

Labor Management Agreement

Between

**United States Department of Agriculture
Agricultural Marketing Service
Fair Trade Practices Program
Packers and Stockyards Division**

And

**American Federation of Government Employees
Local Number 1126**



Effective Date: June 1, 2022

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PREAMBLE

Pursuant to policies set forth by the Civil Service Reform Act of 1978 regarding Federal Labor Management Relations, labor organizations and collective bargaining are in the public interest. This Agreement is made in accordance with Title VII of Public Law 95-454 and 5 U.S.C. Chapter 71 by and between the United States Department of Agriculture, Agricultural Marketing Service, Fair Trade Practices Program, Packers and Stockyards Division, hereinafter referred to as the Agency, and American Federation of Government Employees Local Number 1126, hereinafter referred to as the UNION, and collectively referred to as the PARTIES.

This Agreement reflects party commitments to foster a work environment that provides for the continued development of employees and maximizes opportunities for improved employee performance aimed at accomplishing Agency goals and mission. To this end, the Parties are committed to working cooperatively in a reasonable and harmonious manner to attain the highest levels of public confidence and provide the outstanding service to which the Agency and its employees are dedicated.

The Parties recognize that trust is an essential ingredient to the continued improvement of the employee/employer relationship, working conditions, and work processes. This trust and continued progress improvement further enhance each employee's worth and aspirations, treating employees, managers, and supervisors alike with dignity and respect.

The following Articles, together with all subsequent agreements, amendments, and memoranda of understanding, constitute a total agreement by the Parties and are entered into pursuant to the Certificate of Representative (WA-RP-20-0060) dated 28 January 2021, Washington Regional Office of the Federal Labor Relations Authority, Office of the General Counsel.

Article I General Provisions

1.1 Purpose

This Agreement's intent and purpose are to define the Parties' roles and responsibilities and state procedures and methods that will govern working relationships between the Parties.

1.2 Agency - Union Cooperation

The Agency and the Union recognize they have common interests as Parties to this Agreement to promote and improve Federal Service efficiency and employee well-being. The Parties agree to demonstrate good faith, make every effort to resolve differences that arise in administering this Agreement, and strive to conduct a sound and effective labor-management relations program through Agency-Union cooperation.

1.3 Recognition

The Agency recognizes that the Union (American Federation of Government Employees Local Number 1126) is the exclusive employee representative of the Bargaining Unit described in 1.4 below.

1.4 Unit Description

The Bargaining Unit consists of all field employees and all employees of the Enforcement Branch of the Packers and Stockyards Division (PSD), United States Department of Agriculture (USDA). The Unit does not include management officials, supervisors, and employees described in 5 USC 7112(b), (2), (3), (4), (6), and (7).

Upon request from the Union, the Agency will provide a list of current bargaining unit employees, their bargaining unit status, and FLSA exempt status.

1.5 Definitions

AMENDMENTS: Modifications to the original Agreement to delete or change portions, sections, or articles.

ADVERSE ACTION: For purposes of this Agreement, this is defined as removal, suspensions of more than fourteen (14) days, reduction in grade, reduction in pay, and furlough of thirty (30) days or less. A Mission Area, agency, or staff office may take action for performance and misconduct to promote the efficiency of the service, subject to the provisions of 5 U.S.C. 75, *Adverse Actions*, and 5 CFR Part 752, *Adverse Actions*.

AGENCY: U. S. Department of Agriculture, Agricultural Marketing Service, Fair Trade Practices Program, Packers and Stockyards Division.

AGENCY'S REPRESENTATIVE: An individual that Management has designated as the labor relations contact. The current list of Labor Relations Specialists assigned for each Unit is located on the HRM Labor Relations website.

AUTHORITY: The Federal Labor Relations Authority is described in section 7104(a) of the Federal Service Labor-Management Relations Statute.

COLLECTIVE BARGAINING: Consistent with section 7103(a)(12) of the Statute, the performance of the mutual obligation of the representative of an Agency and the exclusive representative of employees in an appropriate unit in the Agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach an agreement concerning the conditions of employment affecting such employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.

CONDITIONS OF EMPLOYMENT: Consistent with section 7103(a)(14) of the Statute, personnel policies, practices, and matters, whether established by rule, regulation, or otherwise affecting working conditions; except that such term does not include policies, practices, and matters:

- A. Relating to political activities prohibited under subchapter III of Chapter 73 of Title 5;
- B. Relating to the classification of any position; or
- C. To the extent such matters are expressly provided for by Federal Statute.

CORE TIME DEVIATION: (CTD) is an absence specifically authorized by the Supervisor during the core time that may be made up within the same day (for flex tour and flextime) or within the same pay period (for maxi flex) during the flexible time in lieu of a charge to any type of leave.

DISCIPLINARY ACTION: For purposes of this Agreement, this is defined as a Letter of Reprimand or a Suspension of fourteen (14) days or less.

DEMONSTRATION OPPORTUNITY (DO): The DO is not a developmental opportunity or an opportunity to merely improve performance. It is an opportunity to demonstrate performance at the Fully Successful level in the respective element(s).

EMERGENCY CONDITION: An emergency condition is one that poses sudden, immediate, and unforeseen work requirements as a result of natural phenomena or other circumstances beyond the control or ability to anticipate.

EMPLOYEES: Employees in the bargaining unit described in Article 1.4.

GLIDE TIME: is that time in the flexible time band of a flexible work schedule when an employee may choose to deviate from their preset arrival and departure times.

Example: A full-time employee on a maxi flex schedule has a preset schedule of Monday through Friday from 8 a.m. to 4:30 p.m. The employee regularly reports to work at 8 a.m. However, on some days, the employee chooses to report at 7:45 a.m. On those days, the employee's workday begins at 7:45 a.m. and may end at 4:15 p.m., or the employee may work until 4:30 p.m. and choose to leave early or report late on a subsequent day. The employee must account for 80 hours in the pay period

GRIEVANCE: The term "grievance" means any complaint, difference, disagreement, or dispute by an employee, the Union, or the Agency concerning:

- (a) An alleged violation of an agreement between the Union and Agency;
- (b) An alleged violation, misinterpretation, or misapplication of laws, rules, or regulations adversely affecting conditions of employment

IMPASSE: The inability of the Parties' representatives to arrive at a mutually agreeable position concerning negotiable matters through the bargaining process.

LETTER OF WARNING: Informal written communication to an employee by a supervisor expressing Management concern regarding undesirable employee conduct or activity.

MANAGEMENT OFFICIAL: Consistent with section 7103(a)(11) of the Statute, an individual employed by the Agency in a position the duties and responsibilities which require or authorize the individual to formulate, determine or influence the policies of the Agency.

NATIONAL REPRESENTATIVES: Any accredited officials from the National office of the American Federation of Government Employees Local Number 1126.

NEGOTIABILITY DISPUTE: A disagreement between the Parties as to the negotiability of an item.

NON-DUTY TIME: Non-duty time is the lunch period, any time before the beginning of an employee's workday or time following the end of the workday.

PERFORMANCE BASED ACTION: A Mission Area, agency, or staff office may remove an employee or reduce their grade for failing to perform at the Fully Successful level in any performance element, subject to the provisions of 5 U.S.C. § 4303 and 5 CFR Part 432, *Performance Based Reduction in Grade and Removal Actions*. (a) If the employee's performance falls below the standards for Fully Successful on any element, the Rating Official must do the following prior to taking a performance-based action: 1 Notify the employee in writing of the element(s) for which performance is below the Fully Successful level; 2 Inform the employee that unless they demonstrate performance in the element(s) identified in the notice at the Fully Successful level, they may be reduced in grade or removed; and 3 Afford the employee a reasonable opportunity to demonstrate Fully Successful performance on the element(s) by placing the employee on a DO.

Performance-Based Actions. A Mission Area, agency, or staff office may remove an employee or reduce their grade for failing to perform at the Fully Successful level in any performance element, subject to the provisions of 5 U.S.C. § 4303 and 5 CFR Part 432, *Performance Based Reduction in Grade and Removal Actions*.

SENIORITY: Years of service starting from the service computation date (SCD) as annotated on an employee's most recent SF-50.

STATUTE: The Federal Service Labor-Management Relations Statute (FSLMRS), Chapter 71 of Title 5 of the U.S. Code as amended.

SUPERVISOR: Consistent with section 7103(a)(10) of the Statute, an individual employed by an agency having authority in the interest of the Agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees; to adjust their grievances, or to effectively recommend such action if the exercise of the authority is not merely

routine or clerical in nature but requires the consistent exercise of independent judgment.

SUPPLEMENTS: Additional articles negotiated during the term of the original Agreement.

UNION: American Federation of Government Employees Local Number 1126. (AFGE)

UNION OFFICIAL: Duly elected or appointed officials of AFGE Local 1126.

UNION STEWARD: Duly elected or appointed individuals who perform representational duties on behalf of the Union for bargaining unit employees.

Article II Provision of Law and Regulation

The Parties agree that in administering matters covered by this Agreement, officials and employees are governed by existing or future Federal laws, Federal regulations of appropriate authorities, and Government-wide and USDA rules and regulations in effect prior to this Agreement, along with Government-wide and USDA rules and regulations issued after this Agreement is in effect which do not conflict with the Agreement and over which all bargaining responsibilities have been fulfilled.” The Agency will follow all rules or regulations (other than a rule or regulation implementing Section 2302 of Title 5 of the United States Code) that conflict with this Agreement if the Agreement is in effect before the rule or regulation is prescribed.

Article III Duration and Extent of Agreement

3.1 Effective Date and Term

The Agreement becomes effective after Agency Head Review as stated in the Statute at 5 USC 7114(c)(1)(2)(3). The Agreement will remain in effect for three (3) years. The Agreement will automatically renew on the anniversary date unless either party provides written notice not more than 120 calendar days and not less than sixty (60) calendar days before the anniversary date of its desire to change the Agreement. Either party receiving such notice must acknowledge the other party within ten (10) calendar days after receipt that the party wishes to change/negotiate or update the current CBA. Both Parties agree negotiations will begin no later than sixty (60) calendar days from the date of receipt.

3.2 Amendments

The Parties agree that during the life of the Agreement, they may add amendments or make changes to provisions when required by new or changed law(s). Parties are confined to negotiating only those areas affected by the new or revised law(s). Parties will submit in writing, stating specific reasons for making changes, any requests to amend this Agreement. Requests must include the specific proposal that a Party is offering to amend this Agreement. The party receiving these requests must acknowledge receipt within ten (10) calendar days. After receipt, both Parties agree negotiations will begin no later than thirty (30) calendar days from the date of receipt.

3.3 Effective Date of Amendments or Supplements

Amendments/Supplements are subject to review and approval by the Agency Head Review. As such, amendments and supplements cannot become effective until the date approved by the Agency Head or on the date on which the thirty (30) daytime limit for Agency Head review expires, whichever is earlier.

3.4 New Agreement Training

Management will provide a briefing to explain the new contract to all supervisors. The Union will provide a briefing to all bargaining unit employees. Parties will conduct Zoom, Microsoft Teams, or other media briefings and enable recordings for employees who miss the initial briefing. The Parties will attempt to conduct briefings during regular duty time within thirty (30) calendar days of the implementation date. Parties agree to encourage unit employees and supervisors to attend briefings. Parties can discuss further briefing and training opportunities between supervisors, management officials, and bargaining unit employees as appropriate.

Article IV Employee Rights and Responsibilities

4.1 Employee Rights

Employees have the right to freely form, join, and assist a labor organization without fear of penalty or reprisal. No interference, restraint, coercion, harassment, or discrimination will be practiced within the work unit by the Agency or the Union to encourage or discourage membership in any labor organization.

Employees are not required to pay union dues through a payroll deduction or voluntary cash dues payment by a member to the organization except pursuant to a voluntary written authorization by a member through a payroll deduction or voluntary cash dues payment by a member.

Neither the Agency nor the Union will discipline or otherwise discriminate against an employee because they have filed a grievance, represented a grievant, testified at a grievance or other hearing, or because they have filed a complaint or given testimony under the provisions of the Statute.

At the employee's request or the request of the Union President, Union representatives may be present at any bargaining unit employee interviews where an employee's supervisor or other management officials are present in connection with a discussion that may result in disciplinary action. Before any such discussion, Management will notify the employee that the topic of discussion may involve disciplinary action or potential disciplinary action. If the employee reasonably believes that the interview may result in disciplinary action, the employee may request a Union representative. The Supervisor or other management official will honor the request should the employee request representation. The meeting will be held or rescheduled within a reasonable time when a Union Representative can be present.

The Agency will maintain official employee records in the Electronic Official Personnel File (eOPF). The Agency should notify the Union in instances where the Agency takes formal

disciplinary action against an employee. Upon notification by the Union of an employee invoking their Weingarten Rights and the employee providing written authorization, the Agency will release all related documents to the Union and employee regarding the materials to be relied upon (MRU) in any formal disciplinary action.

The Agency will timely provide employees with copies of documents affecting the employee unless furnishing the information conflicts with government-wide law or regulation.

Article V Management Rights

5.1 Basic Rights

Nothing in this Agreement shall affect official management authorities:

- A. That determines the mission, budget, organization, employee numbers, and Agency internal security practices; and,
- B. In accordance with applicable laws
 - 1. To hire, assign, direct, layoff, or retain Agency employees; or, to suspend, remove, reduce in grade, or pay, or take other disciplinary action against such employees;
 - 2. To assign work, to make contracting determinations, or determine which personnel are utilized in conducting Agency operations;
 - 3. That fill positions, making selections for promotion or appointments from among properly ranked and certified candidates, or any other appropriate source; and
 - 4. To take actions necessary to carry out Agency missions during emergencies.

5.2 Areas of Bargaining

This Article does not prevent the Agency and the Union from negotiating:

- A. Agency decisions on the number, type, and employee grades or positions assigned to any organizational subdivision, work project, or tours of duty; or the technology, methods, and means of performing work;
- B. Agency management officials' procedures in exercising authorities under this Article; or,
- C. Employee arrangements adversely affected by the exercise of any authority under this Article by such management officials.

Article VI Union Rights

6.1 Representation

The Union is the member's exclusive representative in the bargaining unit and is entitled to act for members. The Union is responsible for representing the interests of all eligible employees in the bargaining unit without discrimination and without regard to Union membership. The Union has the right to present matters of concern to the Agency verbally or in writing and negotiate changes in personnel policies, practices, and issues affecting bargaining unit employee working conditions. The Union has an exclusive right to be present at:

- A. Any formal discussion between one or more Agency representatives and one or more Unit employees or their representatives concerning grievances, personnel policy, practices, or other general conditions of employment; or,
- B. Any Unit employee examination by an Agency representative in connection with an investigation, if:
 - 1. The employee reasonably believes that the examination may result in disciplinary or adverse action against the employee; and,
 - 2. The employee requests representation.

Upon request, the Agency should furnish information to the Union which is available and necessary for the Union to perform representational activities, provided that such disclosure would not violate applicable laws. When disclosures can be made only if the material is redacted, the Agency will provide the information in that form.

6.2 Status of Union Officials

The Agency will recognize National Union Representatives and duly elected or appointed Officials/Stewards when the Union advises in writing with the names and titles of such officials. The Union provides the Agency with updates as changes of representatives occur.

The Union agrees that Officials/Representatives will not conduct union business in work areas during duty hours without first notifying supervisors in those areas and receiving proper authorization. The Parties agree that an exclusive representative representing an employee in connection with any other matter deemed grievable under this CBA shall be granted official time in the amount the Agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest. It is the responsibility of the exclusive representative or employee to properly request official time from the Supervisor and, after approval, properly document the official time allotted in the WebTA system using the official function code (38-Union/Grievance/Appeal/Re) as well as notifying the Supervisor as early as possible of the amount of official time requested.

Both Parties agree that if either party requests a meeting with the other party and one party is not immediately available, common courtesy dictates scheduling a meeting as soon as possible. Parties will not use this paragraph as a delaying tactic.

Article VII Official Time

7.1 Use of Official Time

Upon requests, the Agency will authorize official time, to the designated union official(s), who are USDA, AMS Packers and Stockyards Division employees, for the following purposes:

- A. To represent employees in grievances, arbitration, and appeals, including discussions with appropriate Agency officials, and for reviewing Agency files concerning such grievances and appeals;
- B. To prepare for negotiations;
- C. To attend meetings with Agency officials to discuss this Agreement's terms and conditions;
- D. To attend discussions involving bargaining unit employees as defined in 5 USC 7114(a)(2);
- E. To present or appear as a witness in a third-party proceeding; and,
- F. To prepare financial records for the Department of Labor as required by law.

The Parties agree that Union Officials/Stewards are not authorized time to perform internal union business. The internal business (e.g., Solicitation of membership and dues, the election of officers, and other internal business) shall be conducted during the non-duty hours of the employees involved. The Union shall not use government equipment to conduct any internal association business. The Union may use government telephones to contact appropriate representatives of the Employer.

7.2 Representation and the Law

The Parties will follow 5 U.S.C 7131 for:

- A. Participation in Federal Labor Relations investigations or hearings;
- B. Equal time to participate in collective bargaining negotiations on behalf of its bargaining unit employees with the time spent by Management representatives at such negotiations (understanding that the number of union negotiators on official time will not exceed the number of Management negotiators unless otherwise agreed to by the Parties.

7.3 Procedures for Official Time

All union representatives are required to track their official time spent on Union business for the Department of Labor and Agency by completing the request using the appropriate WebTA function code as well as notifying the Supervisor as early as possible of the amount of official time requested.

7.4 Employee Use of Official Time

The Agency cannot deny employee rights to consult with a Union representative unless circumstances exist which require the employee to remain on duty. If requested by the employee, the immediate Supervisor must provide specific written justification for denying the employee's right to consult with a Union representative. The employee will reach an immediate agreement with their Supervisor on their release.

7.5 Official Time Guidelines

If an employee is requesting official Union time but is needed to perform work assignments, then Agency is required to reschedule the requested official time. Supervisors will grant official time to requesting employees except for those circumstances where the Union representative must remain on duty in the work area.

Under no circumstance will more than two Union officials use official time for the same meeting with the Agency unless a prior agreement is reached and documented between the Agency's representative and the Union.

Article VIII Unfair Labor Practices (ULP)

8.1 Authority

Federal Labor Relations Authority solely determines unfair labor practices under the authority procedures contained in the Statute.

8.2 Unfair Labor Practices by Management

The Agency is conducting an unfair labor practice when:

- A. It interferes with, restrains, or coerces an employee from exercising their rights under the Statute;
- B. It encourages or discourages union membership by discriminating through its hiring, tenure, promotion, or other conditions of employment;
- C. It sponsors, controls, or otherwise assists any labor organizations other than to furnish, upon request, customary routine services and facilities if those services and facilities are

also furnished on an impartial basis to other labor organizations having equivalent status;

- D. It disciplines or otherwise discriminates against an employee because the employee has filed a complaint, affidavit, petition, or has given information or testimony under the Statute;
- E. It refuses to consult or negotiate in good faith with the Union as required by Statute;
- F. It fails or refuses to cooperate when impasse decisions are required by Statute in impasse procedures;
- G. It enforces any rule or regulation (other than a rule or regulation implementing Section 2302 of Title V of U.S.C.) that conflicts with any applicable collective bargaining agreement, where the Agreement was in effect before the date the rule or regulation was prescribed; or,
- H. To otherwise fail or refuse to comply with any provision of the Statute.

8.3 Unfair Labor Practices by the Union

The Union is conducting an unfair labor practice when:

- A. It interferes with, restrains, or coerces an employee when they are exercising their rights under the Statute;
- B. It causes or attempts to cause an agency to discriminate against any employee while they are attempting to exercise their rights under the Statute;
- C. It coerces, disciplines, fines, or attempts to coerce a member of the labor organization to punish, reprise, hinder or impede the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;
- D. It discriminates against an employee's Union membership terms or conditions based on race, color, creed, national origin, sex, age, preferential or non-preferential civil service status, political affiliation, marital status, or handicapping condition;
- E. It refuses to consult or negotiate in good faith with an agency as required by Statute;
- F. It fails or refuses to cooperate in impasse procedures and impasse decisions as required by Statute;
- G. It calls for participation in a strike, work stoppage or slowdown, or picketing of an agency involved in a Labor-Management dispute if such picketing interferes with an agency's operations, or to condone such activities by failing to take actions to prevent or stop these activities (any informational picketing, which does not interfere with the agency's operations, is not an unfair labor practice); or,

H. It fails or refuses to comply with any provision of the Statute.

8.4 Available Procedures

Matters raised under Section 7121 (e) and (f) of the Statute in which an employee has an option of using the negotiated grievance procedure or the appeals procedure, the grieving party has the discretion to raise issues under the grievance procedure or as an unfair labor practice, but not under both procedures.

Article IX Facilities and Services

9.1 Union Use of Conference Rooms

The Union may request in writing to the Agency in charge of the facility to schedule a conference room. The Union will comply with Federal Security and housekeeping rules currently in effect.

9.2 Union Literature and Distribution

- A. Any literature, bulletins, or notices distributed to Packers and Stockyards Division employees or posted in an approved specific Union posting area regional or headquarters office location will not violate any law, the security of the Agency, or contain scurrilous materials.
- B. The Agency and the Union agree that neither party will conduct personal attacks on the character or integrity of any USDA employee.
- C. The Union may distribute notices/literature regarding Statute defined Union business in Agency work areas. The Parties agree that distribution of literature will be permitted provided it is done during non-duty hours of the distributor and it does not interfere with the facility's mission. The use of limited Agency email is authorized.

9.3 Telephones

The Union may use Agency telephones to receive calls related to representation.

9.4 Copies of Union Agreement

Upon approval of this CBA, the Agency agrees to provide an electronic copy of the Collective Bargaining Agreement to all Union Officials/Stewards and bargaining unit employees. The Union is responsible for distribution to all new bargaining unit employees.

9.5 Utilization of Space

Union representational functions are usually performed during the designated working hours.

The Union will not perform representational functions on Agency premises outside those hours unless the representative has notified their Supervisor of their intent to be in the building and proper approval has been provided.

Article X Tour of Duty

10.1 General Information Regarding Tour of Duty

PSD policy uses Federal regulations to promote service efficiency and seek equitable and fair employee treatment when establishing tours of duty. Within Title 5 Code of Federal Regulations (CFR) Part 610, Hours of Duty and Agency Human Resources Guide (HRDG Subchapter 4610, Tours of Duty, managers and supervisors are responsible for establishing the tours of duty. Additionally:

- A. All PSD employees are assigned to a Maxi flex schedule. The basic work requirement for full-time employees is 80 hours per pay period and specified hours for part-time employees. There are three options for scheduling tours of duty: (1) Five 8- hour days (e.g., Monday-Friday 8:30 a.m. to 5 p.m.); (2) A nonstandard tour of duty; or (3) A compressed schedule (i.e., 5-4/9). Employees should not regularly schedule 10-hour days. Employees will request and designate their Tours in writing, and supervisors will approve these requests at their discretion.
- B. All full-time employees scheduled to work five or more hours in a workday must take an unpaid meal period. Full-time employees will schedule a meal period (30, 45, or 60 minutes) between 11 a.m. and 2 p.m.
- C. Supervisors must approve Tours of Duty and days off (if applicable) before the beginning of the pay period. Supervisors may authorize leave or use core time deviations (CTD) during the pay period as long as approval is granted prior to its use. Supervisors may schedule employees for specific days and hours, if necessary, to meet work requirements.
- D. Employees are allowed flexibility within flexible time bands unless restricted by the Supervisor. Daily tours for employees in the regional/branch offices may begin no earlier than 6:00 a.m. and end no later than 6:00 p.m. While working from their home offices, Resident Agent (RA) and Auditors must schedule their hours inside the 6:00 a.m. to 6:00 p.m. Maxi-Flex time band; but, while traveling in the field, they may work inside the 6:00 a.m. to 9:00 p.m. time band.
- E. Employees should limit Scheduled workdays in offices/telework (not on travel) to 9 hours or less. Supervisors may approve employees working more than nine office hours per day for high priority investigations or assignments.
- F. The PSD customer service band (hours that regional and branch offices must have phone coverage and technical assistance) is 7:30 a.m. to 4:30 p.m.
- G. Tuesday through Thursday, 9 a.m. to 3 p.m., are Maxi flex core days and hours.

Employee Core hours refer to the time period in a tour of duty workday or workweek during which employees must work or receive specific approval for leave or a core time deviation.

1. Core time ensures all employees within a designated group are present on the job during certain hours of each day; however, in some circumstances, supervisors may approve core time deviation (CTD). CTD is a supervisor approved absence during the core time that employees can make up during a flexible time instead of charging leave.
2. Nothing under the above provision prevents an employee from requesting accrued annual and sick leave as appropriate. CTDs provide an alternative for the use of leave when circumstances make granting a CTD mutually beneficial for the employee and the organization. CTDs are used at the employee's request; however, granting a CTD is at the Supervisor's discretion. Ordinarily, circumstances should justify granting a CTD that mutually benefits the organization and the employee.
3. Employees must submit CTD requests in WebTA for supervisor approval. Requests are for annual or sick leave with a notation that a CTD is requested, and hours are adjusted at the end of the pay period.

H. Maxi flex flexible hours (glide time) are 6 - 9 a.m. and 3 – 6 p.m., Monday through Friday. Glide time that changes the work schedule by two or more hours requires advance discussion with the Supervisor. Ten-hour workdays are allowed only in limited circumstances and only with prior supervisory approval.

1. Actual time worked daily may vary from the set schedule by gliding during flexible time bands, earning, and using credit hours, using approved leave, or a core time deviation. Using glide time to build hours and shorten days (less than 6 hours) is not allowed. Nothing under this provision prevents an employee from using glide time within the same pay period to make up for the lost time in which an employee was absent (e.g., doctor appointments, traffic delays).

I. When an employee cannot work a full 80-hour pay period, full-time employees working under Maxi flex must use annual leave, sick leave, leave without pay, absence without leave, or credit hours to ensure an 80-hour pay period.

J. Employees will use WebTA and its notes and remarks to record attendance deviations.

HRDG Subchapter 4610, Tours of Duty, Operating Guidelines, has additional information on tours of duty.

Article XI Leave Categories

Departmental Regulation 4060-630-002, Leave Administration

11.1 Annual Leave

Annual leave is an earned employee benefit that requires supervisory approval. Annual leave requested in advance that considers both employee and Agency needs is generally approved. Annual leave is not canceled except for emergencies or severe work interruptions. Supervisors who must cancel employee leave must make every effort to reschedule leave when desired by the employee. Annual leave is taken in (15) minute increments and may be used in lieu of sick leave.

Scheduling and Approval: The employee will secure in advance supervisor approval by submitting a leave request through WebTA. Employees requesting vacation periods should request leave as early as possible.

Unscheduled Annual Leave: When unscheduled annual leave is necessary, employees will notify the immediate supervisor one (1) hour after core hours begin or as soon as possible. If the immediate Supervisor is unavailable, employees will inform the second-level Supervisor or designee. Upon return, the employee will prepare a leave request through WebTA and obtain electronic approval from the immediate Supervisor.

11.2 Sick Leave

Sick leave is an employee benefit for use as prescribed by 5 CFR Part 630, to include in medical treatments or during periods of incapacitation. Employees are encouraged to receive medical, dental, and optical examinations and treatments outside of duty hours. Employees may take Sick leave in fifteen (15) minute increments, and it may NOT be used in lieu of annual leave. Employees may have to provide a medical certificate if sick leave exceeds three (3) consecutive workdays.

Scheduling and Approval: The employee will secure advance approval for medical, dental, or optical appointments using the Web TA system. Following applicable laws, rules, and regulations, employees may use Advanced sick leave if the employee has no sick leave available.

Unscheduled Sick Leave: When unscheduled sick leave is necessary, employees will notify their immediate Supervisor one (1) hour after core hours begin or as soon as possible. If the immediate Supervisor is unavailable, the employee will inform the second-level Supervisor or designee. Upon return, the employee will prepare a request through Web TA and obtain written approval from the immediate Supervisor.

11.3 Leave without Pay – LWOP

Following applicable laws, rules, and regulations, supervisors may grant LWOP in lieu of sick or annual leave. When an employee is on LWOP, under provisions of this Article, they are entitled to active employment at the same grade and salary at the end of the approved leave period.

11.4 Absence without Official Leave – AWOL

Recording an absence as AWOL is not a disciplinary action; however, absences without approved leave can become the basis for initiating disciplinary/adverse action.

11.5 Administrative Leave

Consistent with applicable rules, regulations, and the Agency's policies, administrative leave may be granted.

11.6 Office Closure

When closing the office becomes necessary due to inclement weather or other conditions, the Agency will notify employees on duty as soon as possible. When employees are not on duty at the time the decision is made by the Agency, reasonable efforts will be made to notify employees.

The Agency may initiate telework procedures in the event the office must close. If the building opens late because of hazardous weather conditions, the employee's selected arrival time under their flexible work schedule will be used as a reference point for determining administrative leave entitlements. The Agency will make such determinations on a fair and equitable basis in accordance with laws and regulations.

Article XII Performance Appraisal

Departmental Regulation 4040-430

12.1 Purpose

Performance appraisals determine an employee's performance as measured against established standards; therefore, appraisals are vitally important to employees and the Agency in fulfilling public entrusted responsibilities. Performance elements and standards must align with the duties and responsibilities in the employee's position description. Employees must receive written standards within thirty (30) calendar days after entering a position or a change in a position.

12.2 Rating Cycle

Employees must receive an annual performance rating, except in unusual circumstances, when in such cases, the rating period will not exceed fifteen (15) months. The shortest employee rating period is 90 calendar days. This is considered the minimum amount of time to objectively observe and appraise an employee's performance.

12.3 Employee Performance

The Supervisor will provide written justification for all ratings where an employee does not meet or pass fully successful standards. Employee ratings are compared against specified performance standards at the fully successful level.

12.4 Within-Grade Increases (W.G.I.)

An employee will receive their W.G.I. unless the Supervisor concludes that an employee's work is not at the fully successful level.

12.5 Actions Based on Unacceptable Performance

Packers and Stockyards Division will follow all applicable guidelines in Department Regulation 4040-430 and the advice of USDA-APHIS-MRPBS-HRD-EMSD, Labor Management, and Employee Relations Division for addressing employee performance.

Article XIII Merit Promotion Plan

DR-4030-335-002 – Merit Promotion following Title 5, USC § 2301 The Merit Promotion Plan is applicable to all Title 5 USDA mission areas, agencies, and staff offices.

13.1 Career Promotion Procedures

Employees that meet time-in-grade requirements, possess an appropriate level of specialized experience, and have a recorded official rating of at least fully successful within a career ladder are eligible for promotion to the next higher grade. If a supervisor's review concludes that the employee's performance does not warrant a promotion, the Supervisor will provide notice to the employee and explain where the employee's performance is lacking and advise what the employee must do to qualify for the promotion. Where practicable, Management will provide opportunities to the employee to demonstrate a successful performance. Upon employee demonstration to perform at the higher level, the Supervisor will initiate the promotion.

Article XIV Health and Safety

14.1 Safety

The Agency and the Union have a common interest in promoting safe working habits and working conditions for employees and agree to cooperate in this endeavor and encourage all employees to work safely. The Agency will consider any individual employee or Union representative suggestions that offer practical and feasible ways to improve safety conditions. The Agency will initiate prompt and appropriate action to correct any reported or observed unsafe working conditions.

The Agency supports the U.S. Department of Labor's OSHA general duty clause, which states: "Each employer shall furnish to each of his employees' employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees." The Agency does not have the authority to enforce safety and health measures at private facilities where the Agency employees work. The Agency will not discipline or otherwise retaliate against employees for reporting an injury, illness, or unsafe working conditions.

Workplace violence can be any act of physical violence, threats of physical violence, harassment, intimidation, or other threatening, disruptive behavior that occurs at the worksite. Workplace violence can affect or involve employees and visitors, contractors, clients, customers, and other non-Federal employees. The Agency does not tolerate violence of any kind, such as aggression, threats, intimidation, belligerent or disruptive behavior. Such acts of violence may be cause for disciplinary action or possible criminal charges.

Any employee who genuinely believes that they are in danger must remove him or herself from harm's way, even if it means leaving the work site, and immediately report the threat to their Supervisor and appropriate law enforcement authorities.

All employees, while engaged in the performance of official duties or because of their official duties, shall immediately report to their Supervisor all incidents involving physical harm, an attempt to cause physical harm, or the threat of physical harm to the employee by a co-worker, or by a customer, applicant, or other non-Government employees. Reportable incidents include: (a) Harassment, verbal threats, property damage, or any other action which can be interpreted as an intention or attempt to intimidate or interfere with the employee's performance of their duties; or (b) A series of seemingly minor offenses that appear to be a pattern of interference with the employee's performance of duties. Local law enforcement may be contacted by either the Supervisor or the employee if the situation warrants it.

Supervisors shall take all threats seriously and should respond to potential threats and escalating negative behavior situations. Supervisors are required to report all situations of actual workplace violence, threats of violence, or reports of potential violence to the Employee Relations Branch, Marketing and Regulatory Programs, and the AMS Workplace Violence Prevention Coordinator. The Workplace Violence Prevention Coordinator will give top priority to all reported incidents of workplace violence or threats of workplace violence and will work with supervisors, the AMS Compliance Office, the USDA Office of Inspector General (OIG), the Federal Protective Service, local law enforcement officials, or other resources as appropriate, to safeguard employees, protect Agency resources, conduct any needed investigations, and ensure the proper administrative or criminal action is initiated, as warranted.

14.2 Health and Job-Related Injuries

An employee must give their immediate Supervisor written notice of an injury within 48 hours after they are injured during the performance of their duties. Employees must provide written notice on appropriate O.P.M. form(s). An injured employee is entitled to first aid and medical

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care for the injury. This includes hospital care when needed. If an employee is injured on the job, they may be entitled to compensation for lost wages. Information on employee benefits under the Federal Employee's Compensation Act (FECA) is listed on appropriate O.P.M. form(s). Additional information regarding injury compensation is available from the O.P.M. or Human Resources.

Article XV Grievance Procedure

15.1 Grievance Steps and Procedures

Section 1. Definition and Purpose

The term "grievance" means any complaint, difference, disagreement, or dispute by an employee, the Union, or the Agency concerning:

- (a) An alleged violation of an agreement between the Union and the Agency.
- (b) An alleged violation, misinterpretation, or misapplication of laws, rules, or regulations adversely affecting conditions of employment.

This Article establishes the exclusive procedures available to bargaining unit employees, the Union, or the Agency, whereby they may seek consideration of grievances arising out of any and all matters relating to, and within the authority and jurisdiction of the Parties, except matters excluded by law, other agreements between the Parties, for which another statutory appeal procedure exists. Specifically excluded from this procedure are:

- (a) Any matter in which the affected employee has elected to appeal through a statutory or regulatory process, e.g., the EEOC (by filing a formal complaint), MSPB (by filing an appeal to the MSPB), FLRA (by filing an FLRA charge) or OSC (by filing a complaint with OSC).;
- (b) Any matter appealed to the Office of Special Counsel.
- (c) Position classification or review issues that are appealable to the Office of Personnel Management.
- (d) Any matter not specifically addressed either in an agreement between the Union and the Agency, or in federal law or regulation, or departmental or agency directive or policy.
- (e) Any matter excluded by law, regulation, or non-PSD directives (e.g., USDA, MRP, AMS).

Section 2. General Provisions

- (a) A grievant or union representative, if the representative is an Agency employee, is entitled to a reasonable amount of official time to present a grievance. Official time for preparing a grievance, if properly requested by the representative or employee, shall be granted.
- (b) An employee or the Union may withdraw a grievance at any time by sending a cancellation notice, in writing, to the official considering the grievance at the time of withdrawal.
- (c) If employees wish to present grievances without Union representation, they shall be permitted to do so. It shall be the responsibility of Management to inform the Union of any settlement at which a union representative is not present.

- (d) A grievance must be filed and appealed by the employee or Union according to the time limits specified for each step. Any grievance submitted untimely at any step of the process shall render the grievance terminated. Therefore, the grievance shall not receive further consideration and may not be appealed to any higher step of the grievance procedure or arbitration.
- (e) Failure of the Agency to meet a time limit in responding to a grievance at a particular step shall provide the Union the right to appeal the grievance to the next higher step of the grievance procedure.
- (f) If a grievance is filed at a higher level than appropriate, it shall be returned to the filer. Filing at the wrong step does not extend the time limits for proper filing.
- (g) All time limits stated in the grievance procedure may be extended by mutual consent of the Union and the Agency Director or authorized designee.
- (h) Any employee or Union representative filing a grievance must indicate specifically to the Agency official with whom the grievance is being filed that it is a grievance. This must be done to distinguish the grievance from other conversations or inquiries that an employee or Union representative does not wish to classify as a grievance. It is the responsibility of the employee or Union representative to notify Management in writing or by email of their intent to grieve.
- (i) The employee is not required to have a representative for filing or discussing a grievance at the first and second steps; however, the employee may, at their discretion, request a union representative to assist in preparing or presenting a grievance. Management will provide the Union a copy of the grievance or notification that a bargaining unit employee has filed a grievance.

Section 3. Grievance Steps

A. Step One (1)

- (1) A grievance must be submitted in writing or by email using the grievance form within fifteen (15) calendar days of the incident giving rise to the grievance or within fifteen (15) calendar days of the earliest possible date on which either the employee or the Union first could possibly have become aware of the incident, whichever comes first.
- (2) The grievance must be initiated with the affected employee's first-line Supervisor. If the grievance issue lies outside the Supervisor's authority or expertise, the grievance nevertheless shall be filed with the immediate Supervisor. It shall be the immediate Supervisor's responsibility to obtain desired advice and information to adjust or provide a response to the grievance.
- (3) In presenting the grievance at Step One (1), the grievant or union representative must make clear, in writing or email, that the matter is a grievance, explain the subject of the grievance, and indicate the specific remedy or relief sought.
- (4) If the issue is not resolved, the immediate Supervisor shall render a decision, in writing, within fifteen (15) calendar days of the receipt of the grievance.

B. Step Two (2)

If the employee is not satisfied with the response to a grievance at the initial step (Step 1), the employee or union representative may appeal the grievance to Step Two (2), as follows:

- (1) Complete the grievance form that provides information pertaining to the grievance.
- (2) Provide the appeal form to the employee's second line manager, who shall be the Step 2 official. The appeal form shall be accompanied by all documents, statements, or other evidence supporting the grievance. No new evidence shall be allowed to be introduced at any subsequent grievance step or arbitration procedure or hearing that has not been furnished by the employee or the Union at Step 1.
- (3) The appeal form must be transmitted to the Step 2 official no later than fifteen (15) calendar days from the immediate Supervisor's response given at Step 1. If the Step 1 supervisor failed to provide a response, the appeal to Step 2 must be received no later than fifteen (15) calendar days of the deadline for the Step 1 supervisor's response. Evidence of submission shall show the date and method transmitted. Regardless of the method of transmittal, all documents must be transmitted together in the same format. Any documents not received with the original transmission of the Step 2 form shall not be considered. If the issue is not resolved, the Step 2 official shall provide a written response to the grievance appeal within fifteen (15) calendar days of receipt of the appeal.

C. Review

If the Union is dissatisfied with the Step 2 official's response, a request for a review of the grievance may be submitted by:

- (a) Sending a written request to have the grievance reviewed by the Assistant to the Deputy Administrator (ADA). The written request should explain why the employee (or Union) believes the earlier responses were unsatisfactory or in error.
- (b) The written request and accompanying copies of documents must be received directly by the ADA within fifteen (15) calendar days of the receipt of the Step 2 official's response. If the Step 2 official failed to provide a response, the request for review must be received no later than fifteen (15) calendar days of the deadline for the Step 2 official's response.

If the grievance is not resolved, the ADA shall provide a written response to the Union within thirty (30) calendar days of receipt of the request for review.

D. Arbitration

If the Union is dissatisfied after receiving a response to its request for review, the Union may invoke arbitration and must notify the ADA that it has done so. The Agency may file grievances by notifying the Union President of an issue. If the issue is not resolved to the

Agency's satisfaction, the Agency also may invoke arbitration and must notify the Union President that it has done so.

- (a) Upon receipt of notice by either party to take a grievance to arbitration, the Agency shall provide a list of seven (7) impartial persons qualified to act as arbitrators. The Parties shall confer within fifteen (15) calendar days after receiving the list to select an arbitrator. Selection shall be made by each party striking off one potential arbitrator's name from the list until one arbitrator remains. The party proceeding first shall be selected by chance: one party shall flip a coin, and the other party shall indicate its choice of heads or tails. The Parties shall alternate who flips and who calls.
- (b) The Parties will attempt to agree on where to hold the arbitration hearing. When feasible, the hearing should take place within the region of the grievant's duty station close to a major airport. If the Parties cannot agree on the location for the hearing, that issue will be presented to an arbitrator for a decision. For this determination, the Parties will provide written submissions to the arbitrator with one opportunity to rebut the other party's submission. There will be no hearing and no in-person testimony involved. The Parties will split the cost of this arbitration action in half.
- (c) The Parties shall indicate to the selected arbitrator that the arbitrator must indicate one of the Parties as to the party who prevailed. If the arbitrator's decision is appealed to the FLRA and reversed in any way, the initial prevailing party determination will be automatically reviewed in consideration of the reversal. Unless the FLRA makes a prevailing party determination or an agreement is reached by the Parties, it will be sent back to the arbitrator for a revised determination. If either party requests a transcript, it shall pay for the transcript that it requests. If either party requests postponement or cancellation of the arbitration proceedings, the requesting party shall bear any expenses incurred by the arbitrator. Each party shall provide the arbitrator with the name and address of the responsible official for billing purposes.
- (d) The preparation and hearing time and all travel and per diem costs for all employees involved in the hearing as grievant, witnesses, representatives, or technical advisors shall be the responsibility of the party requesting the employee's service. The Agency will, within reason, approve the absences from the duty of employees who the arbitrator approves to participate in the hearing.
- (e) The arbitrator's award shall be binding on both Parties, subject to appeal by either party to the Federal Labor Relations Authority (FLRA).
- (f) The arbitrator shall be instructed to render a decision within thirty (30) calendar days of the close of the hearing record unless the Parties both agree to an extension of that time.
- (g) The arbitrator shall have the authority to issue binding decisions on grievances relating to:
 - (1) Personnel policies and practices, and (2) Matters affecting conditions of employment.

(h) The authority of the arbitrator's award is limited to employees in the bargaining unit.

Article XVI Disciplinary and Adverse Action

Departmental Regulation 4070-735-001

16.1 Definitions and Procedures

Agency and the Union agree it is vital that the supervisor/employee relationship encourages early recognition and resolve potential performance or conduct situations that could lead to disciplinary action.

- A. For purposes of this Agreement, disciplinary action is defined as a written Letter of Reprimand or a Suspension from duty for fourteen (14) days or less. An adverse action is defined as a Suspension greater than fourteen (14) days, furlough without pay for thirty (30) days or less, removal, or involuntary reduction in grade or pay.
- B. Admonishment and counseling are not formal disciplinary actions and are not subject to procedures in this Article. Non-Disciplinary actions may include written or verbal admonishments, Letters of Caution, Warning, Expectation, or Counseling. If a Letter of Admonishment or Counseling is issued, it will specify the reasons that give rise to the letter.
- C. Disciplinary and adverse actions require just cause, are consistent with applicable laws and regulations, and are fair and equitable.
- D. Article 6.1 of this Agreement states that eligible bargaining unit members are entitled to Union representation.
- E. The Agency notifies employees of proposed disciplinary or adverse action. The Agency must make the Union members aware of all their rights and privileges. In all cases, Management must provide the Union member and their designated representative with an opportunity to review all evidence and reply, verbally or in writing, to charges using Union assistance as desired. Management must provide evidence against a Union member to the member and their representative. Management will give both reasonable amounts of official time to review the evidence and prepare a reply.
- F. When Management issues an official reprimand, it must notify Union member(s) of their right to grieve the action through the negotiated grievance procedure.
- G. When Management proposes a disciplinary suspension (e.g., fourteen (14) days or less), Union members are entitled to:
 - 1. At least fourteen (14) calendar days advanced written notice;
 - 2. Reasonable time, but not less than seven (7) calendar days, to reply verbally and in

writing, affidavits, and other documentary evidence in support of their response;

3. Have a representative; and,
4. A written decision by the earliest practicable date, containing specific reasons for the decision, and notify the member of their appeal rights.

H. Union members subject to a proposed adverse action (except for unacceptable performance or a reduction-in-force) are entitled to:

1. Not less than thirty (30) calendar days advanced written notice specifying reasons for the proposed action unless there is reasonable cause to believe that the member has committed a crime for which a sentence of imprisonment may be imposed;
2. A reasonable time of ten (10) calendar days to provide verbal and written evidence such as affidavits and other documentary evidence in support of their answer;
3. Have a representative; and,
4. A written decision at the earliest practicable date, specifying reasons for the decision and notifying the member of their appeal rights. The decision will also advise the member of their right to appeal the decision to the Merit Systems Protection Board (MSPB) or through the negotiated grievance procedure, but not both. The decision will also include the appropriate MSPB address and notify the member of their right to Union representation should they desire to redress through the negotiated grievance procedure.

I. The right to file a grievance against a final written adverse action decision through the negotiated grievance procedure or appealed to the MSPB, but not both. For matters covered both under the statutory appeal process and the negotiated grievance procedure, may, at their discretion, choose to appeal under either the Appellate Procedure or under the negotiated grievance procedure, but not both. The member is considered to raise their matter under either a statutory procedure or the negotiated procedure when they timely initiate an action under the applicable statutory procedure or timely file a grievance in writing, whichever occurs first.

16.2 Extension of Time

Member(s) may receive up to a thirty (30) calendar day extension to reply under Section 16 above if they provide good cause.

Article XVII Training

17.1 Policy

A. The Parties recognize the value of a well-trained workforce sustained by a well-planned

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and effective training effort. The Parties agree that training efforts aim to improve job performance, enhance career development, and meet Agency needs as determined by Management. The Parties further agree to encourage employee self-development.

- B. To meet present and future organizational training needs, Management and employees will discuss utilizing Individual Development Plans (IDP) and AgLearn’s Learning Management System (LMS). Employees should work with Management to identify training and development opportunities that address their immediate needs and long-range career goals.

The employee and Supervisor are encouraged to have ongoing discussions throughout the year regarding the employee's individual career development. An employee may request work-related training. All requests are subject to supervisory approval. The Agency will give the appropriate consideration to training determined to improve the individual and organizational performance within the budgetary limitations per year. This is above and beyond mandatory training and does not prohibit local Management discretion regarding additional training.

Article XVIII Equal Employment Opportunity (EEO)

Departmental Regulation 4300-003

18.1 Policy

Section 1. Non-Discrimination

The Agency and the Union will not discriminate against any unit employee because of race, color, national origin, religion, sex(including pregnancy, sexual orientation, and gender identity), disability, age, marital status, status as a parent, income derived from a public assistance program, political affiliation, genetic information (including family medical history), labor organization affiliation or non-affiliation, or any other non-merit-bases factor, or retaliation for exercising rights with respect to the categories listed above, where retaliation rights are available, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Section 2. Employment Decisions

The employer shall use only valid and job-related factors in making employment decisions. Employment decisions include such matters as written examinations, performance and potential appraisals, job interviews for internal placement, training assignments, as well as promotions, reassignments, and disciplinary actions. The previous list of actions is not meant to be all-inclusive but, rather, to broaden the definition of “employment decisions.”

- A. The Parties agree to cooperate in providing equal opportunities to employ, train and promote that do not discriminate based on age, race, gender, religion, color, national origin, sex (including pregnancy, sexual orientation, and gender identity), marital status, disability, political affiliation, genetic information (including family medical

history), labor organization affiliation or non-affiliation, status as a parent, or any other non-merit-based factor, or retaliation for exercising rights with respect to the categories listed above, where retaliation rights are available. The Parties agree to cooperate in providing equal opportunities for all employees.

- B. When made aware, each party agrees to advise the other of equal opportunity problems. The Parties will jointly seek solutions to such issues. The Union President and the Agency will meet to discuss measures taken in this area. This program is administered in accordance with all applicable laws, regulations, and policies.
- C. The Agency will adhere to EEOC laws and regulations. The Agency is responsible for taking necessary actions to ensure the workplace is free from discrimination and take appropriate remedial measures when discrimination occurs.

Section 3. Equal Employment Opportunity Complaints

- a. The Union may represent an employee who has filed a complaint under either the Department's equal employment opportunity procedure or the Grievances and Arbitration Article of this Agreement.
- b. The filing of a formal equal employment opportunity complaint by an employee constitutes an election to use statutory appeal procedures. It precludes filing a grievance on the same subject matter under the Grievances and Arbitration Article of this Agreement.

Section 3. Equal Employment Opportunity Complaints

18.2 Provisions

- A. The Agency will ensure employees who file complaints are free from coercion, interference, or reprisal. When feasible, employees may choose to request EEO counselors.
- B. The Agency will provide employees with written information describing the EEO complaint procedure and provide and post current EEO counselor names and telephone numbers.

An employee can file a formal complaint under the negotiated grievance procedure or the Agency's EEO complaint procedure, but not both forums for the same issue. Issues that can be raised under a grievance procedure may, at the discretion of the aggrieved party, be raised under the grievance procedure or, in the alternative, by using the Agency's EEO complaint procedure.

The Agency will provide ADR programs for aggrieved individuals or complainants in both the informal and formal stages of the Equal Employment Opportunity (EEO) complaint process. Each agency that has complied with departmental regulations (DR 4710-1) requiring an ADR program will ensure that employees can raise discrimination issues in those systems if they

choose to do so at the informal, formal, or both stages of the complaint processing. Agencies may limit the types of issues to be handled in the ADR program at either stage, but Agencies are encouraged to use ADR to resolve as many types of cases as possible. Employees who elect to use any Agency ADR program are not absolved from meeting any time frames of the EEO complaint process unless an extension of time is granted in writing pursuant to a written request received before the expiration of any time frame. The election of ADR does not require a person to waive their right to an investigation or a hearing or appeal the final decision to the EEOC. While Management must determine whether a given dispute is appropriate for ADR, it may not decline to offer ADR because of the complaint basis (race, color, etc.). The earlier ADR is provided, the more likely it will be successful. ADR is voluntary for the aggrieved party or complainant. A complainant may request ADR efforts at any time during complaint processing, but the Agency may elect not to participate. If an agency offers ADR to a complainant in writing and the complainant chooses to participate in ADR, Management's participation is required.

Article XIX Telework

Departmental Regulation 4080-811-002

19.1 Policy

The Agency will adhere to the Department's telework policy or, if mandated by mission activities, the Agency's telework policy. Telework is a voluntary program. It is an option, not a right or entitlement. This Article does not apply to reasonable accommodation or medical flexplace.

19.2 Definitions

Telework: Telework that occurs as part of an ongoing, regular schedule or situational [ad-hoc] approved on a case-by-case basis.

19.3 Employee Eligibility Requirements

- A. Employees who qualify for telework must meet the following qualifications:
- B. Is in a permanent career status;
- C. Have a "fully successful" or equivalent performance rating;
- D. Does not require daily face-to-face contact with the Supervisor, colleagues, clients, or the general public;
- E. Can perform work successfully offsite;
- F. Is not on a sick leave restriction or has not been on sick leave restrictions within the past 12 months;

- G. Not currently on a performance improvement or opportunity to improve (O.T.I.) plan;
- H. Has not been subject to disciplinary or adverse action in the past 12 months; and,
- I. It is not in a probationary period.

19.4 Responsibilities

Employees will:

- A. Sign and follow the approved application package (if applicable);
- B. Agree to return any Agency equipment upon request;
- C. Comply with all Agency security guidelines and measures;
- D. Be available by phone, email, and be logged into Microsoft Teams during their scheduled teleworking hours;
- E. Responds to telephone calls and emails promptly and during telework is expected to produce the same quality and quantity of work as if the employee was in an office setting
- F. Ensure office phones are forwarded to the employee's government-issued cell phone or VOIP phone;
- G. Provide adequate workspace; and,
- H. Accurately report telework hours in WebTA.

19.5 Rules that Apply to Telework Program

- A. The Agency and employee will abide by DR-4080-811-002
- B. The employee must report to their official duty station if the Supervisor deems circumstances require it. If the employee cannot maintain a stable network connection from their telework location, they should return to the office. The Supervisor will notify the employee as soon as possible before the scheduled telework day if the Supervisor needs to change or cancel a telework day.
- C. The employee may discontinue their participation in the Telework program at any time.
- D. The Supervisor may remove an employee from the Telework Program if the employee is no longer qualified in accordance with DR-4080-811 or violates any portion of the regulation. Before removing an employee from the Telework Program, the Supervisor

and employee will try to resolve specific problems.

- E. An employee is not released from Telework when the office is closed for inclement weather or other similar emergencies.
- F. An employee's official duty station is the same as the office to which the employee is assigned.

19.6 Telework Equipment and Supplies

- A. The Agency will provide Employees approved for working offsite with computer equipment, supplies, and materials to complete their work assignments.
- B. Telework employees will pay any additional expenses associated with working at the alternate worksite.

Article XX Agency Apparel

20.1 Purpose

The Agency, in its sole discretion and budget dependent, may, on occasion purchase and distribute USDA clothing items to employees. The sole purpose of this clothing is to provide employees with a distinctive and easily identifiable appearance while performing official work duties. The Agency will determine which employees should wear the clothing and what items will be provided. PSD employees who may be required to wear this clothing to perform official duties include those involved in compliance inspections, audits, investigations, or are in contact with the public and require identification via recognizable clothing while performing official work duties, as determined by the Agency.

In witness thereof, the Parties thereto have executed this Labor-Management Agreement on the 25th day of May 2022. It is effective on the date of Agency Head approval by the USDA.

Agency



Union

