time of the performance review for the purpose of determining if the testing designation is still appropriate.
  - d. An employee may contest their TDP status through the grievance/arbitration procedures. An employee who has filed a grievance prior to being called for a random drug or alcohol test may receive a testing deferral until a final grievance/arbitration decision is made. This deferral does not apply to Reasonable Suspicion or Post-Accident testing.
  - e. An employee who is not in a designated TDP may volunteer for inclusion in the Executive Order or DOT drug-testing program. Volunteers remain in the testing pool for the duration of the position that the employee holds, or until the employee withdraws from participation by notifying his or her supervisor in writing of such intent before being notified of a scheduled test.
2. **Vacancy Announcement TDP Notification:** Vacancy announcements for TDPs (including competitive details and temporary promotions) will include written notice that applicant pre-appointment and random (a) drug or (b) drug and alcohol testing is a requirement of the position and that appointment to the position and continued employment is conditional on negative test results. Each vacancy announcement for a TDP will incorporate the required language outlined by the USDA and HHS Drug Free Workplace Plans (DFWP). Failure of the vacancy announcement to contain this notice will not preclude applicant testing if a 30-day advance written notice is provided to the applicant. Employee may agree to waive the 30-day advance notice and agree to be tested earlier.
3. **Training:** DFWP training is intended to be accomplished primarily through computer-based training and may be supplemented with other means such as formal orientation, written material, videos, lectures, and awareness training.

- a. Generally, all employees will receive annual training on the DFWP.
  - b. Employees shall receive DFWP training within 30 days of entry into a TDP (or conversion to a TDP), with annual refreshers. New employees shall receive DFWP training within 30 days of receipt of access to the training modules. Training shall cover topics outlined in USDA DR 4430-792-2 and this Article including: (1) USDA drug and alcohol testing program, (2) employee safeguards in the testing program including Safe Harbor and the right to union representation, (3) employee assistance and counseling programs, (4) types of drugs and their effects, (5) laboratory procedures, (6) Medical Review Officer (MRO) duties, and (7) protections associated with reporting suspected drug use by co-workers and supervisors.
  - c. Supervisors or managers of NFFE-FSC Bargaining unit employees shall receive appropriate training prior to requesting reasonable suspicion testing.
- 4. Self-Identification:** The parties encourage voluntary disclosure by an employee of substance use (legal or illegal drugs or alcohol) that would impair them from performing safety-sensitive duties.
- a. Self-identification is deemed to occur when an employee, after becoming aware of a safety-sensitive work assignment (for example, vehicle operation), notifies their supervisor or the responsible Management official of the employee's potential impairment at the first reasonable opportunity and before beginning to perform the assignment. If an employee self-identifies and is unable to perform an assignment, Management will not initiate disciplinary action regarding the first instance of impairment. Additional instances of impairment may be subject to discipline. However, the employee may still be subject to disciplinary action for any other related or unrelated misconduct beyond this instance of impairment.\*
  - b. Safe Harbor: Executive Order 12564 mandates disciplinary action shall be initiated for illegal drug use by any employee regardless of TDP status except when an employee self-identifies and seeks "safe harbor."
    - 1. In order to be eligible for Safe Harbor, the employee must:
      - a. Voluntarily self-identify as a user of illegal drugs or volunteer for drug testing prior to being identified through other means,
      - b. Obtain counseling or rehabilitation through an Employee Assistance Program; and
      - c. Thereafter, refrain from using illegal drugs.
    - 2. Safe Harbor is not available to an employee who requests Safe Harbor protection from discipline after being directed to submit to a test.
    - 3. Employees eligible for Safe Harbor are removed from safety-sensitive duties until the treatment program is completed and a return-to-duty test is passed. Employees are then subject to a regime of follow-up tests.
    - 4. 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. Neither does it shield the employee from corrective action based on drug use determined by other means, or misconduct/poor performance related to substance abuse.
- 5. Reasonable Suspicion Testing:** Reasonable suspicion is a belief that an employee has violated alcohol or controlled substances prohibitions based on direct observations of drug use or possession and/or the physical symptom(s) of being under the influence of a drug (for example, a pattern of abnormal conduct or erratic behavior).
- a. Executive Order Testing for All Employees. All Forest Service employees are subject to testing when there is a reasonable suspicion of on-duty illegal drug use or impairment.
  - b. Employees in Executive Order TDPs may be subject to testing when there is a reasonable suspicion of illegal drug use on or off duty.\*

- c. Executive Order Reasonable Suspicion testing will be initiated in accordance with the USDA DR4430-792-2 after first making appropriate factual observations, documenting those observations, and obtaining appropriate authorization to conduct the test. However, failure of observers to receive training on reasonable suspicion testing procedures shall not invalidate otherwise proper reasonable suspicion testing. Testing will be administered within 32 hours of the last observed behavior or event that prompted the supervisor or agency official to request testing unless delayed by events beyond the control of either the agency or the employee. In no case will tests be conducted beyond 72 hours of the last observed behavior or event.
- d. Employees in DOT TDPs are subject to alcohol and drug testing when there is a belief that an employee has violated alcohol or controlled substances prohibitions based on specific and timely observations that can be clearly articulated concerning the appearance, behavior, speech, or body odors of the employee made just before, during, or just after the period of the work day in which the employee was expected to be in compliance with drug and alcohol standards. The observations may include indications of the chronic and withdrawal effects of controlled substances.

The term “just” as used above, is defined as meaning the time period immediately prior to and/or after work hours while the employee is physically at the duty location or work site.

- 1. Reasonable suspicion testing for employees in DOT TDPs will be requested based on the direct observation and documentation of one or more supervisors trained in detecting the signs and symptoms of possible alcohol/drug use. Training records will be furnished to the union upon request.
- 2. Alcohol testing will be administered promptly within 2 hours, and no later than 8 hours after the employee is asked to submit to testing, in accordance with 49 CFR 382. Testing for any other substances will be conducted within established timeframes under DOT regulations.
- e. General Provisions for Reasonable Suspicion Testing:
  - 1. The appropriate trained supervisor or Management official will gather and document all information, including dates and times, facts, information sources, and circumstances leading to and supporting the suspicion. This information is submitted to the Director, Human Resource Management (HRM), or appropriate delegate who has the authority to approve reasonable suspicion testing requests. Copies of these records will be provided to the Union upon request in conjunction with representational matters in accordance with the Privacy Act.
  - 2. Before the testing occurs, the employee will be informed of the reasons for the test and provided with the documentation described in (1) above, excluding information sources.
  - 3. Under no circumstances shall reasonable suspicion testing be used as a punitive measure.

## **6. Post-Accident Testing**

- a. Post-accident testing applies to all employees if they meet Executive Order post-accident testing criteria. Employees in DOT Test Designated Positions are covered by DOT provisions while they are driving a commercial motor vehicle. Accidents that do not meet the criteria for post-accident testing may still result in an employee being tested under the reasonable suspicion program if criteria for testing under that program are met.
- b. Executive Order post-accident testing for illegal drugs covers all employees who are reasonably suspected of having caused or contributed to an accident that occurred within the scope of their employment or while in official duty status; the Director, HRM, or appropriate delegate will use objective evidence to make this determination.
- c. Executive Order post-accident testing for illegal drugs is also required when the accident results in:

1. Death or personal injury requiring immediate hospitalization for in-patient treatment (as opposed to short-term emergency room care), or
  2. Damage to Government or private property estimated to be in excess of \$10,000. The damage estimate shall be made by an agency official using an objective basis.
- d. Executive Order post-accident tests for illegal drugs must be completed within 32 hours of the accident.
- e. DOT post-accident testing applies to drivers involved in accidents while performing safety-sensitive functions associated with operating a commercial motor vehicle, and requires testing for both alcohol and controlled substance use. Alcohol testing will be administered promptly within 2 hours, and no later than 8 hours following the accident; drug testing must be administered within 32 hours of the accident. Testing is required when the accident results in:
1. Loss of human life, or
  2. Citation to the driver for moving vehicle accident and accident results in:
    - a. Injury requiring medical treatment away from scene of accident, or
    - b. One of the vehicles has to be towed.

## **7. Random Testing**

- a. Employees who are eligible for random testing under both the Executive Order (that is, drug testing) and DOT regulations (that is, drug and alcohol testing) will be randomly selected only under the DOT program.
- b. Prior to scheduling testing, the supervisor will confirm the employee's availability. Whenever possible, Management will schedule testing so it can be completed during the employee's normal workday. At the time of notification, employees will proceed to the test site immediately or as soon as possible, as instructed by the supervisor.
- c. A deferral of a random drug test may be granted if the employee is unavailable due to being:
  1. In an approved leave status (sick, annual, administrative, or leave without pay);
  2. In official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification; or
  3. A grievant pursuant to Subsection 1.d of this Article.

An employee whose random drug test is deferred will be subject to an unannounced test within the following 60 days.

## **8. Travel Time and Attendance**

- a. Employees shall be on official time for Management-directed drug and alcohol testing related activities, including travel.
- b. The agency shall pay travel expenses and/or provide transportation for testing in accordance with Federal Travel Regulation.
- c. Overtime shall be paid or compensatory time approved in accordance with applicable laws and the Master Agreement.

## **9. General Testing Procedures**

- a. Urinalysis is the only testing method used for drug testing in this program. Use of any other drug testing method may be negotiated, as appropriate, by the National Parties.
- b. Employees selected for drug testing will be provided a checklist, the contents of which will be negotiated by the Parties at the national level.

- c. Collection of samples will be done in accordance with applicable HHS Mandatory Guidelines under Executive Order provisions, and in accordance with DOT regulations for DOT-covered positions. Employees are permitted to provide specimens in private unless there is a legitimate need for observation. Examples of when a sample would be observed include return-to-duty testing and suspicion of tampering. Observation must be approved by an authorized Agency official and performed by an individual of the same gender.
- d. Employee may be required to provide another sample based on suspicion of tampering with the specimen.
- e. An employee who is subject to being observed while providing a urine sample may request a written statement specifying the reasons for the observation, and may ask to have a Union representative present. The observed collection shall be delayed a reasonable amount of time to permit a Union representative to travel to the collection site, provided the sample collection will occur on the designated test day, and within the time limits prescribed for reasonable suspicion and post-accident testing, to preserve sample integrity.
- f. All reasonable available means will be used to protect the dignity and privacy of employees with physical handicaps or other impairments that may prevent them from providing urine specimens in the usual manner.
- g. If an employee is unable to provide a volume of urine adequate for testing purposes, they will be given a reasonable amount of liquid (water, tea, or coffee). The Forest Service will allow the employee up to 3 hours on the same testing day to provide a sufficient volume.
- h. If the employee is unable to provide the required specimen quantity, the testing will be discontinued and the clinic will notify the MRO and the Agency's Drug Testing Coordinator. They will be contacted by the MRO who will request satisfactory medical documentation or arrange for a medical evaluation to determine whether there is a genuine reason for the employee's inability to provide a specimen or a refusal to test (49 CFR 40.193).
- i. Employees shall not be required to disclose the legitimate use of specific drugs at the outset of the program. Employees will have an opportunity to provide documentation to the MRO supporting legitimate usage upon a positive test result. Only verified positive test results are reported to the Agency.
- j. An employee may arrange for private testing within 24 hours of providing an Agency-directed urine sample. A reasonable amount of appropriate leave may be approved.

**10. Split Sample Collection and Testing:** Split sample testing procedures as contained in DOT regulations will be followed for all sample testing. If the first sample produces a positive result, and the employee requests a test of the split sample within 72 hours, then the second test will be performed.

**11. Second Sample Collection and Testing:** Employees being tested may elect to have a second sample collected at the same time as the USDA sample and have it submitted by the sample collector at the employees' expense to an HHS-accredited laboratory of their choice in accordance with HHS and USDA procedures pertaining to drug testing. If a reasonable suspicion test has been conducted and the first sample tests positive for drugs whereas the second sample tests negative, the employee may request and shall receive reimbursement for the cost of the second test.

**12. Response to a Positive Drug or Alcohol Test**

- a. Management shall review any positive drug test, that is, consider an employee's explanation, the accuracy of the lab procedures, etc.
- b. The Parties recognize alcoholism and other drug dependencies as illnesses. It is the intent of the Parties to support rehabilitation of these employees so they can be retained in the workforce. The employee shall be referred to the EAP (see Article 26).

- c. Currently under Executive Order 12564, the agency shall initiate action to remove from the service any employee who is found to use illegal drugs and
  - 1. Refuses to obtain counseling or rehabilitation through an EAP or
  - 2. Does not thereafter refrain from using illegal drugs.
- d. Management shall meet its obligations under the Rehabilitation Act of 1973 as amended.

### **13. Records Retention**

- a. Records pertaining to an employee's drug and alcohol tests are confidential and releasable on a need to know basis and as otherwise required by law. These records are covered by the Privacy Act of 1974 as amended and shall be maintained in the Agency's secured files.
- b. Positive drug test results will be retained—
  - 1. In accordance with disciplinary or adverse action record retention policy, when the document is part of a disciplinary or adverse action file;
  - 2. In accordance with DOT regulations as they pertain to records retention;
  - 3. In accordance with Executive Order, HHS, and USDA regulations and policies.

### **14. Union Representation**

- a. Employees may invoke their Weingarten Right to Union representation as appropriate (see Article 4).
  - b. TDP information:
    - 1. Designation of new classes of TDPs is a change in conditions requiring appropriate notifications per Article 11.
    - 2. Annually in July, Management will furnish the NFFE-FSC President or designee a servicewide list of any and all:
      - a. Positions in the random test pool, including, at a minimum, the employee name, position title, series, grade, organization coding, and test pool designation code for each position,
      - b. Employees who were randomly selected for testing during the past year, and
      - c. Employees who were tested during the past year.
  - c. Laboratory Information:
    - 1. Upon request, Management will make available to the Union at the national level a list of the clinics and laboratories being used.
- 15.** The Parties agree to jointly pursue an approval from the USDA for Union inspection of any testing facilities or certified laboratories used in the agency's testing program. Article 5 release procedures for the Union representative are to be followed.

**ARTICLE 44**  
**RESERVED**



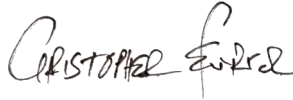
## **ARTICLE 45**

### **DURATION AND EXTENT**

1. The effective date of this Master Agreement shall be the date of approval by the Director, Office of Human Resource Management (OHRM), Office of the Secretary of Agriculture, or on the 31st day after execution of this Master Agreement, if the Director of OHRM has neither approved nor disapproved the Master Agreement. It shall expire 5 years after the effective date. It will remain in effect for yearly periods thereafter, automatically renewing itself on the day after the anniversary of the expiration date unless either Party serves the other with written notice, not more than 105 calendar days nor less than 60 calendar days prior to the expiration date, of its desire to terminate or modify this Master Agreement.
2. Pursuant to Section 1 of this Article, both Parties shall meet within 90 calendar days of the receipt of the other Party's notice to terminate or modify this Master Agreement. When either Party notifies the other Party that it wishes to modify this Master Agreement, the Master Agreement will be extended until the effective date of the modified Master Agreement. The provisions of any Article in this Master Agreement may not be reopened through the midterm bargaining process except by mutual agreement or where necessitated by statutory changes.

In witness thereof, the Parties hereto executed this basic Labor-Management Agreement. The effective date of this Agreement is June 4, 2024.

**For the USDA, Forest Service:**



Christopher Feutrier, Enterprise Director and Lead Negotiator



Jeff Patterson, WEPO Director of Policy Analysis and Accountability

*Nicole Wojcik*

Nicole Wojcik, Labor Relations Branch Chief

*Donald J. Modder*

Donald J. Modder, Associate Chief Financial Officer



Kristopher Cahoon, Labor Relations Advisor

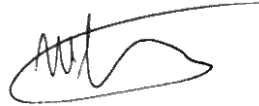


Craig Westergard, Labor Relations Advisor

**For the National Federation of Federal Employees:**



Shawn Patterson, NFFE-FSC President and Lead Negotiator



Andy Vanderhuel, NFFE-FSC General Vice President



Carl Houtman, NFFE-FSC Vice President for Research



Yvette Piacsek, NFFE-FSC Deputy General Council



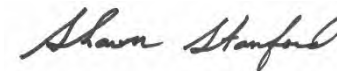
Erin Kidwell, NFFE-FSC Vice President for Region 6

*Mark Munoz, Jr.*

Mark Munoz, NFFE-FSC Vice President for Region 5



Nancy Soriano, NFFE-FSC Vice President for Region 10



Shawn Stanford, NFFE-FSC Vice President for Region 4



Renee Crawford, NFFE-FSC Steward

## **APPENDIX A**

### **DESCRIPTION OF CONSOLIDATED BARGAINING UNITS**

A current summary of the FLRA descriptions of all NFFE organized units is maintained on the HRM Labor Relations Webpage, currently at <https://fsweb.wo.fs.fed.us/hrm/labor-relations/index.php>.

This summary does not in any way affect the certified bargaining units maintained by the FLRA.

**APPENDIX B****ACRONYMS COMMONLY USED IN THE MASTER AGREEMENT**

AAA	American Arbitration Association
ADR	Alternative Dispute Resolution
ASC	Albuquerque Service Centers
AWOL	Absent Without Leave
AWS	Alternative Work Schedule
BUE	Bargaining Unit Employee
CCC	Civilian Conservation Center/Corps
CFR	Code of Federal Regulations
CTAP	Career Transition Assistance Program
CU	Clarification of Unit Petition
CVP	Council Vice President (Forest Service Council)
DOL	U.S. Department of Labor
EEO	Equal Employment Opportunity
EEOC	U.S. Equal Employment Opportunity Commission
eOPF	Electronic Official Personnel Folder
FECA	Federal Employees Compensation Act
FLSA	Fair Labor Standards Act
FLRA	U.S. Federal Labor Relations Authority
FMCS	Federal Mediation and Conciliation Service
FMLA	Family and Medical Leave Act
FSC	Forest Service Council, National Federation of Federal Employees
FSH	Forest Service Handbook
FSIP	Federal Services Impasses Panel
FSM	Forest Service Manual
FSPC	Forest Service Partnership Council
FTR	Federal Travel Regulation
GAO	U.S. Government Accountability Office
HRM	Human Resources Management
ITF	International Institute of Tropical Forestry
LEI	Law Enforcement and Investigations
LMR	Labor-Management Relations
LWOP	Leave Without Pay

MOU	Memorandum of Understanding
MSPB	Merit Systems Protection Board
NFFE	National Federation of Federal Employees
NFFE- FSC	National Federation of Federal Employees – Forest Service Council
OMB	U.S. Office of Management and Budget
OPM	U.S. Office of Personnel Management
OSC	Office of Special Counsel
OSHA	Occupational Safety and Health Administration  (U.S. Department of Labor)
OWCP	Office of Workers' Compensation Programs  (U.S. Department of Labor)
PIP	Performance Improvement Period
RIF	Reduction In Force
RO	Regional Office
TOF	Transfer of Function
ULP	Unfair Labor Practice
WO	Washington Office
USC	United States Code (Law)
USDA	U.S. Department of Agriculture
WGI	Within-Grade Increase
WRAPS	Workforce Reduction and Placement System

## **APPENDIX C**

### **COMPETITIVE AREAS TO BE USED FOR REDUCTION IN FORCE**

The competitive areas Management has determined it will use in the event of reduction in force (RIF) are listed on the Workforce Shaping page of the HRM website.

## APPENDIX D

### GRIEVANCE SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”), made by and between (*grievant’s name*), Forest Service Council-National Federation of Federal Employees (Union), and the USDA Forest Service, collectively “the Parties,” constitutes a full and final settlement of any and all alleged issues raised in the grievance filed on (*date*).

The Parties agree that resolution of this matter is in their mutual best interests and have agreed to set forth the terms of this Agreement in writing. This Agreement is authorized under 5 USC 71 and Article 9 of the Master Agreement.

Items in italics below are issues for the Parties to address and include in the Agreement, as applicable. All other text is mandatory language.

**A. The Agency Agrees:**

*a. (State specifically who, what, when, where, and how the agency agrees to do.)*

**B. The Grievant Agrees:**

*a. (State specifically who, what, when, where, and how the grievant agrees to do.)*

b. To withdraw the grievance filed on (*date*) and any and all other related grievances, appeals, or complaints that have been filed, if applicable.

**C. The Union Agrees:**

*a. (State specifically who, what, when, where, and how the union agrees to do.)*

**D. The Parties Agree:**

a. To cooperate in good faith to complete implementation of this Agreement and abide by the terms of this Agreement. If a Party believes that the other has not fully complied with one or more terms of this Agreement, that Party or his/her representative shall make a good faith effort to contact the other Party to discuss and seek correction of any compliance or implementation issues before taking formal action. This does not affect any time limits for taking further action.

b. The terms of this Agreement may not be used by any other individual to justify or request similar terms and resolution.

c. If a Party believes that another Party has failed to comply with the terms of this Agreement, the Party may:

1. File a new step 1 grievance requesting that the terms of the settlement agreement be specifically implemented, OR

2. Reinstate the grievance at the next step from where the settlement occurred, if applicable.

Either 1 or 2 above must be done within 30 days following the date on which the grievant knew or should have known of alleged noncompliance.

d. The Parties are entering into this Agreement voluntarily, without coercion or duress, and that they fully understand the terms of this Agreement.

e. The effective date of this Agreement is the date that the last person listed below signs and dates this Agreement.

*f. (Insert confidentiality clause; that is, degree of confidentiality, is it applicable, to whom, why and what clauses, at what level, etc.)*

*g. (State duration/date or triggering event for closure of this Agreement.)*

\_\_\_\_\_  
Grievant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Grievant's Name

\_\_\_\_\_  
Union Representative's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Union Representative's Name

\_\_\_\_\_  
USFS Agency Representative's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print USFS Agency Representative's Name



**APPENDIX E****ARTICLE 11 BARGAINING NOTICE CHECKLIST**

The Designated Official will furnish a written notice to the appropriate officials, as identified in the Negotiations Notice Receiving Officials Table in Article 11.5.j:

1. Be addressed and copied in accordance with Article 11.5.j.
2. Contain the phrase “Article 11 Bargaining Notice” in addition to the issue title in the subject header of the letter and of an email message if that is the method of delivery.
3. Include a clear written description of the proposed change.
4. For management-initiated changes, identify the scope of anticipated negotiations (i.e., substance or appropriate arrangements and procedures).\*
5. Provide summary background and rationale for the determination to make the proposed change.
6. Identify potential impacts to bargaining unit employees.
7. Identify the proposed implementation date, if known.
8. Identify the proposing party’s lead negotiator and any other required contacts (e.g., Labor Relations), including their contact information.
9. Identify the “reply-due” date (timeline per Article 11.5.b and 11.5.c).
10. Include, as attachments, information to the extent not prohibited by law, which is reasonably available and necessary for full and proper discussion and understanding of the substance of the proposed changes.\*
11. Be signed or transmitted by the appropriate designated official or designee.

Proposing party may also include Ground Rules Template or Ground Rules Template with proposed changes.

**APPENDIX E ARTICLE 11 RESPONSE TO BARGAINING NOTICE CHECKLIST**

If the responding party invokes negotiations, the responding party's Designated Official or their designee will furnish a written response to the lead negotiator for the proposing party. At a minimum, the response will:

1. Be addressed to the lead negotiator and other contacts, as identified in the notice per Item 8 of the Bargaining Notice Checklist.
2. Contain the phrase "Article 11 Bargaining Notice Response" in addition to the issue title in the subject header of the letter or of an email message, if that is the method of delivery.
3. Reference the date of the initial notice and its receipt. Identify any proposed adjustment to the "reply-due" date based on date of receipt (timeline per Article 11.5.b and 11.5.c).
4. Identify the name and contact information of the responding party's lead negotiator and any other contacts.
5. Identify available dates for discussions to begin; include response to any dates proposed in the initial notification.
6. Interests and/or proposals that the responding party intends to address during negotiations.\*
7. Any initial request for additional information that may be required related to the topic being negotiated, if applicable.
8. Response to proposed ground rules, if provided.

If no Ground Rules were proposed, the responding party may include Ground Rules Template, Ground Rules Template with proposed changes, or proposed Ground Rules.

## **APPENDIX E GROUND RULES FOR NEGOTIATIONS ON [INSERT THE SUBJECT]**

1. [Local/Intermediate] These Ground Rules constitute the complete and entire understanding and agreement, for the purposes of these negotiations, between the National Federation of Federal Employees (NFFE) [insert Organized Unit identifier] (“Union”) and the Forest Service [insert specific unit identifier] (“Management”), also referred to in this document collectively as the “Parties.” These Ground Rules become effective on the date of second signature.

Or

[Use for National] These Ground Rules constitute the complete and entire understanding and agreement, for the purposes of these negotiations, between the National Federation of Federal Employees (NFFE) Forest Service Council (“Union”) and the Forest Service (“Management”), also referred to in this document collectively as the “Parties.” Management must submit these Ground Rules for Agency Head review. These Ground Rules become effective on the date of final approval by the Agency Head, or that date on which the thirty (30) day limit for agency head review expires, whichever is earlier.

2. Negotiating teams will consist of no more than [number] members and may include one alternate on each side. The alternates will attend negotiating sessions only as an observer and will not participate in the negotiation unless they are replacing a member of the negotiation team. When they are replacing a team member, the alternate will have the same responsibility and authority as the team member replaced.
3. Each Party will designate a Lead Negotiator for their team who has the authority to execute a binding agreement. The names of the Lead Negotiator and all negotiating team members will be exchanged in writing prior to the first negotiating session.
4. A quorum for negotiations will be [number] negotiating team members for each Party, one of the [number] being the Lead Negotiator from each Party. In the event the Parties do not reach a quorum, the negotiating session will be rescheduled for a date and time agreed to by the Lead Negotiators.
5. To ensure continuity, it is the Parties’ intent to keep the same team members throughout the negotiations. However, if a Party changes a member on its negotiating team, the Party’s Lead Negotiator will inform the other Party’s Lead Negotiator.
6. The Lead Negotiator may delegate their role to another negotiating team member, with notice to the other Party’s Lead Negotiator.
7. After the Ground Rules are signed, Lead Negotiators will mutually set the date, time, and format (in-person or virtual) for the first negotiating session. The last item of business at this first session will be to reach agreement on times and dates for subsequent sessions.
8. Sessions will be scheduled between [time] and [time] EDT and will not exceed [number] hours per day. Breaks will be determined by mutual agreement.
9. The Parties will utilize a hybrid of interest-based and traditional bargaining during these negotiations by first focusing on their respective interests. The Parties will then identify both shared and conflicting interests and work together to craft language that meets both Parties’ needs. As the negotiations proceed, written proposals for particular language may become necessary. Either Party will provide a written proposal upon request of the other Party.
10. During negotiations, new related issues may become apparent. Either party may raise these issue(s) by submitting to the other party, in writing, a description of the issue, a rationale for why it is related to the current negotiations, and proposed language. By mutual agreement, the issue(s) may be included in the on-going negotiations.
11. The Parties will comply with Article 11.8 of the Master Agreement regarding Negotiability Disputes

and Impasses. In the case of either Impasse or Negotiability Disputes, the Parties may mutually agree to sever the matters at impasse or negotiability dispute and continue the negotiation and agreement process on the remaining provisions.

- 12.** Either party may propose seeking assistance from the Federal Mediation and Conciliation Service (FMCS) or other facilitation/mediation services, see Article 11.8.b.
- 13.** Sessions will continue until agreement or impasse is reached. In the event the Parties cannot reach agreement, either Party may request impasse resolution assistance from the Federal Service Impasses Panel (FSIP).
- 14.** By mutual agreement of the Lead Negotiators, Subject Matter Experts (SMEs) may be included in discussions. SMEs will be limited to providing technical information about law, rule, regulation, government-wide policy and the interpretation thereof. SMEs are not additional negotiators for either side.
- 15.** Either Party may call a caucus at any time without the consent of the other Party; however, the Parties will make every effort to avoid unnecessarily delaying the negotiations. Upon reconvening, the requesting Party may provide the other Party an explanation of the subject discussed, but not the substance of the discussion.
- 16.** Management will provide a mutually agreed upon note-taker for these negotiations. This does not preclude either Party from taking notes for the use of their respective teams. The note-taker will be responsible for capturing agreement language as well as notes on the discussion of agreement provisions during the negotiations while sharing that language on screen. Any agreement language, action items, for the next session, and comments on rationale from both Union and Management captured in comment fields during negotiations will be sent to all members of both teams upon close of negotiations for the day.
- 17.** Neither audio nor video recording by any Parties is permitted during any of the negotiating sessions, unless by mutual consent.
- 18.** Agreement of the Parties will be documented in a Memorandum of Understanding (MOU).
- 19.** These Ground Rules may be re-opened only by mutual agreement.

Agreed to by:

For Management:

For Union:

Lead Negotiator: Signature

Lead Negotiator: Signature

## APPENDIX F

### FOREST SERVICE REPROMOTION PLAN

1. **Purpose:** This program is established to ensure that Forest Service (FS) employees eligible for or receiving grade retention are given automatic two-year repromotion priority consideration for positions that will facilitate their non-competitive progression back to the retained grade, any Intervening grade, or retained pay (I.e., back to a grade level to which the pay can be accommodated within the rate range of that grade).
2. **Coverage**
  - a. All FS employees up to grade GS-15 or in the Federal Wage System, who are eligible for grade retention under S CFR Part 536, are eligible for repromotion priority consideration under this plan who were reduced in grade because of:
    1. An error in the prior classification of a position;
    2. A change in OPM classification standards without a change in duties and responsibilities;
    3. A change in the duties and responsibilities caused by gradual erosion/position audit or by management action;
    4. The application of reduction-in-force procedures; or
    5. A reorganization, when qualifying under FSM 6152 and subsequent non-competitive placement actions taken under such procedures (i.e., Pre-WRAPS or WRAPS).
  - b. Employees become eligible for repromotion priority consideration under this program upon the effective date of their demotion.
  - c. Eligibility under the automatic priority consideration program will end two (2) years from the effective date of the action that gave them entitlement; or when grade or pay retention ceases, whichever occurs first. After which, the employee is still eligible for priority consideration to be repromoted to the highest grade previously held on a permanent basis (or intervening grade), if they apply for a position.
  - d. Employees downgraded as a result of action taken under 5 CFR 752 or S CFR 432 are not covered by the plan.
3. **Repromotion Consideration Entitlement:** Repromotion eligibles will be given automatic priority consideration for positions advertised in the local commuting area (i.e., 49 miles from official duty station) of the employee's current, permanent position of record when the vacant position meets the following criteria:
  - a. The grade or full performance level is higher than that of the employee's current position (i.e., employee can be repromoted), and the position is in a job series for which the employee is qualified at the grade level at which the position is being filled.
  - b. The full performance level is no higher than the actual grade the employee held on a permanent basis immediately prior the action that resulted in eligibility for repromotion (i.e., there is no greater promotion potential for the position that would require competition). NOTE: Priority consideration will not be given for positions at the employee's current (reduced) grade unless the position has a higher full performance level.
  - c. There are no other employees who are entitled to a special or higher "priority consideration" to the vacancy as outlined in Order of Consideration When Filling a Vacancy."
4. **Repromotion Plan Placement Requirements:**
  - a. Forest Service Repromotion Plan eligible employees will be managed nationally, but does not preclude local Human Resources staff from facilitating, identifying, or making placement

opportunities.

- b. Repromotion job offers must be made in writing, with an accompanying position description (PD), and allowing the employee no less than seven (7) working days to respond.
- c. Templates and fact sheets for notifying employees upon receiving repromotion eligibility and an offer of a repromotion opportunity have been developed in collaboration with the National Federation of Federal Employees — Forest Service Council.
- d. Human Resources staff is reminded to check for specific procedures that may be addressed in collective bargaining agreements.
- e. As described in 5 CFR 536, FS Repromotion Plan eligible employees who refuse a reasonable offer in the commuting area will have their grade and pay retention benefits terminated and will lose repromotion priority consideration under this program.

**APPENDIX G****ORDER OF CONSIDERATION WHEN FILLING A VACANCY**

During the recruitment process, managers must be aware that there may be individuals who are entitled to special or “priority” consideration for the vacancy. In some cases, the individual is entitled to be placed in the vacancy (placement rights); in other cases, the entitlement falls short of a mandated placement (priority placement consideration). The nature of the special consideration depends upon the program involved. Consider individuals in the following order:

	<b>Type of Candidate</b>	<b>Must Be Placed</b>	<b>Must be Considered</b>	<b>Remarks</b>
1	Forest Service employees with statutory return rights.	X		Statutory return rights include: a. Restoration after military furlough b. An employee returning after full recovery from workers compensation. c. Placement of an employee after their participation in an international assignment
2	Individual awarded position resulting from a formal complaint/dispute or granted a position as a settlement.	X		Settlement cannot exceed full relief or be in violation of statute or regulation. The settlement must have been a nondiscretionary action directed by a qualified legal or administrative body (MSPB, EEOC, or OSC).

	Type of Candidate	Must Be Placed	Must be Considered	Remarks
3	Employee who received a directed reassignment after their position was abolished, and has return rights once the position is reestablished.	X		<p>Employee has return rights for a 2-year period if his/her former or like position (title, series, grade, duties, duty location) is announced.</p> <p>Language on the directed reassignment: In accordance with FSH 6109.12.20.21, if you accept a directed reassignment, you will be entitled to priority placement consideration to return to your former position for a 2-year period, following the effective date of the directed reassignment according to the following conditions:</p> <p>a. Your former or like position is being reestablished and is announced;</p> <p>b. You apply to the vacancy announcement of the former or like position and inform the contact for the vacancy, in writing, of your entitlement to priority consideration; and,</p> <p>c. There is no one with greater placement rights to the vacancy, in accordance with this “Order of Consideration When Filling a Vacancy.”</p>
4	Reasonable accommodation-a reassignment as an assignment of last resort when all other options through reasonable accommodation process have been exhausted.	X		
5	Forest Service employee subject to reassignment or voluntary change to lower grade under a reorganization plan.	X		Pre-Workforce Restructuring and Placement System (Pre-WRAPS) Offers must be made in accordance with the labor agreement for bargaining unit employees, and in accordance with agency policy for nonbargaining unit employees.



	<b>Type of Candidate</b>	<b>Must Be Placed</b>	<b>Must be Considered</b>	<b>Remarks</b>
6	Forest Service employee listed in the Workforce Restructuring and Placement System.	X		Offers must be made in accordance with the labor agreement for bargaining unit employees, and in accordance with agency policy for nonbargaining unit employees.
7	An employee returning from worker's compensation who is LESS than fully recovered		X	
8	Surplus or displaced employees in the commuting area and are eligible for selection priority under the USDA Career Transition Assistance Plan (CTAP), who have applied, or identified, and determined to be well-qualified for the position.	X		<p>Career Transition Assistance Plan (CTAP) eligibles must be considered and placed in the position unless there is a job-related reason for not doing so.</p> <p>CTAP eligibles must be placed in the following order:</p> <ol style="list-style-type: none"> <li>a. Forest Service employees with reduction in force (RIF) separation notice;</li> <li>b. Forest Service employees subject to displacement under WRAPS;</li> <li>c. Other USDA eligible employees.</li> </ol>
9	Employee who was not promoted or considered for a position because of a violation of the Merit Promotion Plan.		X	<p>Employee must receive priority consideration before other applicants are ranked and referred for selection.</p> <p>Reference USDA DR 4030-335-002 and the FS Supplement – Corrective Actions (Appendix A of FSH 6109.12)</p>

	<b>Type of Candidate</b>	<b>Must Be Placed</b>	<b>Must be Considered</b>	<b>Remarks</b>
10	An individual awarded a position as a result of an informal complaint/dispute or granted a position as a settlement.	X	X	Settlement cannot exceed full relief (also known as “discretionary” actions directed by an appropriate management official. Placement or consideration depends on the settlement agreement.  The settlement agreement will be the determining factor in whether the employee receives placement rights or priority placement consideration for selection.
11	Forest Service employees in the NFFE bargaining unit with repromotion consideration rights in the commuting area of a vacancy.		X	
12	USDA (including Forest Service) employees with repromotion rights in the commuting area of a vacancy.		X	
13	Former NFFE bargaining unit employees with reemployment rights separated from the RIF competitive area of the vacancy.	X		Offers of placement must be made in accordance with the labor agreement for NFFE bargaining unit employees, and in accordance with agency policy for nonbargaining unit employees. (May not be on the Reemployment Priority List (RPL) but would be eligible.)

	<b>Type of Candidate</b>	<b>Must Be Placed</b>	<b>Must be Considered</b>	<b>Remarks</b>
14	Former USDA (including Forest Service) employees with reemployment rights in the commuting area of the vacancy per the USDA Reemployment Priority List (RPL).	X		
15	Displaced employees in the commuting area who have applied, or identified, and are eligible for selection priority under the Intergovernmental Career Transition Assistance Plan (ICTAP).	X		Vacancy must be advertised for consideration to government-wide or all sources applicants and tentative selectee must be outside USDA.
16	Eligibles on the certificate of eligibles, and all others not included above.			Upon clearance of the above listed priorities, proceed with selection process.

**APPENDIX H**

<b>Employee Name</b>		
<b>Title, Series, and Grade</b>		
<b>Position Number »»»</b>	<b>MR:</b>	<b>IP:</b>

**AGREEMENT FOR PERMANENT SEASONAL EMPLOYMENT**

(Reference 5 CFR 340.402)

As a Permanent Seasonal Employee, you are subject to seasonal release and recall to duty as a condition of your employment. Normally, you are released to nonduty status at the end of the season and recalled to duty the next season. Release and recall procedures will be based on a combination of factors subject to negotiations at the local level.

The minimum period you are guaranteed and will be expected to work is     pay periods. You may work additional pay periods with your agreement. After the minimum number of pay periods has been worked, and you are placed in nonduty status, any recall to duty for purposes of training or work may be done only with the mutual agreement of you and your supervisor. The minimum period may be reduced, following applicable procedures and notice.

The calendar year is the basis for determining the period of employment. The initial year of appointment under this agreement may involve less than the minimum period depending on the date of appointment.

Service credit under a Seasonal tour is credited in the following manner: “Service credit” is the amount of employment time credited to an employee’s record and determines eligibility for a variety of benefits. The following outlines the amount of service credit allowed during the employee’s nonpay portion of their tour.

1. **Leave Accrual, Retirement, and Retention**—Service credit is granted for up to a maximum of 6 months of nonpay status in each calendar year.
2. **Probationary Period/Trial Period (when applicable)**—A maximum of 22 workdays in nonpay status is creditable toward completion of the probationary period. This is 22 in the aggregate, not each time an employee is placed in nonpay status.
3. **Career Tenure (Career Conditional Appointments)**—The first 30 calendar days of each period of nonpay status is creditable for career tenure.
4. **Within Grade Increases for Wage Grade (WG)**—One workweek in nonpay status is credited for step 2, three workweeks for step 3, and four workweeks for steps 4 and 5.
5. **Within Grade Increases for General Schedule (GS)**—Two workweeks in nonpay status are credited for steps 2 thru 4, four workweeks for steps 5 through 7, and six workweeks for steps 8 thru 10.

A Permanent Seasonal Employee who is expected to work at least 6 months per year is eligible for health and life insurance coverage. The employee is responsible for payment of their share of the health insurance premium while in nonpay status. If an employee is in pay status for less than 6 months, their benefits are affected.

This Agreement is effective the date signed by both parties. Please sign this original and efax to Human Resource Management Case Manager for placement in your electronic Official Personnel Folder (eOPF).

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Employee

Date

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Supervisor

Date

Distribution: Original – Supervisor; Copy 1 – Employee; Copy 2 – EDR; e-Faxed copy – HRM Case Manager (for eOPF)

**ANNOTATION of the 2024 MASTER AGREEMENT**  
**between the**  
**FOREST SERVICE and NFFE – FOREST SERVICE COUNCIL**

**INTRODUCTION**

The purpose of the Annotation is to provide both Parties with clarification of the intent of the language written in the Contract or with background information about a given topic. It is understood that the Master Agreement itself prevails over language in this Annotation should there be a conflict between the two documents.

Only Articles and Sections thereof that need clarification are addressed in the Annotation.

**PREAMBLE**

The Preamble contains important provisions intended to reflect the Parties' desire to emphasize and reflect the tone of Labor-Management relations in the Forest Service; one that is characterized by interest-based problem solving. The Parties also recognize the importance of keeping an array of problem-solving tools and techniques available to resolve issues that may arise. The signatures of both the Chief and the National Federation of Federal Employees-Forest Service Council (NFFE-FSC) President emphasize the personal commitment by the Parties to the contents of the Preamble.

**ARTICLE 1—RECOGNITION AND BARGAINING UNIT DESIGNATION**

No Annotation

**ARTICLE 2—IMPLEMENTATION OF THE AGREEMENT**

No Annotation

**ARTICLE 3—DEFINITIONS**

**Section 2**—If there is a question about who the designated Labor Relations Specialist is for an issue, the National Labor Relations Officer may be contacted to provide the name and contact information of the designated Labor Relations Specialist.

**ARTICLE 4—EMPLOYEE RIGHTS**

**Section 2**—For example, employees will be granted a reasonable amount of duty time for initiating, reviewing, preparing, and presenting a grievance. It is the employee's responsibility to communicate with their supervisor before using duty time to meet with their Union representative to prepare a grievance or exercise any other rights afforded in the contract. Employees may designate a Union representative, in writing, to act on their behalf with respect to release.

If the employee and his or her supervisor are unable to reach agreement, the time allowed should generally not exceed 4 hours for meeting with the employee representative and preparing a Step 1 grievance and should generally not exceed 8 hours for the meeting, preparation and submission of a Step 2 grievance. This Section does not apply to the determination of official time for Union officials, as those procedures are addressed under Article 5.

The Parties' expectation is that the employee will typically be released from work at the time the request is made. However, it is recognized that in some cases, the employee's workload may not allow the immediate release, and the release needs to be delayed until later that day or until another day. In these cases, the supervisor shall allow the use of the approved amount of time as soon as possible.

**Subsection 6.d**—Employees have additional rights and protections laws (and implementing regulations) such as:

- a. Whistleblower Protection Act
- b. Merit Systems Principles 5 USC 2301

- c. Prohibited Personnel Practices under 5 USC 2302(b)
- d. Confidential disclosures under 5 USC 1213
- e. Fair Labor Standards Act
- f. Title VII of the Civil Rights Act of 1964
- g. Age Discrimination in Employment Act
- h. Americans with Disabilities Act
- i. Genetic Information Nondisclosure Act
- j. Equal Pay Act
- k. Pregnancy Workers Fairness Act
- l. Family and Medical Leave Act
- m. Occupational Safety and Health Act
- n. Federal Employees' Compensation Act
- o. Federal Tort Claims Act

**Subsection 7.e**—Examples of assistance that may be offered by Management and/or requested by the affected employee may include: referrals to EAP; offers of ADR; a cooling off period; temporary work assignments, telework, or alternate work locations. Management and the affected employee should work together to identify the appropriate assistance for the situation.

**Section 9**—For the purposes of this Section, “examination” is the questioning of an employee by an agency official or representative in connection to an inquiry or investigation.

**Subsection 9.a.2**—This is not intended to limit Management’s options under Weingarten. Considerations in determining a reasonable amount of time to obtain a representative may include the complexity of the case, the location of the representative, fire assignments, weather conditions, etc.

**Subsection 9.h.2**—“Present” includes in-person, via videoconference, or by telephone.

**Section 10**—Examinations in connection with suitability of employment concerns as a result of a background investigation may trigger Weingarten rights.

**Subsection 10.a**—Time for completing background-investigation requirements will be charged as TC01 or other appropriate codes on the timesheet. Examples of situations that may involve background investigations, in addition to HSPD 12, include such things as carrying firearms, blasting, and positions of public trust.

**Section 15**—Nothing in this Section will affect statutory rights and responsibilities regarding debts owed to the government.

**Subsection 15.d.3**—Depending on the type of debt, waiver period may be up to three to five years.

**Subsection 17.a.2**—Employees who believe they should not be required to file OGE-450 should address their concerns through the USDA Ethics Office.

**Subsection 17.b.2.a**—Some of the methods of resolving the conflict that may be used include counseling, training, team building, details, reassignment, or physically separating the employees in conflict for a “cooling off” period. If a reassignment to a different supervisor is granted, the change of supervision will not necessarily have an effect on pending personnel actions (for example, adverse action).

**Subsection 18.a**—Telework does not affect the determination of “regular place of work.”

**Subsection 18.c**—It is a best practice for an employee to report to their regular place of work prior to another worksite. This is not intended to shift the burden of costs of business to employees. Managers should consider factors such as the Federal Travel Regulation, the impact to work to be performed, costs,

availability of government vehicles, public transportation, unit practices, and morale when determining whether to authorize local travel under this Subsection.

## **ARTICLE 5—UNION RIGHTS AND REPRESENTATION**

**Section 1**—The Union’s obligation to represent the interests of all Bargaining Unit employees does not require the Union to pursue employee concerns that the Union determines to be without merit; the law merely prohibits the Union from discriminating on the basis of Union membership (that is, paying dues) or lack of membership. Management officials should avoid any involvement in any alleged violations of this Union obligation, as it is a matter between the Union and the Bargaining Unit employees.

Case decisions allow the Union to refuse to represent nonmembers (employees who do not pay dues) in situations where employees are entitled by law/regulation to a personal representative of their choice, such as oral/written replies to adverse actions, Merit System Protection Board (MSPB) appeals, Equal Employment Opportunity (EEO) complaints, and court cases. The Union’s obligation to represent all employees without regard to Union membership applies only where the Union is the exclusive representative (for example, the negotiated grievance procedure).

**Subsection 1.e**—The written designation will identify the particular duties and jurisdiction of each representative with sufficient clarity so that managers will know which representative is responsible for which representational function(s) and at which location(s).

**Subsection 1.e.3**—The designated acting Union official will follow release procedures in Section 7 of this Article in accordance with the position for which they are acting in full capacity.

**Subsection 1.e.4.a**—The authority of the Primary Point of Contact (PPOC) will be described in their designation letter and notification of changes in authority will be provided to management in writing. Some Locals may use the term “Chief Steward” for the primary point of contact for the organized units within the Local. In these situations, the notifications regarding authority apply to the Chief Steward designation.

**Section 2**—The right to represent employees in any grievance filed under the negotiated grievance procedure in Article 9 is exclusively that of the Union. Employees may choose to represent themselves, in which case Management must notify the Union of the grievance and provide an opportunity for the Union to be a party to associated discussions between Management and the grieving employee(s).

**Section 3**—There is no requirement that designated representatives be employees of the same forest, district, work location, or shift they are designated to represent. One individual may be responsible for more than one function or location. In these cases, it is particularly important to encourage use of current communication technologies to avoid unnecessary travel and unreasonable amounts of official time.

For particularly complex matters or entrenched disputes that may arise in negotiations, mediations, or Weingarten situations, the parties should consider whether face-to-face meetings are warranted.

**Section 4**—The statutory definition of “formal discussion” is found in 5 USC 7114(a)(2)(A). Discussions can be a formal discussion if they cover any grievance, personnel policy or practice, or other general conditions of employment that may affect the Bargaining Unit; but meetings on topics such as timber harvest practices that do not concern any of the above are not formal discussions. Guidance and formal discussion criteria are determined by FLRA, available at <https://www.flra.gov/resources-training/resources/guides-manuals>.

The obligation of Management in regard to formal discussions is the requirement to notify the Union in advance so they may be present at the meeting. The Union may make its own determination of potential impacts to the Bargaining Unit and participate when it deems appropriate. As noted in Section 1, the Union has the right to designate a different representative to attend the meeting. If the Union is properly notified and declines or fails to show up, the meeting may proceed without their participation.

Nothing in Section 4 precludes Local parties from reaching an understanding as to what is reasonable notice and opportunity.



The Parties recognize that some meetings held to resolve EEO complaints may be formal discussions. However, the case law is evolving with respect to Union statutory rights to attend formal EEO complaint resolution meetings. Nothing here is intended to limit Union rights under the Statute with respect to EEO complaint resolution meetings. See also Article 25.

Case law clearly identifies certain discussions as not being formal discussions:

- a. Individual counseling sessions.
- b. Meetings at which the employee is disciplined.
- c. Fact-finding or investigative meetings unrelated to a grievance (but these may be “Weingarten” meetings under Article 4.9.a).
- d. Meetings to discuss employee job performance.
- e. Meetings called to deliver work instructions or discuss job assignments.

**Subsection 6.a.4**—The reasonable amount of time necessary to prepare grievances is typically no more than 8 hours for a Step 1 grievance and no more than 8 hours for a Step 2 grievance. This time estimate is specific to preparation of grievances such as meeting with employees, researching and preparing written documentation of grievances. This time estimate does not include meeting with management to discuss the grievance or preparation or presentation at arbitration proceedings.

**Subsection 7.a**—“Standing procedures” means the arrangements are mutually acceptable to the Union and Management officials and may continue as long as they remain satisfactory to both parties.

**Subsection 7.e.3.c**—The NFFE-FSC President and General Vice-President are not subject to these official time caps.

**Subsection 7.g.1**—This provision only applies to permanent seasonal employees who are designated Union representatives. This is not a full-employment provision for those employees, nor does it entitle representatives to receive overtime or compensatory time for performing representative functions. Note the requirement for mutual agreement.

**Section 8**—Union officials may conduct representational work away from their duty station. When doing so, the Union official must inform their supervisor where they will be conducting the representational work and how they may be contacted.

**Subsection 8.c**—The Parties recognize that there are cases where the Union may choose to designate an official other than the normally designated or locally available official to handle representational matters. Factors to be considered in approving travel and/or per diem include, but are not limited to:

- a. Arbitrations and other administrative hearings.
- b. The designated Union representative is not available and the need for representation is urgent and cannot be rescheduled.
- c. Situations where a potential conflict of interest exists.
- d. The designated Union representative is not qualified to deal with the representational need.
- e. Representational need calls for specialized skills.
- f. Promotion of efficient and proper administration of the Master Agreement.

**Section 11.d**—The Union is not authorized to install their own locks on the office space or on Government-owned equipment/furniture (that is, file cabinets, desk drawers, etc.). Except in emergency or law enforcement situations, Management will notify the responsible Union official prior to entry.

**Section 12**—Communications systems will only be used for announcing or notifying employees of events. Communications systems will not be used to ask employees to join the union or solicit membership.

**Subsection 12.b**—Use of communications equipment for Union representational purposes should be appropriately scheduled.

**Subsection 13.c**—Non-supervisory employees are not authorized to approve union postings on Agency web pages.

**ARTICLE 6—MANAGEMENT RIGHTS**

No Annotation

**ARTICLE 7—WORK LIFE BALANCE**

No Annotation

**ARTICLE 8—ALTERNATIVE DISPUTE RESOLUTION**

No Annotation

**ARTICLE 9—GRIEVANCES**

**Subsection 4.d**—Hard copy transmittal should be rare. If documents are provided through hard copy mail only, then the 30-day timeframes given in the contract for the grievance and the grievance response start the day after the postdate on the hard copy mail (or the confirmation/transaction dates if Fed Ex or UPS, etc.).

Ideally, “transmittal” should be done in such a way that it can be verified. In addition, because the timeframes are based upon date of transmittal, parties involved in grievance proceedings are encouraged to provide for “back-up” during times when they expect to be away from the office for an extended period of time.

**Subsection 5.d**—Only initial appointments are excluded from the grievance procedure.

**Subsection 5.e**—Although the classification of the position is not grievable, the accuracy of the position description is grievable per Article 14.

**Subsection 5.f-m**—Although items f-m are excluded from the grievance procedure, any of these issues may be included as part of a grievance alleging bullying, harassment or retaliation, as evidence of a pattern of behavior.

**Subsection 5.i**—Non-disciplinary letters to employees, instructing employees on supervisor expectations with regard to conduct, are excluded from the grievance procedure, even if the letter includes language notifying the employee that engaging in similar behavior in the future could lead to discipline.

**Section 6**—The employee may appeal the Step 2 grievance response or arbitration decision to MSPB or the Equal Employment Opportunity Commission (EEOC) as provided for in their regulations.

**Subsection 6.b.1**—An informal EEO complaint is not an election of forum and does not bar a grievance; however, 6.c applies if the EEO complaint becomes formal.

**Subsection 6.b.4**—An employee may at any time file a “whistleblower” complaint with the Office of Special Counsel or pursue an “individual right of action” to MSPB.

**Subsections 6.b.4 and 6.d**—The Office of Special Counsel is the primary adjudication forum for the Whistleblower Act and Prohibited Personnel Practices.

**Subsection 7.c.4**—The party filing a grievance should attempt to identify the appropriate section(s) of law, rule, regulation, policy, or Master Agreement that they believe have been violated. However, it is recognized that the party’s understanding of the case and alleged violations may develop as the case progresses.

**Subsections 7.d and 8.h**—Alternative Dispute Resolution Techniques: Examples are meeting(s) between the appropriate parties, a facilitated meeting, mediation, etc.

**Subsection 10.a**—The purpose of this provision is to allow the parties meaningful opportunity to resolve the grievance at the lowest level.

**Subsections 11.e and 11.f**—“Mitigating Circumstances” are unusual situations that effectively prevent a party from meeting a deadline. The burden is on the late party to convince the other party or Arbitrator that the circumstances warrant consideration. The mere absence of an official from his or her office is not automatically or usually a “mitigating circumstance.”

**Subsection 12.c.2**—Arbitration would be the “next step” for an alleged breach of a settlement of a Step 2 grievance.

## **ARTICLE 10—ARBITRATION**

**Section 2**—The party invoking arbitration must request a panel of arbitrators prior to invoking arbitration so that a copy of the panel request will be included with the letter invoking arbitration.

**Section 8**—5 USC 7701(g) provides that an agency pays attorney fees if the employee is the prevailing party and the arbitrator determines that payment by the agency is warranted in the interest of justice. This includes any case in which a prohibited personnel practice was engaged in by the agency, or any case in which the agency’s action was clearly without merit.

## **ARTICLE 11—MIDTERM NEGOTIATIONS**

**Section 2**—What constitutes “conditions of employment” is subject to interpretation by the FLRA, but they are generally personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, directly affecting bargaining unit employees’ working conditions, but not matters relating to: (1) political activities prohibited under the Hatch Act, (2) classification, or (3) issues specifically provided for by federal statute (such as wages and salaries). 5 USC 7103(a)(14). Conditions of employment may include the physical design and layout of employee workspaces, work schedules, procedures for leave approval, disciplinary procedures, etc., some of which are at least partially covered by this Master Agreement.

Early engagement may resolve some but not all issues; remaining issues may be addressed through formal negotiations. Not all matters discussed during early engagement are subject to bargaining. The parties are advised to evaluate the negotiability of issues not resolved informally before proceeding with bargaining.

**Subsection 3.e**—In accordance with established case law, unless there is an overriding exigency or necessary function of the Agency, Management is obligated to maintain the status quo during negotiations regarding proposed change(s) pending completion of the bargaining, which may include mediation and impasse procedures, if timely invoked.

**Subsection 3.g**—“Dispute settlement agreements” clarifies that if the terms of dispute settlement agreements impact the Bargaining Unit, then there is a notification obligation for potential bargaining. Bargaining will be done in accordance with laws, rules, and regulations.

**Subsection 5.a**—The parties are encouraged to avoid going to impasse over the contents of ground rules.

**Subsection 5.i**—Provisions for facilitation expenses in this Section apply only to Article 11 negotiations. By mutual agreement, the parties may make other arrangements for the facilitation expenses.

**Subsection 5.k.1**—To ensure that all parties in negotiations have the authority to reach agreement.

**Subsection 7.b**—Examples of negotiations that could be appropriate at Intermediate and Local levels are parking, lunchtime meetings, lunch and breakroom facilities and arrangements, facilities for daycare centers per Public Laws 99-190, facilities for dependent care centers if allowed by law or regulations, physical fitness centers provided through Wellness Committees/Programs, transit subsidies, fire assignment rotations, provisions for assignment to overtime, safety, leave scheduling policies, and the impact and implementation of changing office/work facility conditions.

**Appendix E Bargaining Notice Checklist Item 4**—For disputes over the scope of anticipated negotiations, refer to Article 11.8.

**Appendix E Bargaining Notice Checklist Item 10**—Examples of attachments may include draft policies, organizational charts, USDA or OPM direction, etc.

**Appendix E Response to Bargaining Notice Checklist Item 6**—The parties recognize that union officials may not be well versed in the technical requirements related to procedures and appropriate arrangements bargaining. Local lodge officials are encouraged to seek advice and counsel from intermediate or national officials. The intent is for parties to communicate and discuss to attempt to resolve questions or concerns.

## **ARTICLE 12—PRENOTIFICATION FOR UNFAIR LABOR PRACTICE CHARGE**

**Section 1**—The purpose of the pre-ULP is the attempt to resolve the issue prior to a formal complaint being filed with FLRA, and should be addressed to the appropriate official who has the authority to resolve the issue, or to the next level who has the authority to convene those who have the authority to resolve the issue.

## **ARTICLE 13—ORIENTATION OF EMPLOYEES**

**Section 6**—The time provided to the Union for meeting and speaking with employees cannot be used for internal Union business such as soliciting members or recruiting stewards. Appropriate subject matter includes, among other things, the exclusive role of the Union in representing employees, the existence and impact of any negotiated agreements, and the grievance procedure.

## **ARTICLE 14—POSITION DESCRIPTION AND CLASSIFICATION**

**Section 1**—There is a key difference between the assignment of ongoing (regular and recurring) duties required to be performed in the described position and those duties that are temporary or short term in nature (see Article 16.13). Supervisors and employees are not expected to be experts in position classification. However, they should focus on development of an inclusive description of the tasks or groups of tasks that occupy a significant portion of the employee’s time and that accurately reflects what the employee is assigned to do. They should then let the classification process determine what is series and grade controlling. The intent here is not to eliminate the flexibility of assigning undescribed “other duties,” but to assure that duties that affect an employee’s pay rate are included.

**Subsection 1.c**—Examples of “duties that require special training, performance, or credentials” would include, but are not limited to, those that require the employee to be subject to drug testing or that require specialized training to handle hazardous materials or to obtain blaster certification.

**Subsection 1.d**—Positions that have a public trust responsibility and require the appropriate level of background investigation include duties such as carrying firearms, working with minors, managing finances, protecting people and assets, computer administration, and inspecting compliance.

**Subsection 2.a**—A PD can be amended for minor changes such as changes to locations, corrections of terminology, or addition of certification requirements. Normally, these changes will be documented on the PD Correction Notice (currently FS-6100-13).

**Section 3**—If a Standard PD adequately covers the majority of the key duties in the current position description, in addition to new or modified duties, the supervisor is encouraged to use a Standard PD to help expedite the classification process.

**Subsection 3.a.3**—PD Review Package requirements at the time of this Agreement generally consist of the following items and are posted on the Classification section of the HRM website:

- a. Employee’s current PD
- b. Proposed PD
- c. Exception to Competition Questionnaire
- d. Supervisor Desk Audit Questionnaire
- e. Employee’s Desk Audit Questionnaire
- f. Current, signed and dated Organizational Chart showing the employee’s position.

**Subsection 3.e**—PD reviews are not formal discussions. It is important for the employee and supervisor to communicate during the PD review process. If a Union Representative participates, their role is to help the employee understand the process and communicate their duties but not answer for the employee. It is

appropriate for a supervisor to have the Union Representative leave the meeting if they are being disruptive or inhibiting the process. If the accuracy or timeliness of the PD has been grieved, discussions pertaining to the grievance should occur in a separate grievance meeting.

**Subsection 3.f**—“Management shall refrain from temporarily reassigning an employee’s work during the PD review if the sole purpose for reassigning the work is to avoid reclassification of the said employee’s position” does not, nor is it intended to, interfere with Management’s right to assign work. The review period does not serve as an insulated or protected period during which the employee’s work cannot be reassigned for legitimate reasons. The intent of the Parties is that a supervisor cannot alter the employee’s work assignment during the review period solely to alter the resulting classification.

**Section 4**—This Section covers the situations where the accuracy of the PD has been established, but the classification of the position as to title, series, or grade has subsequently been called into question by the employee. The Forest Service Position Classification review process and the statutory USDA or OPM appeal rights are two separate and distinct procedures. Employees are not obligated to use the agency review process first; they may choose to go directly to the USDA or OPM appeal. However, the employee is encouraged to seek advice and review the OPM guidance on the subject prior to submitting an appeal, because the OPM determination is final.

**Subsections 5.a and 5.c**—In the case where the classification decision was reached by the USDA or OPM that the position is properly classified at a higher grade, the 2 pay period timeline begins when the Forest Service is informed of the USDA or OPM decision. In setting the 2 pay period timeline, the Parties’ intent is that Management will not continue to require or expect the employee to perform higher graded work without compensation once it has been established that an employee has been performing ongoing higher graded duties.

The Parties recognize that the employee would need to meet OPM qualification standards and any government-wide limitations to the amount of time they can be noncompetitively promoted must also be followed.

**Subsection 5.b**—The Parties acknowledge that Management’s decision to eliminate or redistribute the duties of a position falls within Management’s reserved rights. As such, a grievance over Management’s decision to eliminate/redistribute the grade-controlling duties instead of promoting the employee is sustainable only if the decision was arbitrary/capricious (for example, a prohibited personnel practice).

## **ARTICLE 15—TEMPORARY PROMOTIONS AND DETAILS**

No Annotation

## **ARTICLE 16—PROMOTIONS**

**Section 1**—The provisions of this Article pertain only to positions within the Bargaining Unit. Management is not obligated to follow Article 16 procedures for advertising or filling non-Bargaining Unit positions, even if Bargaining Unit employees apply for such positions.

**Section 3**—Outreach is intended to be conducted in advance of filling a position to provide information for hiring officials to determine how best to advertise and fill a position. Additionally, it is used to notify employees of developmental opportunities through details and non-competitive temporary promotions.

**Section 4**—Although Management does not have any obligation to seek exception to Merit posting, this does not eliminate Management’s obligation to consider impacts to the bargaining unit when utilizing new hiring authorities. As new authorities are developed and implemented, Management will consider impacts and follow Article 11.

Although Management may fill a vacancy without having to advertise through Merit Promotion procedures, it is understood that current employees may still apply for positions advertised through external procedures if they meet eligibility requirements.

**Section 5**—This Section is to ensure that current employees have the opportunity for career development and promotion opportunities that may be offered through Pathways programs.

**Subsection 7.d**—Sample statement of bargaining unit eligibility and union affiliation: This is a bargaining unit position and is represented by either NFFE, AFGE, or NAGE.

**Subsection 7.f**—This Subsection was modified to ensure that employee-applicants who are not referred to a hiring manager for any reason (eligibility, basic qualifications, or meeting the quality group) have the opportunity to have their entire application reviewed and, if appropriate, referred to the hiring manager.

**Subsection 11.a**—Employees may meet time in grade but may not have met all the requirements to be fully functional at the next higher grade level: examples include specialized training not yet completed; specific experience still to be gained; or credentials, certifications, etc., still to be acquired.

Supervisors are encouraged to submit the appropriate approvals for career ladder promotions prior to when they are due to avoid being out of compliance with Human Resources procedures.

**Subsection 12.a**—Exceptions to the 2 years of repromotion rights are reduction in force demotions that are covered in Article 35.

**Subsection 12.b**—This Subsection provides the procedures for an employee to seek priority consideration for repromotion after their 2-year repromotion rights expire.

**Subsection 13.a**—The term “Adversely impact” is used in the USDA DR. The addition of duties and responsibilities to a position adversely impacts another *encumbered* position if the duties have been removed from one employee’s position and assigned to another employee’s position resulting in one employee’s position being downgraded. There would also be an adverse impact if *new* duties were given to one position resulting an upgrade of the position, when like encumbered positions exist within the supervisory unit and could also have been assigned those new duties, because the other employees were not afforded the opportunity to compete for the upgraded position.

**Subsection 14.d**—This does not include technology, data definition, or software platforms, but it does include search functionality, data sets, and formats of reports. Information report data and formats that are available to all employees are also available to the Union, and thus, changes are subject to bargaining.

## **ARTICLE 17—AWARDS PROGRAM**

No Annotation

## **ARTICLE 18—WORK SCHEDULES**

**Subsection 2.d**—The intent is that Management will typically provide a minimum 10-day advance notice when changing tours of duty and/or Regularly Scheduled Administrative Workweeks; i.e., notice should be provided soon after the information becomes available to Management. However, the Parties acknowledge that there may be appropriate exceptions; for example, occasions in which Management becomes aware of the need for the change less than 10 days in advance. In such a case, the intent is that Management will notify affected employees promptly after determining the need for the change.

**Subsection 3.b.1.d**—A gliding schedule does not have core hours.

**Subsection 3.d**—For part-time employees on a flexible work schedule, core days and core hours may be pro-rated based on their basic work requirement.

**Subsection 3.d.3**—Documentation of deviations from core hours may be as simple as approving the employee’s timesheet.

**Subsection 3.e.1.c**—Employees cannot earn credit hours for traveling. However, once an employee arrives at their destination, credit hours may be earned, even though the employee is still in “travel status.” For example, an employee’s duty station is Denver, Colorado, and he or she needs to travel to Vallejo, California. The employee, regardless of whether he or she is nonexempt or exempt, cannot earn credit hours for traveling from Denver to Vallejo. However, once the employee arrives in Vallejo, the

employee may earn credit hours for hours they elect to work, even though they are still in travel status. Employees who are eligible to earn credit hours may earn credit hours for work performed while they are in travel status (such as phone calls, editing documents, etc.) even if they have not reached their destination.

**Subsection 7.a**—An employee’s tour of duty will be recorded on their Time and Attendance report. In Paycheck 8, the appropriate block for this is entitled “Established Work Week and Hours.”

**Subsection 7.b**—The Parties acknowledge that the standard workweek for full-time employees will consist of 5 consecutive 8-hour days (40 hours per week). This will be the default work schedule unless the employee requests and Management approves a different schedule, such as a flexible or compressed work schedule. This is not intended to change work schedules for those employees who are already on an AWS.

**Subsection 7.k.2**—This provision applies when the training is conducted at a location other than the employee’s home unit. Overtime for training is handled in accordance with 5 CFR 550, 5 CFR 551, and 5 CFR 410.

**Section 8**—Employees who are performing work while smoking are not considered to be on a paid rest break.

**Section 11**—See Article 19.7 for further discussion of standby pay.

**Subsection 11.c.4**—In negotiating call-back radii, Local parties should consider the nature and urgency of the work and the time necessary to safely travel (seasonally adjusted) from the nearest established community to the duty location.

**Subsection 11.d.2**—Normally, employees will not be assigned to on-call status for more than two consecutive pay periods, without a pay period off, unless the employee volunteers to be in on-call status.

**Subsection 11.e**—Other arrangements may include cell phone, pager, vehicle usage, etc.

## **ARTICLE 19—PAY AND PER DIEM**

**Section 1**—See Article 28 (Fire) for information on hazard pay for prescribed burns.

Exceptions to the requirements to have a Government Travel Card have been removed from the Master Agreement in 2019. However, they may still be found in Forest Service FSH 6509.33.

**Section 3**—This Section addresses several areas of employee entitlements related to per diem in which the Parties have particular interest. The intent of the Parties is to ensure Bargaining Unit employees receive the full benefit in these areas. The Parties also made a conscious decision to reference the Federal Travel Regulations as the governing regulation on matters pertaining to per diem rates, Travel Charge Cards, and travel advances.

## **ARTICLE 20—LEAVE**

**Subsection 1.d**—The references to 5 CFR 630.201 and 630.1202 are solely to use these definitions in the context of this contractual provision.

The intent of the Parties is to extend contractual leave entitlements for employees to care for family members who are excluded from the FMLA. The provision is not intended to be duplicative with respect to employees’ spouses, sons, daughters, and parents. For these family members, employees may use FMLA entitlements.

**Subsection 5.a**—The hour limitations given in this Subsection are based on the hours that would typically be worked. For example, if an employee typically works 80 hours per pay period, then 80 hours per pay period would count against the 120 hours. Normally, weekends and holidays do not count toward the limitations since employees typically do not work on these days. Per the Office of Personnel Management (OPM), temporary employees hired under the 1039 authority cannot be granted military leave.



**Section 6**—This Section has been modified in 2019 to address the newly-created “Weather and Safety Leave.” OPM regulations prohibit the granting of Weather and Safety Leave for employees who have telework agreements, are telework ready, and are able to safely perform work at an alternate location.

## **ARTICLE 21—PERFORMANCE MANAGEMENT**

**Section 5**—Performance ratings may no longer be delayed until an employee completes a Demonstration Opportunity (formerly a Performance Improvement Period), Managers are expected to communicate performance deficiencies in a timely manner, whenever possible. This will permit employees enough time to demonstrate acceptable performance before a rating of record is completed.

**Section 7**—A performance meeting is not a formal discussion. The role of the Union representative in a performance meeting is to assist the employee in understanding what they must do to demonstrate acceptable performance.

## **ARTICLE 22—DISCIPLINE AND ADVERSE ACTIONS**

**Subsection 5.d**—This is to be consistent with the Privacy Act of 1974 as amended (5 USC 552a (e)(2)). Situations in which it is not practicable to obtain information directly from the affected employee before others are questioned include non-administrative matters involving illegal activities which could result in criminal charges or which involve subjective alterable information. Further investigation may not be necessary if, for example, the employee acknowledges the misconduct, or the management official decides the allegations are baseless.

**Subsection 5.e**—This is not intended to preclude Forest Service Law Enforcement personnel from conducting criminal investigations in their region or the use of the fruits of those criminal investigation in any subsequent administrative action.

**Subsection 5.f**—The intent is that Management will not withhold meaningful information on the status of an investigation or inquiry from the affected employee and/or the Union. This does not mean that substantive disclosure of investigative results is required or intended during the course of the investigation or inquiry. Reasons investigations may take longer may include such things as: availability of witness or subject, large amounts of evidence to evaluate, waiting for responses, complexity of case, etc.

**Subsection 6.a**—The pertinent factors (Douglas Factors) are:

- a. The nature and seriousness of the offense and its relation to the employee’s position and responsibilities, including whether the offense was intentional or technical or inadvertent or was committed maliciously or for gain, or was frequently repeated.
- b. The employee’s job level and type of equipment, including fiduciary role, contacts with the public, and prominence of the position.
- c. The employee’s past disciplinary record.
- d. The employee’s past work record, including length of service, performance on the job, ability to get along with Federal workers, and dependability.
- e. 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 ability to perform assigned duties.
- f. The consistency of the penalty with those imposed upon other employees for the same or similar offenses.
- g. The consistency of the penalty with the Penalty Guide.
- h. The notoriety of the offense or its impact upon the reputation of the agency.
- i. The clarity with which the employee was put on notice of any rules that were violated in the committing of the offense or had been warned about the conduct in question.
- j. The potential for the employee’s rehabilitation.



- k. Any mitigating circumstances surrounding the offense such as unusual job tensions; personality problems; mental impairment; or harassment, bad faith, malice, or provocation on the part of others involved in the matter.
- l. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

**Subsection 6.d**—The intent of this Subsection is that the employee should not be coerced to sign and may seek guidance from a Union official before signing an agreement. There is no intent or obligation on the part of Management to negotiate the terms of such an agreement, although a discussion between Management, the employee, and the employee’s Union representative to clarify terms and conditions may be appropriate.

**ARTICLE 23—PERMANENT SEASONAL EMPLOYMENT**

**Section 2**—Template located in Appendix H will be followed and is not subject to further negotiations at the subordinate level. Annual agreements on starting and ending dates may be documented according to Local negotiated agreements.

**ARTICLE 24—TEMPORARY/TERM EMPLOYEES**

**Section 2**—Reasons for making a term appointment include, but are not limited to, project work, extraordinary workload, scheduled abolishment, reorganization, contracting out of the function, uncertainty of future funding, or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization (5 CFR 316.301)

**Section 3**—The word “suitability” is consistent with 5 CFR 731 (suitability as it pertains to an individual’s character or conduct that may impact the efficiency of service or preventing effective service of the position) and should be considered in making rehire determinations, in addition to the person’s qualifications.

**Section 7**—Information about “how rehire eligibility works” can be provided either through the orientation process for temporary employees or through the distribution of a fact sheet. The information should include the clarification that it is noncompetitive rehire “eligibility,” not a “right.”

**Section 11**—This Section discusses time limitations and makes clear that the Forest Service intends to observe these as dictated by Office of Personnel Management (OPM) regulations. Successor positions are a key factor in correct implementation of both the OPM regulations and the Master Agreement.

**Section 14**—“Publicized” for the purposes of this Section does not mean “advertised.” However, these working days can be part of, or run concurrently with, any Career Transition Assistance Program requirements to publicize such vacancies.

**Section 16**—Temporary employees do not have grievance rights for termination due to misconduct or poor performance. They do have reconsideration rights. Temporary employees covered by this Master Agreement do have grievance rights for other disciplinary actions.

**ARTICLE 25—EQUAL EMPLOYMENT OPPORTUNITY**

**Sections 7 and 8**—The same Union representative may serve in both roles described in Sections 7 and 8.

**ARTICLE 26—EMPLOYEE ASSISTANCE PROGRAM**

**Subsection 1.c**—The employee has the right to bring a Union representative to meetings with EAP program advisor or counselor.

**Section 3**—Explains supervisory obligations when dealing with employees who may be referred to EAP, as well as the potential impact on performance or conduct actions. Nothing in this Section is intended to preclude Management from taking appropriate disciplinary and/or conduct action consistent with applicable 5 CFR 432 or 752 procedures.

**Subsections 3.a and 3.c**—The intent is to have Management deal with poor performance through initial discussions and, absent improvement, make the employee aware of the EAP program (i.e., refer them to the EAP). Throughout this process, the focus should be on the performance or conduct, rather than on what may be the cause.

**Subsection 3.i**—This Subsection is intended to reflect current regulatory and case law on consideration of employees who are willing to seek treatment and their rehabilitation success on pending conduct and/or performance actions. Language is not intended to preclude Management from taking action.

**Section 4**—Emphasis is placed on the confidentiality of employee medical records, including those generated in conjunction with the EAP program.

## **ARTICLE 27—HEALTH AND SAFETY**

**Section 2**—Although there still may be an obligation to negotiate the plan, the substance of internal security practices are non-negotiable.

**Section 3**—First aid equipment requirements are found in FSH 6709.11, Sections 21 and 22.

**Subsection 4.c**—Negotiation means implementation procedures and appropriate arrangements to mitigate impacts to employees due to a management decision to establish health services, offer preventative medicine opportunities, or offer of other local health and safety opportunities.

**Subsection 5.c.1**—For example, under his/her PFP, an employee may be granted administrative leave during the normal workday for fitness activities or may arrange to work from 7:30 a.m. to 3:00 p.m., go home, and then be granted administrative leave for exercise performed from 7:00 p.m. until 8:00 p.m.

**Subsection 5.f**—CCCs are the primary units for which there are regularly scheduled night hours.

**Section 6**—The committee does not conduct or participate in accident investigations.

**Subsection 6.a**—“Fully participate” means that the Union operates in the same fashion as other members of the committee, except the Chair.

**Section 7.d**—“Applicable policy” would include Forest Service Manual, Handbook, and Job Hazard Analysis (JHA).

**Subsection 11.g**—The intent of this Subsection is to recognize the employees’ right and responsibility to suspend (stop doing) work whenever the environmental conditions have become so extreme that they pose an immediate danger to the employee that cannot be readily mitigated by protective equipment or technology. An “immediate danger” exists when there is a direct connection between the condition and the safety of the employee, and when nothing (time, equipment, or technology) is available to intervene and prevent injury or death to the employee. It is also the employee’s responsibility, where he or she has suspended work under this provision, to take prompt and reasonable action to communicate the situation to his or her supervisor, or his or her acting supervisor in the supervisors’ absence. Suspending work and removing oneself from immediate danger means protecting oneself from the danger at the worksite, but it does not mean leaving work. The employee is to otherwise remain on duty.

**Subsection 13.a**—For release of medical information/PII, the designation must be to a specific person, even if that person is serving as a Union representative.

“All documentation that is required by OWCP within the agency’s control” means that Management does not have to search out other information that OWCP might request.

If the employee is compelled to leave their place of assignment and has no transportation or is unable to drive, the Agency may take actions such as arranging transportation for the employee to reach their place of residence or medical facility for treatment. Transportation may be by Government, public, or private means which may include emergency medical vehicles. Determination of the appropriate means of transportation or any other actions rests with the Agency.

**Subsection 16.b**—The term “concerns” is not defined but could include confidentiality.

**Subsection 19.a**—The language “as otherwise appropriate for the protection of the employee” refers to situations where either a JHA, RA, or RAW is silent on the use of electronic communication equipment for employee protection or to situations where a JHA, RA, or RAW was not documented and a determination is made that electronic communication equipment is necessary to protect the employee.

**Subsection 19.b.3**—The SEND Messenger Implementation Plan may be locally modified to fit individual units need for local SOPs.

**Subsection 21.b**—Includes all safety investigations initiated at the Chief’s level and delegated to lower levels.

**Subsection 21.b.4**—This includes all reporting procedures including anonymous reporting through the electronic safety reporting system, reporting a safety story electronically or on paper, or any other report made to management. The intent is to capture and share the safety concern, recommendations, and actions.

**Subsection 22.b**—Another appropriate OSHA/worker-safety training session that fits the Parties’ intent is the current International Association of Machinists and Aerospace Workers safety training that is available for the Union safety representative. This safety training and meets the requirement that union time be representational in nature in order to be appropriate for official time. It is subject to release procedures under Article 5.

**Subsection 22.c**—The term “Forest Service-sponsored” includes Interagency safety training.

**ARTICLE 28—FIRE, INCIDENTS, AND OTHER HAZARDOUS WORK**

**Section 3**—The Union represents Bargaining Unit employees at all incident command posts, regardless the organization running the incident.

**Subsection 9.a**—The Parties agree that all employees are subject to supporting incidents, depending on their abilities and qualifications, as needed. The Parties recognize “support” could be either direct (for example, assignment to an incident command) or indirect (for example, performing administrative or other incidental tasks that complement agency suppression resources).

**ARTICLE 29—GOVERNMENT-FURNISHED QUARTERS**

No Annotation

**ARTICLE 30—EMPLOYEE TRAINING**

No Annotation

**ARTICLE 31—TELEWORK AND REMOTE WORK**

No Annotation

**ARTICLE 32—WORKFORCE RESTRUCTURING AND PLACEMENT SYSTEM**

**Section 1**—This Section provides a “Pre-WRAPS Process” whereby units who are planning to reorganize have the option of developing a plan that enables the movement of employees into a new organization by reassignment without first formally identifying which employees are subject to displacement under Section 4. This Section has been changed to state that parties “at the appropriate level” may use the Pre-WRAPS Process. This recognizes that the National Parties may also develop and use Pre-WRAPS for organizational changes that affect multiple regions. The national rules, also referred to as Pre-WRAPS criteria, have been rewritten and are included as an addendum to the Annotation for this Article. The only significant change from the previous version is that intermediate-level plans no longer require national-level approval.

The scope of the Pre-WRAPS process may extend beyond changes to the organization to include employees affected by downsizing. Although “downsizing” frequently follows and is linked to “changes to the organization,” there are still occasions when there is downsizing not linked to a change in the organization or when there is downsizing that must be accomplished after a change(s) to the organization

had been implemented because there are more employees than there are positions in the “new” organization. The intent is that the parties at the appropriate level may use the Pre-WRAPS process to attempt to first place their employees in positions within their own organizations prior to downsizing.

Plans developed at the local or intermediate levels must follow the rules established by the National Parties, which are intended to ensure overall consistency between plans, and be in compliance with Forest Service Handbook (FSH) 6109.12, 23.2 “Order of Consideration When Filling a Vacancy.” Nonetheless, it is expected that each Pre-WRAPS Plan will be unique to the situation that precipitated it. A plan for several units within a region, but not all units, is still considered to be a plan at the intermediate level. It is the expectation of the National Parties that pre-WRAPS plans are to be a product of a collaborative effort by the parties at the appropriate level. Any provisions of such plans are not precedent setting for any other pre-WRAPS plans. Pre-WRAPS plans developed at the local level must be submitted to the intermediate-level parties for approval.

Under the Pre-WRAPS criterion 4, plans involving two or more intermediate-level Parties need the approval of all the intermediate-level parties involved. However, this is not meant to preclude negotiating such plans on a national level, in which case intermediate-level party agreement is not required.

When employee placement under a Pre-WRAPS Plan has been completed and there are still employees to be displaced, then the identification and placement procedures of Article 32 will be used unless Management then determines to implement RIF and WRAPS concurrently, or carry the position through attrition. It does not change the intent of Section 3 wherein Management decides which positions to abolish, but rather recognizes that a Pre-WRAPS Plan is a placement plan for employees affected by changes to the organization and downsizing (abolishment of positions) and that there may be occasions where, despite best intentions, there are still employees left to be placed (to be displaced) after the Pre-WRAPS Plan’s placement efforts are concluded.

**Section 2**—The Parties agreed that for understandability it was best to describe what the WRAPS system was intended to do and to provide definitions of key terminologies.

**Subsection 2.a**—The terms “affected employee” or “subject to displacement” are used in place of the term “surplus” because employees found the term “surplus” offensive. Their meaning and intent however are not changed, and employees “subject to displacement” are those meeting the definition of “surplus” in 5 CFR Part 330 Subpart F.

**Subsection 2.b**—The term “vacancy” is defined both to provide consistency with the definition in 5 CFR Part 330 Subpart F, and Agency policy in FSH 6109.11 Chapter 20. An affected employee is entitled to placement priority to appropriate positions in their commuting area that are expected to last longer than 120 days. The affected employee’s position of record and career tenure do not change if they are placed in a position that might otherwise have been filled under temporary (not to exceed 1,039 hours) or “term” hiring authorities. The Parties agreed that placing employees outside their commuting area on a time-limited basis would meet neither employee nor Management interests and could result in incurring unnecessary transfers of station. Further, the Parties agree that an affected employee placed in a short-term position of less than 1,040 hours (6 months) should not be denied priority consideration for more permanent placement opportunities.

**Subsection 2.c**—The competitive areas have been changed. A competitive area is defined based on the administrative subdivision of the agency (Unit) and commuting area. The previous competitive areas were based entirely on administrative subdivisions. The emphasis is now placed on commuting area. The term, “Identification Area,” and its use in the identification process has been eliminated.

**Subsection 2.d**—Commuting area is as defined in Article 35.8.d. (Also see discussion in Annotation for Article 35.) The commuting area is critical to both the identification and placement procedures in WRAPS. It is a single definition but its application may be different in each context.

When commuting area is applied in the context of defining a competitive area for the purpose of identification of affected employees, the competitive area is limited by the administrative subdivision of

the agency (for example, a Forest) that is abolishing a position, even if there are two or more administrative units that share a common commuting area or in some cases share a common duty station.

Though uncommon, the Parties recognize that when a unit is utilizing commuting area in establishing competitive areas, there may be duty stations of that unit which could be included with more than one other duty station because the commuting areas overlap and not all of the duty stations involved fall within a common commuting area. When dealing with such situations, first consider which duty stations have the most functions in common. Second, consider which grouping would provide the greatest opportunity for competition in the retention/identification process.

For example:

Duty Station: “A” ← 30 mi → “B” ← 45 mi → “C”

(28 FTEs) (27 FTEs) (16 FTEs)

(FTEs = Full time equivalents)

(Duty stations “A,” “B,” and “C”). “B” is in the middle and clearly within the same commuting area as both “A” and “C,” but “A” and “C” on opposite ends, could not reasonably be considered to be in a common commuting area due to distance and/or travel routes.

Scenario 1: “A” is a forest supervisor’s office, “B” and “C” are ranger district offices. “B and C” would most likely share the most functions in common and would provide the greatest opportunity for appropriate competitive level groupings.

Scenario 2: If “A,” “B,” and “C” are all ranger district offices, the intent and expectation is that the smallest of the units (“C”) would be included with “B” in order to provide the greatest possible opportunity for employees of the smallest district to have competition for retention.

When commuting area is applied in the context of placement procedures, it is not limited by the competitive area (that is, by an administrative subdivision of the agency). An affected employee receives equal priority consideration for vacancies in the local commuting area regardless of administrative subdivision. When there are two or more administrative units (that is, competitive areas) that share a common local commuting area, or in some cases even share a common duty station, those units will adhere to a common local commuting area definition. (See Subsection 5.d.1 for further discussion of placements within the local commuting area.)

**Subsection 2.e**—The definition of “competitive level” has not changed. OPM’s definition will continue to be used, both in this Article and in the referenced Article 35 (Reduction in Force) and the Annotation thereto. Though not specifically stated, Management recognizes its obligation to reaffirm the accuracy of PDs, classification, and competitive-level assignments of both existing encumbered positions prior to applying identification processes and for new positions prior to placement of employees into them.

**Section 3**—This Section contains the list of reasons for which Management can decide to eliminate an encumbered position. Management’s decision is the starting point of the process under which affected employees will be identified under Section 4. It also sets a specific time limit (that is, “the current or next fiscal year”) that a position must be abolished in order to trigger the identification of affected employees. Positions that may be identified for abolishment beyond the next fiscal year would not result in employees being identified for placement in the WRAPS system. As recognized in the employee identification process set forth in Section 4, the affected employee may or may not occupy the position to be abolished.

This Section reflects Management’s obligation to use, and document, a systematic process typically used in the unit’s program development, planning, and budgeting process to identify the position(s) to be abolished. The intent is to provide a solid basis and rationale for identifying those positions and to provide the information necessary to meet the notification requirement in Subsection 4.b. The Civil Rights Impact Analysis (CRIA) requirement is highlighted to ensure it is completed as part of the assessment process.



**Section 4**—This Section contains the identification procedures used to determine which employee(s) are affected by the abolishment of position(s), and also sets the minimum notification requirements. It has been substantially reordered and rewritten. The Parties recognized that there may be situations when both WRAPS and RIF are necessary, and this Section clarifies that RIF identification procedures take precedence over those in WRAPS once the management unit involved has declared a RIF. Though not specifically stated, if WRAPS procedures have been applied and there is a subsequent application of RIF procedures, employees involved in the RIF will be removed from WRAPS prior to issuing RIF notices and RIF rules would be used in identifying employees to go on WRAPS. The only exception to this would be an employee who is on the WRAPS list and has accepted a voluntary offer of placement outside the affected competitive area and who declares a wish to continue the placement action. Such subsequent application of RIF procedures may change which employee(s) are affected for WRAPS placement purposes. For this reason, the unit and the parties at that level are cautioned to appropriately analyze the likelihood of the need to RIF in order to minimize the possibility of having to “undo” WRAPS actions.

**Subsection 4.a**—This Subsection sets the order of precedence that is to be used in determining which one(s) of a group of employees (competitive level) is affected by the abolishment of the position(s). It provides the opportunity for one or more employees in the same competitive area and competitive level to voluntarily offer in writing to retire, resign, or be designated as being subject to displacement. In a departure from previous agreements, it is recognized that if the employee’s offer of any one of the options is accepted by Management, it constitutes the employee’s binding agreement. When Management receives more offers than there are positions to be abolished in that competitive area and competitive level, consideration will be given based on seniority, with the employee with most service considered first. Consistent with case law, the action may be considered irrevocable based on potential impacts on other employees and agency costs associated with maintaining employees in positions. Case law has also found that catastrophic, life-changing events may justify that the employee be released from the agreement. The Parties have established a basic timeframe for the effective date of retirement and resignation actions. The 75-day timeframe approximates the length of time the unit abolishing the position could normally expect to effect a placement of the affected employee if the employee had been registered in the WRAPS. The Parties also recognized, and provided for, circumstances where the unit may be willing to retain an employee who is resigning longer than the basic 75-day timeframe to accommodate the employee’s needs. This same flexibility was not specifically added for those who decide to retire, but when setting effective dates, units should review prospective retirement dates of employees’ offers and take care not to miss opportunities to reduce impacts on other employees. The possibility the unit may be simultaneously conducting RIF, and only using WRAPS to increase the placement opportunities for the affected employees, has been recognized and incorporated in the order of precedence.

**Subsection 4.b.1**—This notification is made after the management unit has received approval of its request to abolish encumbered positions. The intent of this notification is to serve as a “canvass letter” and to provide the employees with the basic information they will need, in sufficient detail, to make informed choices and begin planning for changes in their professional and personal life. The employee responses to this notice are used in the identification process in Subsection 4.a. The expectation of item (i) is that Human Resources (HR) will provide reasonable and timely counseling and/or access to additional resources necessary to answer clarifying questions should the employee request additional information.

**Subsection 4.b.2**—This notification is provided to the affected employee(s) after identification procedures have been completed. The intent of this notification is to provide the affected employee with a specific explanation of the reasons the position was identified for abolishment (Section 3) and how that employee was identified using the process in Subsection 4.a. The intent of the notification is also to provide the employee with a briefing on WRAPS placement processes, what his or her entitlements are, and the opportunity to ask clarifying questions. The phrase “in person if possible” reflects the National Parties expectation that reasonable efforts will be made to provide the affected employee a personal and

private forum for the receipt of the notice and to also provide them the opportunity to meet in person with responsible Management official(s) regarding the notice.

An affected employee is entitled to reasonable amounts of official time and travel as may be required to accomplish the notification, counseling on benefits and entitlements, and completion of his or her registration and qualifications information. A permanent seasonal employee on his or her off-tour is entitled to be returned to pay status at the employee's election.

**Subsection 4.b.2.g**—The WRAPS registration procedures and preregistration record are to be included as an attachment to the notice. The intent of providing this information at the time of the notification is to give the employee sufficient time to prepare his or her personal information for registration as described in the process in Subsection 4.c. The registration procedures information must include a detailed instruction for the employee's access to his or her record in the database and information that generally addresses the implications of data to be provided by the employee. The employee's preregistration record is a summarized record that will reflect the employee's basic employment information as contained in the employee's records at the National Finance Center and as contained in the employee's Official Personnel Folder (OPF). The purpose of providing the summarized record is to simplify and facilitate providing the employee with the opportunity to review essential information for errors and omissions, and to provide them with the opportunity to identify information they believe needs to be corrected. The employee's review of the preregistration record is not to be construed as replacing or in any way reducing the employee's right to access and review the content of their OPF if they choose to.

**Subsection 4.b.3**—The intent of this notification is to provide the Local Union the opportunity to meet its statutory obligation to represent the interests of the Bargaining Unit. It is not limited to copies of notices to Bargaining Unit employees. Copies of notices do not include any personal information attached to the notice. The information is to be provided at the same time, or as close to the same time as possible, as it is provided to the employee(s). The Parties recognize that there may be circumstances where delivery of a Subsection 4.b.2 notice would not include a formal discussion.

**Subsection 4.c**—Clarifies that there is only one service-wide (national) WRAPS database and describes the basic procedures, timeframes for registration, timeframes for making changes in the employee's record, and access to the database.

**Subsection 4.c.2**—The employee will have access to their record in order to complete initial input of their basic work experience, location, and grade preferences; their interest in short-term, time-limited vacancies; and to identify any hardship and special needs they wish to have considered in the placement process. Geographic preferences may be as broad as one State or as narrow and specific as a duty station. Management is not obligated to offer a time-limited position of less than 1,040-hours (6-months) duration unless the employee has indicated in his or her registration record that he or she will voluntarily accept such a position. (See also Subsections 2.b and 5.c.)

**Subsection 4.c.3**—The employee has the opportunity to provide any updated and current experience, education, and training information to be considered by Management in determining the job series and specialties that the employee is qualified for. Though not required, it is recommended that the employee provide a resume or bio-sketch to facilitate qualification determinations, and that the employee's HR contact provide counseling and assistance to the employee in completing his or her resume. The offer to communicate with their HR contact will be made, but the employee will be expected to request and schedule these discussions. Implications of choices made by the employee in completing his or her employee data record will be explained to each affected employee who requests such communication by the HR contact after their review of the completed data record. Only the national, centralized WRAPS HR contact(s) will have access to enter and/or edit the occupational preferences, based on qualification determinations.

**Subsection 4.c.4**—This Subsection sets the basic 14-calendar-day timeframe for the employee's completion of his or her data record as described in Subsections 4.c(2) and 4.c(3). This timeframe is measured beginning on the day following the employee's receipt of his or her Subsection 4.b.2 notice

(“formal WRAPS letter”). The intent is that both the employee and Management are expected to be timely and responsive in meeting their respective obligations in the notification and registration procedures. It is also expected that the employee will have received the information and specific counseling required for them to make informed choices in completing his or her record. It also recognizes that either the employee or Management may be affected by circumstances beyond their control that prevent completion of the registration record within the timeframe and provides for appropriate extension prior to activation of the record in the WRAPS database. The party requesting the extension must notify the other party. The Section 5, 60-day voluntary placement period begins on the calendar-day following activation of the employee record.

**Subsection 4.c.5**—After completion of his or her initial data record, the employee will have “view” access to his or her record at any time. The employee’s edit access will be limited to his or her location and grade preferences, and his or her special placement needs during the 3-workday window. Although not stated in contract language itself, the Parties’ intent is that if the employee is prevented from accessing his or her record directly, for any reason, during the 3-workday window, either the window will be adjusted or he or she may request that changes be input to his or her record by the HR contact. Also, this Subsection clarifies that only the HR contact will have edit access to the occupational series, based on qualifications.

**Subsection 4.c.6**—This Subsection is a change from previous practices where the Union, at any level, had to request a copy of the WRAPS list. Designated officials at the national level of the Union will now have read access to the WRAPS database at any time. Distribution of WRAPS information from the national level to the intermediate and local levels of the Union will be “sanitized” and limited to only the basic summary information such as numbers, series, grade, unit, work schedule, “days on list,” mobility/location preference, etc.

**Section 5**—The placement procedures have been substantially rewritten and reordered from the 2000 Master Agreement Article. The Parties have incorporated several new considerations that are intended to ensure certain basic requirements of 5 CFR 330 Subpart F and G, are met, and also to provide more timely procedures for the offer and acceptance/declination processes.

**Subsection 5.a**—This Subsection sets the tone and intent for Section 5. The phrase, “counseled and afforded every opportunity,” means that both employees and Management work in a shared effort to find placements that meet both the needs of Management and the employee. The Federal Travel Regulations, Forest Service past practice, and Forest Service manual direction consistently support transfer of station payments.

**Subsection 5.a.2**—The phrase “may consider” reflects that this is not an employee entitlement, and it is entirely at Management’s discretion to apply or not apply these options for filling any given vacancy based on Management’s “job-related” determination of its need to have a fully qualified employee in that position. The term “retraining” has been added to reflect that it is also a Management option. The phrase “a specified period up to 365 days” reflects both that there may be legitimate job-related reasons for a shorter timeframe and that the Parties intend that the timeframe be identified in advance so that both the affected employee and the receiving unit have a clear understanding of when the employee will be expected to be at a full performance level in the offered position.

**Subsection 5.b**—The phrase “and explanation of” obligates Management to provide affected employees with information about, and specific orientation to, the various external placement assistance programs and available Workforce Investment Act benefits.

**Subsection 5.c**—This Subsection makes a clear distinction between time-limited vacancies of less than 1,040 hours and those expected to be longer in duration. It clarifies procedures for further/future placement priority when an affected employee has been placed in a time-limited position within his or her commuting area. The Parties’ intent here is to not limit the employee’s voluntary opportunities to be placed in a position without time limitation. When placed in a time-limited position, the affected employee’s career tenure and position of record are not affected. (See also Subsection 2.b.)



It is also the Parties intent that the time-limited nature of the position predetermines that the position will eventually be abolished. It would not be necessary for the Management unit in which the affected employee is placed to follow the identification procedures in Sections 3 and 4 in order to provide the affected employee his or her WRAPS priority placement consideration, or discontinued service retirement, when the time-limited position is coming to its end. However, if there are further changes to the organization, which require the application of WRAPS or RIF identification and placement procedures while the employee is in such time-limited position in that organization, the employee must not be excluded from those processes. The composition of the tenure of employees in the competitive level may have changed during the time-limited assignment, or RIF may have been declared, and the employee's retention and assignment rights must be considered in the new context.

**Subsection 5.d**—This Subsection has been revised and renumbered from the 2000 Master Agreement Article. It shows the relationship, sequencing, and methods for making placement offers under the WRAPS. Consideration by SCD applies to all three priority levels. For placement purposes, “matches within the same nationally established competitive level” also applies to all three priority levels, and purposefully does not consider further subdivision of the competitive level by either suffix code or regional supplement. Note that the option of modification of qualifications is only included at 5.d(1)(g). The intent here is to reinforce the Parties’ long-standing preference for local units to “take care of their own.”

**Subsection 5.d.1**—Emphasis remains on considering placements within the identified employee’s local commuting area first to minimize transfers of station. When applied in the context of the placement procedures, a commuting area is inclusive of all agency duty stations in that commuting area, regardless of administrative subdivision. So, the abolishment of a position and identification of an affected employee does not cross administrative boundaries, but the placement priority for that affected employee, within the commuting area, does cross administrative boundaries. (See Subsection 2.d for further discussion of commuting area.)

**Subsection 5.d.3**—Offers may be made of affected employees from locations outside their preferences either as a firm offer, or as a contingent offer. Firm offers outside the employee’s preferences do not count against the limitations in 5.e(7). Employees may also receive directed reassignments outside their preferences consistent with 5.f.

**Subsection 5.e**—This Subsection introduces several new and significant changes from the 2000 Master Agreement Article regarding how and when placement offers are made and how they are accepted or declined. A key point that has not changed is that only offers will be made to the employee; “inquiries” and “outreach” communications to WRAPS employees from receiving units are not appropriate and should not occur.

**Subsections 5.e.1-6**—Offers are made to the employee through appropriate Line officers of the employee’s home unit, in conjunction with HR. The expectation of the Parties is that local managers and their affected employees are responsible to make reasonably suitable arrangements to permit timely communication of offers. “Contingent offer(s)” is a new concept, allowing concurrent offers to be made to multiple employees. The Parties intent here is to significantly reduce the time required for a receiving unit to either place a WRAPS employee or “clear WRAPS” when more than one WRAPS employee is qualified for the vacancy. The past practice of making offers consecutively, both unduly extended the timeframe of the offer and acceptance/declination process, in some cases it also prevented employee(s) from receiving an offer of voluntary placement that would have better met their preferences and needs. This new procedure allows a “firm offer” to be made to the employee with the highest assignment rights to the position, while at the same time offering the position to those with lesser assignment rights “contingent” on the acceptance or declination of the “firm offer.” So, an offer made to an employee with lesser assignment rights could change character and automatically become a “firm offer” (and count as such) if the employee(s) with higher assignment rights to the position declines the offer. “Higher assignment rights” refers to the priorities established in 5.d. Employees are advised to treat a contingent

offer as they would if it were communicated as a firm offer. The Parties have also formalized the timeframes for the employee's acceptance or declination of offers. The Parties' expectation here is that, at this point in the process, the employee has had sufficient lead-time to prepare themselves to make these decisions. The Parties also recognize that the employee may need some additional time to further research the local conditions of the location that is being offered. This is reflected in the difference between the response timeframes in (5) and (6).

**Subsection 5.e.7**—This Subsection introduces another significant change in the offer and acceptance/declination process. It is, in effect, a forfeiture clause. The Parties consider three firm offers (including contingent offers that automatically became firm offers), which meet the employee's stated preferences, to be a reasonable effort on the part of Management. This clause does not necessarily preclude the employee from continuing to receive offers of voluntary placement, but the employee does relinquish the higher assignment consideration afforded them by 5.d(2) in the voluntary process. That is, the employee would only receive offers as if they were in category d.(3); he or she would receive offers for his or her preferred locations only after other WRAPS-listed employees with the same preference had received the offer and declined it.

**Subsection 5.e.9**—This Subsection reaffirms and continues unchanged the minimum 60-day voluntary placement period provided in previous iterations of WRAPS. "Unless otherwise placed" means that the employee could be placed by those processes described in Section 5 of this Article; or as the result of a determination that the subject position can be funded/retained in the current organization is removed from the WRAPS by the home unit; or through the operation of agency staffing functions (e.g., Merit Promotion Plan). It also includes, but is not limited to, action taken either by the employee (e.g., resignation, transfer, or retirement) or by Management (e.g., by RIF or removal for failure to accept a directed reassignment within his or her commuting area). The employee may continue to receive offers of voluntary placement beyond the 60-day minimum.

**Subsection 5.f**—This Subsection introduces several new and significant changes from the 2000 Master Agreement Article regarding how and when directed reassignments may be made from the WRAPS. It retains and reaffirms the past practice that all affected employees actively registered in the WRAPS for placement are subject to a directed reassignment.

**Subsection 5.f.1**—Incorporates into the WRAPS process Management's statutory and regulatory right to reassign an employee within the employee's commuting area at any time after the employee has been determined to be affected by the abolishment of a position. An "appropriate position" means a position at the same grade and tour of duty as the position from which the employee was displaced.

**Subsection 5.f.2**—Eliminates the past practice of directing the reassignment of employees based on which employee had been on WRAPS the longest. Directed reassignments now utilize the priorities established in Subsection 5.d including consideration of the employee's preferences and are based on seniority according to Service Computation Date (SCD)—most service first. Management will not initiate directed reassignments outside the local commuting area until after employees have been actively registered in the WRAPS for 60 days.

**Subsection 5.f.4**—The effective date for directed reassignments is the effective date of the personnel action and is different than the reporting date. This Subsection recognizes that establishing the reporting date normally is negotiated between the gaining and losing unit and sets a minimum standard of 60 days. It also recognizes that, if agreeable to the employee, it can be a shorter timeframe.

**Subsection 5.f.5**—Sets the basic response timeframes for an affected employee to accept or decline a directed reassignment.

**Subsection 5.f.6**—The "return rights" provision of previous iterations of WRAPS has been changed, although the basic intent remains the same. As applied, "return rights" were at the employee's option, but Management was obligated to contact the employee and offer the position. This new provision continues to be at the employee's option, but places the responsibility on the employee to apply to the position and

notify HR of their rights. “Former or like positions” means either the same position or clearly a successor to that abolished position previously occupied by the employee. Parties are encouraged to attempt to resolve disputes arising from application of this term at the local level. As necessary, the Parties will provide additional guidance on the definition of successor positions based on the types of disputes that may arise in application of this Subsection, case law, and contract negotiation history. “Greater placement rights” refers to the “Order of Consideration When Filling a Vacancy,” that is attached to this Annotation.

**Section 6**—The Parties recognized that the specific provisions for monitoring of WRAPS are dependent not only upon interpretation of the provisions of this Article but also upon the actual application of the procedures. Therefore, the Parties have entered into a separate Memorandum of Understanding for the monitoring of WRAPS to allow appropriate changes, if necessary, for how the Parties accomplish the monitoring without reopening the MA Article itself.

**Subsection 6.a**—It is understood that problems attributable to the WRAPS may be systemic (that is, inherent in and attributable to the actual process) or administrative (that is, attributable to improper execution of the process). Both Parties at the national level will have direct involvement in the monitoring process. The focus of language contained in Section 6 is systemic problems that, if identified, would require joint corrective action by the Parties. It is recognized that administrative problems would require appropriate Management-initiated action to ensure those responsible for proper program execution are held accountable and are, therefore, specifically excluded.

**Subsection 6.c**—When possible systemic problems are identified by intermediate level parties, they will be discussed at that level and, if determined to warrant further examination by the National Parties, will be referred to the Forest Service Partnership Council (FSPC). Problems identified by the Local parties should be referred to the intermediate-Level Parties for review and a determination whether subsequent referral to the FSPC will be made.

NOTE: Issues/questions the Union and/or Management have regarding Article 32 contract interpretation should be raised to the National Parties for clarification.

#### **PRE-WRAPS CRITERIA**

The issue of a need to facilitate changes to the organization by moving employees internally through some procedure other than that required for employees subject to displacement under Article 32 (Workforce Restructuring and Placement System) of the Master Agreement has been recognized by both Management and the Union. This need is based on current and anticipated budgets as well as shifts in program emphases; the Forest Service will likely experience the need to adjust its organization.

The following criteria must be met by all plans developed for the purpose of permitting:

- a. The reassignments
- b. Repromotions
- c. Voluntary change to lower grade

of employees in conjunction with changes in the organization PRIOR to using the WRAPS process found in Article 32. These criteria have been developed in partnership and approved by the Forest Service Partnership Council. These criteria (that is “rules”) are referenced in Article 32.2 of the Master Agreement.

#### **CRITERIA FOR ESTABLISHING PRE-WRAPS PLANS**

- a. Any Forest Service unit may develop a “Pre-WRAPS” internal placement plan. “Units” may be no smaller than a competitive area defined under Article 32. The Pre-WRAPS Plan at a minimum applies to all employees within the defined unit affected by the planned changes.
- b. WRAPS-listed employees in the unit may also participate in the Pre-WRAPS plan while they continue to be available for placement under WRAPS rules.
- c. Reorganizations that result in no requirement to establish a new position description because the position in the new organization is identical to or 80 percent similar to that in the old organization

- should not be part of a pre-WRAPS plan. Employees in such positions are “moved” with their position into the new organization.
- d. Pre-WRAPS plans must be developed in writing. Such plans should be developed jointly by Management and Union. Local and Intermediate plans must be approved by both parties at the Intermediate level. Plans involving 2 or more Intermediate Level parties, need the approval of all the Intermediate-Level parties involved.
  - e. Pre-WRAPS plans are not precedent setting.
  - f. Pre-WRAPS Plans do not require a formal identification procedure. Positions to be abolished and affected employees will be identified in accordance with provisions of Article 32.3-4 and/or agency RIF regulations only after placements under a pre-WRAPS plan have been made and the pre-established ending date of the plan has passed or the pre-WRAPS plan cancelled. A unit cannot be implementing a Pre-WRAPS plan while simultaneously formally identifying which employees will be placed on WRAPS.
  - g. Pre-WRAPS plans may cover more than one time period, but all such periods must be included in the approved pre-WRAPS plan, or an approved amendment to that Plan. For example, a unit may have an approved two phased Pre-WRAPS Plan, having an initial Pre-WRAPS period to effect reassignments in conjunction with reorganization. Then, after the pre-WRAPS period ends, the unit may fill positions using competitive processes or WRAPS. At some point after the positions are filled competitively or from the WRAPS list, creating other vacancies on the same unit, a second phase of the pre-WRAPS Plan may go into effect for a defined period of time, permitting additional reassignments.
  - h. Pre-WRAPS plans must contain the following information:
    1. A general description of the scope and nature of the organizational changes;
    2. Old and new Management approved organization structures or staffing plans that include all of the positions involved;
    3. Plan goals;
    4. Placement procedures under the plan;
    5. Specific beginning and ending dates that encompass the minimum time necessary to achieve the Plan goals;
    6. If required, a Civil Rights Impact Analysis regarding the potential impacts of the placement procedures;
    7. If both bargaining and nonbargaining employees are covered by the plan, a statement about differences in placement procedures (if any) under the plan; and
    8. Employee communication plans.
  - i. Laws and governmentwide regulations, applicable provisions of the Master Agreement, and higher priority placement considerations as contained the in the FSPC-approved “Order of Consideration when Filling a Vacancy,” cannot be set aside.
  - j. Positions are filled through pre-WRAPS procedures only by lateral reassignment, repromotion, voluntary change to lower grade, or voluntary tour reduction. Reassignments may be voluntary and/or involuntary. Procedures and arrangements will be developed by the parties and incorporated into the plan. Before making placements, consideration should be given to the potential impacts such actions might have on any other appropriate procedures used to accomplish employee placements, such as WRAPS or RIF procedures. For example, it would be very disruptive to the workforce of a unit which makes a number of placements under a pre-WRAPS plan and then goes into downsizing that results in the identification of the previously placed employees under WRAPS as being subject to displacement.

### **ARTICLE 33—FURLOUGHS**

**Section 1**—See also 2011 MOU Emergency Furlough Due to Absence of Agency Appropriations

**Subsection 12.b**—Although Management is obligated to notify the Union and negotiate procedures per Subsection 4.c, Management still has final discretion in determining whether furlough days will be

consecutive or nonconsecutive. Language also requires Management to consider employee personal needs in determining which days will be worked during nonconsecutive furloughs. An additional obligation to bargain is incurred when Management, after the initial furlough notices have been given, finds it necessary to increase the number of days in the furlough.

**Section 13**—This Section draws attention to the statutory restriction that prohibits furloughed employees from being used as volunteers to perform their regular work.

**Subsection 13.a**—This provision applies to administrative furloughs only, and does not pertain to shutdown furloughs due to a lapse of appropriations. The intention is not to defer the furlough indefinitely for an employee on a hardship, but to give consideration to the timing of placing the employee in furlough status.

#### **ARTICLE 34—TRANSFER OF FUNCTION**

**Section 1**—Examples of appropriate topics for negotiations are the content of notices (within the guidelines), definition of local commuting area, other procedures of the transfer of function, and arrangements for the affected employees.

#### **ARTICLE 35—REDUCTION IN FORCE**

**Section 1**—Recognizes that governmentwide regulations set forth in 5 CFR 351 are controlling for the basic processes and mechanics of conducting any Reduction in force (RIF), and also provides for certain employee benefits. The singular citation of 5 CFR 351 is not intended to be, nor interpreted to be, exclusive or exclusionary. There are numerous governmentwide regulations in addition to 5 CFR 351, which further address employee rights and benefits applicable to RIF actions. Article 35 articulates the Parties agreement on a number of items for which the Code of Federal Regulations provides the agency discretion, but this Article is not all-inclusive of the Parties agreements on RIF related issues. (See discussion at Subsection 1.e. below.) The Parties intent here is to narrow the scope of local and intermediate level negotiations for any RIF by establishing certain provisions for the consolidated Bargaining Unit's.

**Subsection 1.a**—The disruption, costs, and regulatory requirements of conducting RIF dictate that RIF is not a decision to be made lightly. Management will avoid RIF through attrition, internal placements via the WRAPS, and cost reduction efforts whenever feasible, recognizing the decision to conduct a RIF is ultimately a Management right.

**Subsection 1.b**—This consideration may be applied only in the context of placement into a vacant position and has nothing to do with determining assignment rights involving encumbered positions. The phrase “may consider” reflects that this is not an employee entitlement, and it is entirely at Management’s discretion to apply or not apply these options for filling any given vacancy based on Management’s “job related” determination of its need to have a fully qualified employee in that position. The term “retraining” has been added to reflect that it is also a Management option. The phrase “a specified period up to 365 days” reflects both that there may be legitimate job-related reasons for a shorter time-frame and that the Parties intend that the timeframe be identified in advance so that both the affected employee and the receiving unit have a clear understanding of when the employee will be expected to be at a full performance level in the offered position.

**Subsection 1.c**—Reflects provisions of 5 CFR 330. The phrase “and explanation of” obligates Management to provide affected employees with written information about, and specific orientation to, the various external placement assistance programs and available WIA benefits.

**Subsection 2.a**—The Parties recognize that circumstances for prospective RIFs may limit Management’s ability to furnish all the information listed in Subsection 2.a at the time RIF authority is requested. However, Management is still obligated to provide the information listed at least 75 days prior to the RIF effective date. The Parties also recognize that the timing and content of this notice is sufficient to meet the intent of Article 11 notice and it would be redundant to require both.



**Subsection 2.c**—“Other RIF documents” could include, but are not limited to the agency’s justification for the RIF, exceptions to the normal order of release affecting that employee, any ground rules developed for that specific RIF, and benefits information.

**Subsection 3.c**—If permissive rights are negotiated in a specific situation, such an election does not constitute an election by Management to negotiate permissive rights in any other situation including situations on that unit. Similarly, this Subsection does not bar Management from negotiating on its permissive rights in other specific situations.

**Section 4**—“Early out” refers to Voluntary Early Retirement Authority (VERA).

**Section 6**—The employee’s OPF is used as the exclusive information basis for making determinations of any RIF actions, so the accuracy and currency of the contents of the OPF is essential. Accurate documentation of the employee’s entire employment history, training, and education are critical in determining the employee’s placement opportunities and other benefits. In addition, it is important, though not required, for the employee to provide an up-to-date resume or bio-sketch to be used in determining his or her qualifications should it be necessary for Management to consider offering the employee placement into a vacant position. Management may provide the employee a summary of “RIF essential” data contained in the employee’s OPF, which is an optional method of allowing the employee to check the accuracy of the data, however this does not replace or reduce the employee’s right to have access to his or her full OPF if the employee chooses to do so.

**Section 7**—The phrase “during the life of the RIF” means the entire time frame during which RIF actions are being determined and implemented.

**Subsection 8.a-c**—It is recognized that FLRA case law states that competitive areas are nonnegotiable, but that the Parties have agreed to engage in predecisional discussions when changes to the competitive areas are planned or proposed.

**Subsection 8.d**—This Subsection sets a new standard “default” commuting area of 49 miles, which reflects recent changes in the Federal Travel Regulations. The commuting area is measured from the duty station, not the employee’s residence. It also empowers the Parties at the affected level to negotiate and describe local commuting area if the default definition does not fit their local conditions. If the Parties cannot agree on a nonstandard local definition, they are required to use the standard definition. If they agree, their agreement on a nonstandard definition is subject to higher-level approval.

The key consideration is contained in the first sentence in the phrase “can reasonably be expected to travel back and forth daily.” Thus, the Parties intent here is not to be construed to mean 49 air miles, or simply drawing a 49-mile circle on a map. An example of one of the criteria Parties might consider in local negotiations is that the commute would, in most situations, be via year-round publicly maintained road systems. Though uncommon, it may be quite normal and reasonable in some locations for a commute to include forms of transportation other than via automobile, for instance, a ferry system, or commuter train.

**Section 10**—This Section provides priority reemployment to employees separated through RIF, recognizing the offer for reemployment is subject to any listing established by the Parties, in the “Order of Consideration When Filling a Vacancy” (FSH 6109.12 Chapter 20) that ranks the order of methods used to fill vacancies.

### **Reduction in Force Policies and Ground Rules**

This document supplements 5 CFR 351 by addressing policy decisions needed in areas in which the Forest Service has discretion in conducting a Reduction in force (RIF). These policies, along with language in negotiated agreements and information specific to a given RIF, will serve as the agency policy and ground rules for RIF.

### **Competitive Area**

The competitive area consists of all positions in a Forest Service unit under separate administrative authority in the local commuting area. Forest Service competitive areas are included in Appendix D of the Master Agreement between the Forest Service and Forest Service Council of the National Federation of Federal Employees and will also be posted on the Forest Service Human Resources Intranet Website.

### **Commuting Area**

One or more population centers in which employees can reasonably be expected to commute to and from work every day. Normally, the commuting area is within 49 miles of the duty station unless the Parties negotiate a different area based on local commuting patterns.

### **Prohibition on Use of Pre-WRAPS in RIF Situations**

Pre-Workforce Restructuring and Placement System (WRAPS) should not be used when a RIF is anticipated within the same competitive area. If a unit has begun a pre-WRAPS plan and then identified that a RIF will be needed, the pre-WRAPS plan must be halted as part of the personnel action freeze.

### **Use of WRAPS**

When RIF and WRAPS are implemented simultaneously within a given competitive area:

- a. RIF procedures will be used to identify the affected employees for RIF and the same employees will be the affected employees in WRAPS.
- b. RIF procedures will be used for placement of affected employees within the competitive area. If there are vacancies within the competitive area that will not be filled through RIF, WRAPS procedures will be used as appropriate.
- c. WRAPS procedures will be used for placement of affected employees outside the competitive area, but RIF timelines will take precedence.

If employee(s) had been registered in WRAPS at the time that a unit determines that a RIF is going to be needed in the competitive area, the unit must first consider whether the abolishment of the position that necessitated the WRAPS listing should be included in the list of abolished positions under RIF. Further, even if the unit would not otherwise include the position abolishment under RIF, the unit must identify the RIF impacts to see if the individual(s) identified under WRAPS will be affected by the bump and retreat process of RIF. If so, the RIF procedures will also be used to identify the affected employee(s) for the WRAPS listed employee(s).

### **Buyout and/or Early Out Exclusion**

- a. Voluntary Separation Incentives Program (VSIP).
- b. Voluntary Early Retirement Authority (VERA).
- c. See 5 CFR 351.202 (c) (3) for further information about classification actions.

Any employee who has been granted a buyout /early out, but is being retained for a designated period, will not be included in a RIF of their competitive area. The position occupied will be considered an abolished or vacant position.

### **Holiday Exclusion**

Neither issuance of specific RIF notices nor RIF effective dates shall occur in the period of December 15th through January 5th of any year.

### **Performance Appraisals**

The three most recently completed annual performance ratings of record during the 4-year "Look-back" period are used for crediting performance during RIF.

Look-Back Period: A 4-year period looking backwards from an established cut-off date. It is used to establish what performance appraisals will be considered in a RIF.

Cut-Off Period: To be credited for use during a RIF, the Servicing Human Resources Office (SHRO) must have received the appraisal document at least 30 days prior to issuance of specific RIF notice. A specific

cut-off date must be established for each RIF and publicized to employees. No appraisals received after that cut-off date will be used to determine retention standing.

**Modal Rating:** The Forest Service modal rating pattern for performance appraisals is “Successful” and is credited with 12 years of additional service credit. Any employee who has received no ratings or less than three in the “Look-back” period will be credited per the instructions in 5 CFR 351.504(c)(2).

When employees have performance ratings from other agencies during the “Look-back” period, they will have all successful ratings or above credited with 12 years additional service per 5 CFR 351.504(e).

### **Personnel Action Freeze**

Any competitive area in which a RIF is anticipated will be frozen at least 60 days prior to issuance of a specific RIF notice and will remain frozen until the effective date of the RIF. This freeze also includes all vacant positions at or below the grade of the highest competing employee in the RIF.

During the freeze, the SHRO will only process emergency, temporary personnel actions related to fires, floods, national emergencies, and other actions as defined by the Washington Office. The organizational freeze includes all accessions, movements, tour changes, and classification actions. The RIF retention register must be projected forward to the effective date of the RIF for actions such as changes in tenure, career ladder promotions, separations, and other actions that would affect an employee’s RIF retention standing. Employees on details and temporary promotions will be included in the RIF based on their positions of record (their current permanent position).

During the RIF period, career ladder promotions, court-ordered actions and actions ordered by a third-party agency (such as an Equal Employment Opportunity Judge’s order, Office of Personnel Management classification appeal decision, etc.) will not be subject to the freeze.

Supervisors must prepare the usual personnel action requests for career ladder promotions.

Exceptions to this freeze may be requested of the line officer who initially authorized the RIF, but are expected to be rare.

Although recruitment actions are frozen, they still need to be submitted so that those vacancies can be used appropriately in the RIF.

### **No Assignment Rights for Temporary Employees, Reemployed Annuitants, and Term Employees**

In Round 1 of RIF, all temporary employees will be released from the competitive level before any permanent employee is released from that competitive level. Reemployed annuitants serve at the will of the local line officer and thus are treated like temporary employees. In Round 2 of RIF, tenure group III employees (term employees) will have no assignment rights.

### **Exceptions To Order of Release**

All exceptions, and the reasons for exceptions, must be documented on the retention register. The mandatory exceptions for release of returning military employees and for retirement or continuation of health benefits are defined in (5 CFR 351.606). All other temporary or continuing exceptions provided for in RIF regulations must be approved by the line officer who approved the RIF and should be rare. Exceptions must be maintained as part of the permanent RIF files and notices given consistent with 5 CFR 351.608(g).

Exceptions to the “undue interruption” criteria used in RIF placement decisions may be granted only when filling vacant positions. Such vacancies should be identified to every extent possible prior to issuing RIF notices.

### **Tiebreaker**

When two or more employees have identical retention standing and a tiebreaker is needed, a predetermined random number generator will be used and compared with the last digit of each individual’s Social Security number. The employee whose last digit is closest match to the random number will be considered to have the higher retention standing. If the last digits are equally close, the



next to last digit of each employee's Social Security number will be used, and so on, until the tie is broken.

### **Qualifications Deadline**

Any additional information an employee wishes to submit regarding his or her qualifications must be received by their SHRO by the cutoff date established by the SHRO for the RIF. Employees will be notified of the cutoff dates established for the RIF and have at least 14 days before the deadline for receipt of qualifications updates. Any Bargaining Unit officials for the competitive unit(s) involved will receive a copy of the notice at least 1 full day prior to the notice to employees. Additional informational material will generally be accepted up to 30 calendar days in advance of the specific RIF notice; however, changes in tenure group status may be accepted up to the effective date of the RIF.

Employees are encouraged to create a profile in USAJobs and use the generated resume as an attachment to their WRAPS registration, to facilitate qualifications review. Other forms of qualification/application material such as an OF-612, SF-171, or other form of resume will also be accepted.

### **Subject Matter Expertise**

Subject matter experts may be asked to provide advice in making qualification determinations. All determinations will be based solely upon evidence found in official personnel records. Official personnel records include those in a RIF file that is established for each affected employee that may contain records (e.g., resumes) that do not belong in the Official Personnel Folder.

### **Use of Vacancies**

- a. Permanent vacancies (including those that might be filled at less than full performance level or have previously been filled as virtual positions) will be identified prior to initiating a RIF. If a vacancy will not be available for offers (e.g., line officer positions) the reasons for excepting the position will be maintained in the unit's RIF file. A list of positions available for offers will be provided to the local Union official (if any) at the beginning of the RIF.
- b. Permanent vacancies within impacted competitive levels will be used in Round 1. Vacancies that remain unfilled after Round 1 will be offered in Round 2.
- c. Vacancies, regardless of work schedule or grade, that remain unfilled after completion of Round 2 of RIF, may be offered to affected employees in lieu of separation-RIF. When more than one employee is available for placement, positions will be offered in retention order.
- d. Employees separated in RIF may be re-employed in temporary vacancies only after a 3-day break-in-service. A temporary need related to the positions that are being abolished will be handled as an exception to the order of release and not as a temporary position. (See Exceptions to Order of Release Section.)
- e. When a supervisor/manager in an area undergoing RIF has a vacancy in a position outside the competitive area, the manager has the discretion to identify the position as a virtual position or as a position within the commuting area (in which case it may constitute a valid job offer) or identify it in some other location.
- f. Exceptions to the "undue interruption" criteria used in RIF placement decisions may be granted only when filling vacant positions. Such vacancies should be identified to every extent possible prior to issuing RIF notices.

Note: In order to identify all appropriate vacancies, line managers are accountable for assuring that all vacancies to be filled are presented on an SF-52 to SHRO during the RIF period. Vacancies not filled in RIF will be subject to placement from the Reemployment Priority List and other priority placement mechanisms after the RIF.

### **Content of RIF Notices**

The Parties at the national level will agree on the language of general and specific RIF notices prior to their being issued. Local Parties may supplement the general letters with required local information (such as contact information).

### **Delivering the Specific RIF Notices**

The lowest level line officer of the affected unit or another appropriate Management official will deliver the specific RIF notices to his or her affected employees. Supervisors should make every effort to ensure employees are present on the delivery date of the notices, including canceling leave as appropriate.

In the event an employee is not present at his or her duty location on the day the specific RIF notices are issued, the notice will be sent via certified mail with a copy sent via regular first-class mail to the employee's legal address of record. A 5-day delivery timeframe will be presumed, even if the employee refuses to accept the letter or claim/pick up from the Post Office.

### **RIF Offers**

Employees will have a response time of 3 workdays to accept or decline RIF offers. The 3-day clock starts at 5 p.m. on the day of personal delivery of notice by Management official. If the notice is mailed, the employee's 3-day response period will begin on the fifth day following the date on the letter.

### **Exemptions from RIF**

Management shall have discretion to determine whether an excepted service RIF will also be run in the competitive area undergoing a RIF. Presidential Management Fellows and Fire Apprentices, regardless of the appointment authority they are hired under, shall be exempt from RIF. Positions that are formally designated developmental (e.g., grades 5-7 entry level) shall also be exempt if they meet the Office of Personnel Management (OPM) criteria. Two-grade interval positions are generally developmental at the GS-5-7 level but must be reviewed to ensure that formal designation is appropriate. Only those employees that are on a formally designated detailed training career plan will be exempt. Employees in developmental positions that do not have detailed career plans will be included in the RIF. This does not include all general career ladder positions, such as those advertised at GS-11-12. Units will not delay promotion to the target level for the sole purpose of avoiding RIF. Units undergoing RIF will keep a list of all such positions and will make it available to local Union officials (if any) upon request.

We note that Pathways Interns that are converted to competitive service will be included in the RIF. Once Pathways Interns have been converted, they are not considered "formal trainees" under OPM regulations.

### **Policy of Least Disruption**

"The policy of least disruption" will be used in RIF. This means:

- a. In Round 1 there will be no intervening displacements. When the position abolished is occupied by someone other than the individual at the bottom of the competitive level, the employee in the abolished position will be reassigned to the continuing position occupied by the person with the lowest retention standing, with the exception of the Holland, Hatrick, and Richardson v. Army Merit System Protection Board decision. This case directs agencies that, notwithstanding a policy of least disruption, tenure group I employees will not be placed in term or other nonpermanent positions held by tenure group III employees, if the same competitive level includes tenure group II employees.
- b. In Round 2, when both a vacancy and occupied position at the same grade level are valid offers, the vacancy will be offered. If more than one vacancy is a valid offer, any of the available vacancies may be offered.
- c. When two or more occupied positions at the same grade level are possible offers for placement, the offer will be made to the position occupied by the individual with the lowest retention standing (with the Holland Decision, 84 MSPR 269, as an exception to policy).

### **Lines of Progression**

Lines of progression that are used for applying the bump and retreat rights of individuals in RIF will be specific to the competitive areas. For example, if a competitive area applies “one-grade interval” to the GS-462 series for some kinds of positions, they have set a precedent (past practice), and must continue this practice into the RIF. Conversely, if a given position or type of position has previously been filled as a GS-462-8/9/11 within the competitive area, the line of progression for that position would not include GS-10. However, new vacancies created would follow current agency direction (not to establish 2-grade interval career ladders within single grade-interval positions).

### **Records Retention Requirements**

All records relating to a RIF must be retained for at least 1 year after the date that specific RIF notices are issued.

### **Auto RIF**

Management agrees that the Union may have up to three Union members attend the Auto RIF training sessions as they are given to human resources specialists.

## **ARTICLE 36—UNEMPLOYMENT COMPENSATION**

**Section 5**—Management’s responsibility is limited to providing employees who are being separated or placed in nonpay status with the necessary forms and information to enable the employee to understand how to apply for unemployment compensation. The Union recognizes not all States permit distribution of unemployment compensation application forms outside their offices and that it is the State (not the Forest Service) who determines eligibility for employment compensation. In situations where application forms are not available, general information on how to apply for unemployment compensation should be provided. Whether the material is in the form of State-produced brochures, or handouts prepared by the Forest Service.

## **ARTICLE 37—VOLUNTEERS AND GOVERNMENT-SPONSORED WORK PROGRAMS**

**Section 1**—The intent of this Section is to be consistent with the Volunteers in the National Forest Act, or other enabling laws, grants, and program guidelines that contain language prohibiting the displacement of employees. The second sentence reinforces that it is not appropriate to “require or request” which employees volunteer their time. This is to protect employees from being placed in any situation that could create the appearance that volunteering his or her time is expected, or will provide any special consideration that could affect his or her employment. This Section prohibits Bargaining Unit employees from being supervised by volunteers in supervisory positions.

## **ARTICLE 38—CONTRACTING WORK OUT**

**Section 1**—In-sourcing guidelines are mandated by Public Law 111-8, Title VII, Section 736. This does not apply to the Forest Service Enterprise Program.

**Subsection 1.b**—Note this Subsection refers to the decision to go to contract under any decision-making process.

**Section 2**—Releasable information includes, but is not limited to, copies of:

- a. Annual procurement plans including updates.
- b. Bid solicitation, invitation for bid, or request for proposal.
- c. Correspondence from higher authority directing the cost study.
- d. Correspondence from Department of Labor regarding certification of a wage rate.
- e. The performance work statement, statement of work, or contract specifications.
- f. The organization plan that supports the Program of Work Statement (in-house, residual, etc.).
- g. All changes to the performance work statement.

- h. Bid abstract (including Government estimate after bid opening), bid results, awarding dates, and timeframes for implementation.

**Section 3**—The intent of the Parties is to allow the review of both the in-house cost estimates used under the OMB Circular A-76 and the Independent Government Estimates referred to in the Federal Acquisition Regulation. When appropriate, in-house cost estimates and/or Independent Government Estimates can be sent via fax or through hard copy mail instead of incurring travel and per diem costs.

**Section 4**—Examples of appropriate topics for negotiations include the use of Human Resources tools, information and training sessions for employees, and transitioning to the new service provider.

**Section 5**—The intent of the Parties is that the posting will be at work locations but the exact method of the posting of the notice is not given to allow flexibility (that is, it can be on any bulletin board, sent via e-mail, etc.), nor is it required for any specific work location, such as fire camps, work-at-home locations, etc.

### **ARTICLE 39—VOLUNTARY ALLOTMENT OF UNION DUES**

No Annotation

### **ARTICLE 40—PILOT PROJECTS/DEMONSTRATION PROJECTS**

No Annotation

### **ARTICLE 41—CIVILIAN CONSERVATION CORPS**

**Subsection 2.b**—The PRH may be found on the Department of Labor website, currently at [https://s3-us-west-2.amazonaws.com/jobcorps.gov/2017-04/Job\\_Corps-prh.pdf](https://s3-us-west-2.amazonaws.com/jobcorps.gov/2017-04/Job_Corps-prh.pdf).

### **ARTICLE 42—PERSONAL HARDSHIP**

**Subsection 3.a**—Requests will generally go to the first-line supervisor or the unit manager. Accommodations may include, but are not limited to, details, reassignments, exceptions to directed reassignments, or changes to work schedules.

**Subsection 3.b**—This Subsection encourages pre-decisional communication between Management and the hardship applicant. The intent is for the Management official to have a clear understanding of the employee's personal situation that gave rise to the potential hardship.

### **ARTICLE 43—DRUG AND ALCOHOL TESTING PROGRAMS**

At the time of the execution of the Master Agreement, marijuana is illegal under federal law. This is true regardless of any state or local provisions regarding medical marijuana use and the provisions of this Article will apply.

**Subsection 4.a**—This provision is to encourage self-disclosure that an employee may not otherwise make due to fear of discipline. The Parties recognize that a pattern of impairment due to alcohol abuse or substance abuse is an issue that should be addressed by EAP referral or discipline. Substance abuse can include illegal use of legal drugs as well as illegal drugs. The Parties also recognize that there are instances of impairment that do not involve substance abuse (for example, appropriate use of medication) and for which EAP referral or discipline is not appropriate.

**Subsection 5.b**—An allegation of illegal drug use while off duty, even if it initiates a criminal investigation or arrest, does not constitute reasonable suspicion.

### **ARTICLE 44—RESERVED**

No Annotation

### **ARTICLE 45—DURATION AND EXTENT**

No Annotation

