Master Agreement

Between

Office of the Secretary of Transportation (OST)

and

American Federation of Government Employees (AFGE), Local 3313

Effective on January 10, 2025

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Preamble

This Agreement is entered into by and between the United States Department of Transportation, Office of the Secretary of Transportation (hereinafter referred to as OST, Management, or the Agency) and the American Federation of Government Employees Local 3313 (hereinafter referred to as the Union or AFGE), jointly referred to as the Parties.

The Parties mutually recognize that the Congress of the United States has expressed public policy concerning labor relations in the Federal Government as follows:

> ...the right of employees to organize, bargain collectively and participate through labor organizations of their own choosing in decisions which affect them, safeguards the public interest, contributes to the effective conduct of the public business, and facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment; and the public interest demands the highest standards of employee performance and the continued 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.
> Therefore, labor organizations and collective bargaining in the civil service are in the public interest (5 U.S.C. § 7101).

Pursuant to the policy stated above, the Parties have agreed upon the various Articles hereinafter set forth. This Agreement constitutes a Collective Bargaining Agreement between the United States Department of Transportation and the American Federation of Government Employees.

Recognition Coverage and Unit Description

Section 1

This CBA covers all OST Headquarters' Bargaining Unit employees, both professional and non-professional, as certified in FLRA Case Number WA-RP-11-0021.

a. The professional Bargaining Unit is described as follows:

    1. Included: All General Schedule professional employees of the Office of the Secretary of Transportation, Headquarters, Washington, D.C.

    2. Excluded: All nonprofessional employees, management officials, supervisors, and employees described in 5 U.S.C. § 7112 (b)(2), (3), (4), (6), and (7).

b. The nonprofessional Bargaining Unit is described as follows:

    1. Included: All General Schedule and Wage Grade nonprofessional employees of the Office of the Secretary of Transportation, Headquarters, Washington, D.C.

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

Management hereby recognizes that the Union is the exclusive representative of all employees in the Bargaining Units described above.

Departmental offices whose Bargaining Unit employees are covered by this Agreement include but are not limited to the following offices, to include all subcomponents:

a. Immediate Office of the Secretary,

b. Office of the Under Secretary of Transportation for Policy,

c. Office of the Assistant Secretary for Budget and Programs and Chief Financial Officer,

d. Office of the General Counsel,

e. Office of the Assistant Secretary for Aviation and International Affairs,

f. Office of the Assistant Secretary for Transportation Policy,

g. Office of the Assistant Secretary for Governmental Affairs,

h. Office of the Assistant Secretary for Research and Technology,

i. Office of the Assistant Secretary for Administration,

j. Office of Public Affairs,

k. Office of Drug and Alcohol Policy and Compliance,

l. Office of the Executive Secretariat,

m. Departmental Office of Civil Rights,

n. Office of Small & Disadvantaged Business Utilization,

o. Office of Intelligence, Security, and Emergency Response, and

p. Office of the Chief Information Officer.

Section 2

The Agency will provide the Union's designee with written notice concerning the establishment, abolishment, or change in the status of Bargaining Unit position(s).

If the Parties do not agree whether the position is inside or outside the unit, upon request by either Party, they will meet to discuss the issue. If the matter remains unresolved, either Party may file a Clarification of Unit (CU) petition with the Federal Labor Relations Authority (FLRA). If a CU petition is filed by the Union during the notice period, the position will remain in its current status unit until a decision is rendered by the FLRA.

Section 3

The Agency agrees to provide to the Local President or designee, by the end of the first full pay period in January, April, July, and October, a list reflecting the name, grade, duty station, and position title of each Bargaining Unit employee. The Agency will also identify or provide a list of all (bargaining and non-

Bargaining Unit) employees who have entered on duty within the last quarter. The Parties recognize that the listing will not be construed as action, or to confer action, by the Agency to unilaterally deny Bargaining Unit status to any employee.

Article 1: Effect of Law and Regulation on this CBA

Section 1

In the administration of all matters covered by this CBA, the Parties shall be governed by all existing or future laws, and existing government-wide rules and regulations, as well as by subsequently enacted government-wide regulations implementing 5 U.S.C. § 2302. In addition, the Parties shall be governed by any DOT regulation, rule, or policy governing working conditions of the parties, in effect as of the effective date of this Agreement, unless it conflicts with the terms of this CBA.

Section 2

a. Any lawful waivers of the rights given to Management or the Union by the Statute, 5 U.S.C. Chapter 71, must be clearly and unmistakably set forth in a written Agreement and understood to be waived by both the Union and the Agency.

b. Where an Agency policy or regulation conflicts with this CBA or other Agreement(s) between the Parties, the CBA and the Agreement(s) shall govern.

Article 2: Mid-Term Bargaining

Section 1—Introduction

a. The Parties agree that personnel policies, practices, and matters affecting working conditions of Bargaining Unit employees that are not covered by this Agreement shall not be changed by the Agency without prior notice to and negotiations with the Union in accordance with applicable law.

b. This Article sets forth the procedures the Parties will follow concerning mid-term bargaining.

c. Nothing in this Article will be deemed to have waived a right of either Party under the Statute.

Section 2—Procedures for Bargaining

a. The Agency agrees to notify the Union in writing of any proposed changes described in Section 1. The Agency will provide reasonable advanced notice, normally not fewer than fifteen (15) calendar days in advance of implementation, except in emergency situations or situations beyond the control of the Agency.

b. The Agency notice to the Union will, at a minimum, contain the following information:

    1. The nature, scope, and description of the proposed change;

    2. An explanation of why the proposed change is necessary;

    3. A plan and proposed date for implementing the change.

c. The Union will have a reasonable amount of time to request bargaining. Should the Union wish to bargain, a request to bargain with bargaining proposals must be received within fifteen (15) calendar days of receipt of written notice. The Union may request an extension of the period as necessary. If the Union does not submit a request to bargain, information request, and/or submit written proposals within the time limit, the Agency may implement the change.

d. The Union may initiate bargaining on personnel policies, practices, and matters affecting working conditions during the term of this Agreement on matters not expressly covered by this Agreement in accordance with the Statute.

e. When the Agency has received a written proposal from the Union, the Agency may submit written counter proposals within fifteen (15) calendar days of the Union's proposal. The Agency may request an extension of the period as necessary.

Section 3—Agreement to Negotiate

a. If a notice of proposed change provided under Section 2 results in a request to negotiate, the Parties will schedule a meeting to begin negotiations as soon as possible, generally no later than thirty (30) calendar days from the receipt of a request to negotiate, or as otherwise agreed to by the Parties.

b. Extensions of all time limits within this Article will be granted for the period of interruption in case of furlough, natural disaster, or other events outside the control of either Party.

Section 4—Ground Rules

Nothing in this Article is intended to preclude the Parties from formulating ground rules for mid-term bargaining issues.

Section 5—Mid-Term Agreements

For all written Agreements on mid-term topics as defined in Section 1a, a representative from the Office of Employee and Labor Relations must be one of the signatories.

Article 3: Labor Management Cooperation

Section 1—Introduction

a. The Parties agree to work collaboratively to adopt and practice collaborative labor relations to enhance the principles of mutual trust, accountability, understanding, and respect and to support and encourage cooperative labor-management relationships at all levels in the Agency.

b. In support of collaborative working relationships, the Parties agree to establish a Labor-Management Forum (LMF).

c. The Parties agree that it may be beneficial to establish departmental office level forums for the department offices listed previously (see Recognition Coverage and Unit Description) for representing their specific interests through the LMF to management.

d. The Parties agree to meet to develop an LMF Charter within six (6) months of the effective date of this Agreement.

Section 2—Objectives

The LMF shall have the following specific objectives:

a. foster communication between the Parties;

b. serve as a forum to discuss issues of mutual concern;

c. work to build consensus for joint problem solving and planning; recognize it is best to have a shared position;

d. assess the need, if any, for sub-committees of this LMF and/or additional labor management committees at the Secretarial Officer level;

e. promote and support the creation of additional labor management committees;

f. inform and educate the Agency about the concept and benefits of labor management collaboration;

g. communicate and share the activities of the forum with the Agency; and

h. make recommendations to the Agency leadership and monitor the progress of such actions.

Section 3—Discussions

It is understood that any discussions in the LMF will not assume the character of formal negotiations between the Parties to this CBA. Although discussions between the Agency and the Union during the LMF meetings may result in further study of problems raised, neither the Agency nor the Union is obligated to reach agreement on the issues addressed during such discussions through the LMF. However, the Union understands it has a right to waive its rights to traditional bargaining if the Parties agree to jointly formulate a personnel policy, practice, or a matter affecting working conditions.

Section 4—Participation

The Parties also recognize that the LMF can only be effective when participation is voluntary and entered into freely and without reservation. Should any future Executive Order or law be issued affecting the LMF, the Parties agree to reopen this Article for negotiation or meet to discuss an exit strategy at that time.

Article 4: Safety, Health, and Wellness

Section 1—General

a. Maintaining safe and healthful work environments, as a shared value by the Union and Agency, is necessary for the accomplishment of the Agency's mission, and contributes to a high quality of life for employees. The Agency will, consistent with the applicable requirements of the Occupational Safety and Health Act of 1970, Executive Order 12196, 29 C.F.R. Part 1960, Agency policies and other applicable safety and health codes, provide and maintain conditions and places of employment that are free from recognized hazards and unhealthful working conditions.

b. Nothing herein will prevent the Union from initiating additional negotiations to address safety, health, or wellness for issues not covered by this CBA.

c. A Union representative will be allowed to participate on the DOT Occupational Safety and Health Committee during duty time. Upon the representative's request, he or she will be granted access to OST safety reports, provided names of OST Wardens, and allowed to accompany the safety officer during regular safety inspections of OST space, subject to operational needs. OST Wardens' participation will be on duty time.

d. There will be no restraint, interference, coercion, discrimination, or reprisal directed against any employee for filing a report of an unsafe or unhealthful working condition or for participating in Occupational Safety and Health Program activities or because of the exercise by an employee on behalf of him/herself or others of any right afforded by the Occupational Safety and Health Act, Executive Order 12196, 29 C.F.R. Part 1960, or any provision of this Article.

Section 2—Unsafe/Unhealthful Conditions

a. If there is an emergency situation in a work site, the paramount concern is for the preservation of safety and health. Should it become necessary to evacuate an area, the Agency shall take precautions to ensure the safety and health of employees. Employees will not be readmitted to an evacuated area until it is determined that the danger no longer exists.

b. The Agency shall provide relief or assistance to employees who are required to lift items, or who operate machinery or equipment requiring exertion beyond safe limits specified in applicable laws, rules, or regulations.

Section 3—Work-Related Injuries and Illnesses

a. Upon request, the Agency will provide employees with information regarding the appropriate forms, filing requirements, and timelines for Workers' Compensation claims.
b. Although it is the Agency's obligation to provide a safe and secure working environment, the Agency and Union agree to work together to prevent workplace violence and to minimize the occurrence and effects of violence in the workplace should it occur. Violence constitutes a health and safety hazard in the workplace. Exposure to violence can result in both physical and emotional harm to employees.
c. The Agency shall report all incidents of violence in the workplace to the Union subject to the privacy rights of victims and perpetrators.

Section 4—Indoor Air Quality

Employees are entitled to work in an environment containing safe and healthy indoor air quality. The Agency shall provide safe and healthy indoor air quality by conforming to laws, guidelines, regulations, and/or policies issued by Federal regulatory agencies such as OSHA, EPA, and GSA.

Section 5—Renovation and Construction

Wherever management decides to alter the physical work site of employees represented by the Union, the Union will be notified in advance in accordance with the Mid-Term Bargaining Article of this CBA.

Section 6—Wellness Program

Employee wellness and the investment in programs to maintain employee health contribute directly to sustained productivity and reduction of lost employee time due to illness. Therefore the Agency will facilitate and/or encourage programs in such areas as weight reduction, stress reduction and management, nutritional

counseling, smoking cessation, prevention of injuries and illnesses, health screenings, and exercise.

Article 5: Management Rights

Section 1—Purpose

This Article shall be administered in accordance with 5 U.S.C. Chapter 71 and this CBA. The purpose of this Article is to set forth the statutory management rights set forth in 5 U.S.C. § 7106(a).

Section 2

Nothing in this CBA shall affect the authority of any Agency management official:

a. To determine the mission, budget, organization, number of employees, and internal security practices of the Agency; and

b. In accordance with applicable laws:

   1. to hire, assign, direct, lay off, and retain employees in the Agency or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

   2. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;

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

      a) among properly ranked and certified candidates for promotion; or any other appropriate source; and

      b) to take whatever actions may be necessary to carry out the Agency mission during emergencies.

Section 3

In accordance with 5 U.S.C. § 7106(b)(1), nothing in this CBA shall preclude the Agency and the Union from negotiating:

a. at the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

b. procedures that management officials of the Agency will observe in exercising any authority under this Section; or

c. appropriate arrangements for employees adversely affected by the exercise of any authority under this Section by such management officials.

Article 6: Union and Employee Rights

Section 1—Right to Organize

In accordance with 5 U.S.C. § 7102, each employee shall have the right to join or assist the Union, or to refrain from such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided in this CBA or by law and/or regulation, such rights include:

a. The right to act for a labor organization in the capacity of a representative, and the right, in that capacity, to present the views of the labor organization to heads of Agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and

b. The right to engage in collective bargaining with respect to conditions of employment through representatives.

Section 2—Right to Representation

a. Employees have a right to the representation and assistance of the Union. Employees may contact and meet privately with a Union representative during duty hours for representational matters. The employee will be released from duties when she/he requests to exercise this right, unless there is a pressing operational necessity.

b. The Union shall be given the opportunity to be represented at any examination of an employee by a representative of the Agency in connection with an investigation if the employee reasonably believes the examination may result in disciplinary action and the employee requests representation as authorized by 5 U.S.C. § 7114(a)(2)(B).

Section 3—Communication/Surveys

a. Consistent with 5 U.S.C. Chapter 71, the Agency will not communicate with employees in a manner that attempts to bargain directly with employees regarding conditions of employment in a manner that will improperly bypass the Union.

b. Surveys. The Agency will provide the Union with reasonable advance written notice of surveys conducted by the Agency concerning conditions of employment that involve Bargaining Unit employees. The Agency will also provide the Union with an advance written copy of survey results as soon as possible. If available to management and if such release protects the respondents' confidentiality, summary results based on Bargaining Unit respondents will be provided to the Union. This Section is not intended to preclude any Union involvement in such surveys that may exist in accordance with past practice, the Parties' mutual agreement, or statute.

Section 4—Personal Rights

a. Agency managers and employees will deal with each other in a professional manner and with courtesy, dignity, and respect, and to the extent possible, supervisors will hold discussions with employees regarding performance and conduct in private.

b. If an employee is to be served with a warrant or subpoena, it will be done in private to the extent that the Agency has knowledge of and can control the situation.

c. Agency management may not discipline an employee who refuses to obey an order that is found to be unlawful.

d. Employees shall have the right while off-duty to direct and fully pursue their private lives, personal welfare, and personal beliefs without interference by the Agency, unless such interference promotes the efficiency of the service.

e. Employees facing termination may resign freely in accordance with prevailing regulations at any time prior to the effective date of the termination. It shall not be the standard practice for the Agency to have the police accompany/escort employees off the premises who have chosen to resign. The employee may withdraw his or her resignation prior to the effective date, as long as the position is uncommitted or unencumbered, and provided the employee has not committed to resign pursuant to a settlement agreement.

f. An employee's decision to resign or retire, if eligible, shall be made freely and in accordance with prevailing regulations.

Section 5—Break Areas

The Agency will provide employees with access to clean and comfortable break areas in proximity to their work areas. To the extent funding is available and in accordance with General Services Administration regulations and law, the break areas will include kitchen facilities including sinks, refrigerators, and appliances for heating food, making coffee and tea, etc.

Section 6—Timely and Accurate Compensation

a. Employees are entitled to timely receipt of all compensation earned by them for the applicable pay period, provided funding has been made available through the appropriate sources for such compensation. The Agency will make every reasonable effort to ensure that employees receive their pay on the established payday and at the address or electronic site designated by the employee in accordance with Department of Treasury rules and regulations.

b. If the Agency fails to deliver a Bargaining Unit employee's earned pay (including overtime, holiday, night, and weekend pay) on the established payday, the Agency, upon request by the employee, will authorize an emergency payment in accordance with law and regulation, provided funding has been made available through the appropriate sources for such pay.

Section 7—Whistleblower Protection

Employees are protected by the Whistleblower Protection Act of 1989, and the Whistleblower Protection Enhancement Amendments of 2012, against reprisal for the lawful disclosure of information that the employee reasonably believes evidences a violation of law, rule, or regulation, or evidences gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Section 8—Voluntary Activities

Contributions to the Combined Federal Campaign; purchase of U.S. bonds in any bond drive; and blood donations are voluntary activities. Participation or nonparticipation will not advantage or disadvantage employees.

Section 9—Statutory Requirements

Personnel management will be conducted in accordance with applicable law, including 5 U.S.C. § 2301, Merit System Principles, and 5 U.S.C. § 2302, Prohibited Personnel Practices.

Section 10—Union Rights

a. The Union will designate its own representatives and notify the Agency, on a current basis, of the name, title, and work location of its representatives. In turn, the Agency will inform new Bargaining Unit employees, or employees transferring between offices, upon entering on duty, of the name of the Local President or designee.

b. Consistent with 5 U.S.C. § 7114(a)(1) and (2), as the exclusive representative of unit employees, the Union is entitled to act for and negotiate collective bargaining agreements covering all employees in the unit. The Union shall be given the opportunity to be represented at any formal discussion between one (1) or more representatives of the Agency and one (1) or more employees or their Union representatives as required by law. The Agency will give the Union sufficient advance notice to exercise its rights under this Section. No formal discussion between the Agency and its employees will be unreasonably delayed by this provision.

c. At the start of any formal discussion, the Agency representative will ask Union representatives who may be present to introduce themselves. Furthermore, the Agency management representative will permit the Union representative to ask relevant questions, to present a brief statement before the end of the meeting outlining the Union's position concerning the issues presented by the Agency, and to have appropriate participatory rights during the meeting.

Article 7: Dues Withholding

Section 1—Purpose

a. Dues withholding from Bargaining Unit employees shall be administered in accordance with 5 U.S.C. Chapter 71, and this CBA.

b. Bargaining Unit employees may authorize the payment of labor organization dues to the Union by voluntarily completing a Standard Form (SF) 1187 "Request for Payroll Deductions for Labor Organization Dues" or its equivalent. Information as to which employees elect to pay dues will only be used in conducting official business and will not be disseminated to any individual without a need for this information.

Section 2—Dues Subject To Withholding

The term "dues" includes regular and periodic dues, fees, and assessments of the exclusive representative of the unit. The Agency shall honor the assignment and make allotments pursuant to the assignment. All regular and periodic dues allotments will be processed by the Parties in a timely manner.

Section 3—Allotments (Payroll Deductions)

a. Union members who desire to make an allotment for payment of dues will request such allotments by completing SF-1187. The Union will procure the forms as needed and will make them available to the Union members. Dues allotment will be made at no cost to the employee or the Union.

b. Completed allotment forms will be submitted to the Local President or other authorized officer, who will complete the certification portion of the form. The Union, in turn, will promptly submit all such forms received from employees to the Employee and Labor Relations Manager for processing.

c. Allotments will be effective at the beginning of the first complete pay period following the receipt of a properly completed SF-1187 by the OST Payroll Office. The Union may contact the Payroll Office for assistance in resolving discrepancies.

Section 4—Payment and Union Dues Deduction Report

a. OST's Payroll Liaison Office will make a remittance to the Union for amounts withheld on a biweekly basis. The remittance will be by electronic funds transfer for the balance of the dues withheld. The means of payment will be at the Union's option.

b. The payment will be accompanied by a Union Dues Deduction Report containing:

   1. Identification of the Union;

   2. Total amount of the remittance;

   3. Name of employee, date, the amount deducted, and an indication if it is a new allotment;

   4. Names of employees for whom deductions previously authorized were not taken, with indication for reason; and

   5. Total number of members for whom dues are withheld.

c. If remittance is made directly to the AFGE National Office, a copy of the Union Dues Deduction Report will be provided to the Local Union.

Section 5—Changes in Dues Withholding Amounts

The Union may change the amount of the Union dues deducted as needed. The Local Vice President or other authorized Union officer shall forward a statement to the OST Employee and Labor Relations Manager indicating the dues change. Such statement must be received fifteen (15) calendar days prior to the first day of the pay period in which such change is to be effective. Changes will be effective the first pay period after timely receipt by the Payroll Office.

Section 6—Employee Dues Revocation

a. Union members who have authorized Union dues withholding may revoke their authorization after the completion of a one (1) year

membership.

b. In order for dues deductions to be stopped on the first full pay period after the anniversary date, the SF-1188 must be submitted to the Union and the Employee and Labor Relations Manager no earlier than thirty (30) calendar days prior to the anniversary date. SF-1188 forms submitted after the anniversary date will not be accepted.

Section 7—Automatic Dues Revocation

Notwithstanding the above, dues deductions will terminate with the start of the first payroll period after which any of the following occurs:

a. Loss of exclusive recognition by the Union;

b. Separation of the employee for any reason;

c. Notice to the Agency from the Union that the employee has been suspended or expelled from the membership of the Union;

d. Transfer, reassignment, promotion, or demotion of an eligible member to a position excluded from the Union's recognition; or

e. Activation of an employee into active duty military status.

Section 8—Membership Challenges

If the Agency removes or denies an employee from dues withholding based on a belief that the employee's position is outside the Bargaining Unit, and the FLRA determines that the Agency acted improperly, the Agency will promptly start or re-start the employee's dues withholding authorization and make the Union whole for all lost income in accordance with law, rule, and regulation.

Section 9—Reinstatement of Separated Employee

If an employee who has been separated by the Agency is reinstated by an arbitrator, the Merit Systems Protection Board (MSPB), the Equal Employment Opportunity Commission (EEOC), or a court of competent jurisdiction, and the Agency is required to make the employee whole, and the employee was a Union member at the time of his or her separation, dues withholding will be restored at the request of the employee, starting with the effective date of the reinstatement.

Article 8: Facilities, Equipment, and Services

The parties agree to negotiate over Union office space, furniture, and equipment separate and apart from this collective bargaining agreement (CBA). Such negotiations may be conducted jointly with the other Operating Administrations whose bargaining unit members are represented by AFGE Local 3313.

Section 1—Intranet

The Agency agrees to post the following information and links on an OST HRO Share Point site:

a. Location, hours, and contact information for the Union, including the Union phone number and email address.

b. Web links to the Collective Bargaining Agreement; SF-1187, Request for Payroll Deductions for Labor Organization Dues; SF-1188, Cancellation of Deductions for Labor Organization Dues; and the Local AFGE web page (http://www.afge-local3313.org/).

Section 2—Notification

The Agency agrees to forward a link to the electronic version of the CBA to all Bargaining Unit employees no later than thirty (30) days after the effective date of this agreement.

Section 3—Electronic Equipment

a. Employee use of electronic equipment is subject to applicable laws and regulations and the standards set forth in Agency policy and the provisions of this CBA.

b. It is understood that employees do not have the right to privacy while using any government office equipment (e.g., telephone, computer, etc.) and that the use of such equipment is not secure, private, or anonymous, and is subject to monitoring. For example, should an employee use a government computer to read or respond to email sent to a non-government email address (e.g.,

Gmail, Yahoo, MSN, etc.), this use can be viewed by others and monitored.

c. Specific monitoring of personal or official use of government-owned equipment will be conducted only for legitimate Agency purposes.

d. The Parties recognize that the internet, intranet, and email traffic is traceable and identifiable as to its source; therefore, employees should be aware of the impression such use will have on the public.

e. Limited personal use of government telephones and computers is authorized as set forth in government-wide regulations and Agency policy when:

   1. it involves no or minimal additional expense to the government;

   2. it does not reduce the employee's productivity;

   3. it does not interfere with the official duties of other employees.

f. Government equipment is normally authorized for use by employees for official government business (the Agency is not required to supply employees with equipment if such equipment is not required to perform the employee's official government business).

g. Employees must ensure that personal use of government equipment does not give the appearance that they are acting in an official capacity on behalf of the Agency. When the official capacity of the user could cause such a question by the public, an appropriate disclaimer should be provided.

h. Agency information will not be posted on external news groups, bulletin boards, or other public forums without official authorization.

i. The Agency will provide employees with effective equipment and sufficient resources to perform the functions of their job assignments while on official travel.

j. Brief personal telephone calls at work by employees are acceptable, provided these do not interfere with work production, office efficiency, or are contrary to written policy. The Union will be notified in writing of any change in policy or practice contrary to this provision and which would impact the working conditions of its members.

k. Restrictions on the carry and use of personal and government equipment are subject to this Article and applicable Agency policies. Generally, changes to

policy or practice will be implemented, following the fulfillment of the parties' bargaining obligations in accordance with applicable statutes and the provisions of this CBA.

Section 4—Distribution of Information

a. Official publications of the Union, which may include newsletters, fliers, or other notices, may be distributed on Agency property by Union representatives during approved Official Time or non-duty time of the employees distributing the literature. Preparation of such material shall be without cost to the Agency. All such materials shall be properly identified as official Union issuances. Distribution shall be accomplished so as not to disrupt operations.

b. The Agency agrees that the Union will have use of the interoffice mail system. The Union will be responsible to ensure that proper addresses are on all material distributed.

c. Upon request and as available, the Union will be provided electronic copies of policy letters, policies, and available vacancy announcements posted to USAJOBS.

Section 5—Bulletin Boards

a. At the Union's request to the Labor and Employee Relations office, the Agency will provide reasonable bulletin board space located in pantries across OST in areas with a large Bargaining Unit representation, for the display of Union literature, correspondence, notices, and related material as needed. The names, work locations, and telephone extensions of the Union officers or stewards may also be displayed.

b. At the Union's expense and in accordance with the Agency's specifications, the Union may have lockable glass-encased bulletin boards mounted by the Management Services to substitute for the Agency-provided bulletin board space.

c. The Union agrees that literature posted will not reflect falsely on the integrity of an individual or of Government agencies.

d. The Union will be responsible for posting and/or removal of such material. The Union will have access to locked bulletin boards identified in this Article and the Union is responsible for safeguarding any keys for bulletin board access.

Section 6—Email

The Union may communicate with Agency officials, Bargaining Unit employees, neutral third Parties, or members of the public via the Agency's email system for representation purposes, subject to the same standards that apply to all users as established by applicable laws, regulations, and Agency policy.

Section 7—Access to Agency Office Space/Conference Rooms

Upon advance written request of the Union, and subject to availability, and no cost to OST, space will be made available for meetings of the Union during non-duty hours of the employees involved. The Union agrees to exercise reasonable care in using such space and will leave it in as clean and orderly condition as it was prior to the meeting.

Section 8—Break Rooms/Areas

It is understood that subject to management approval, Union officials may utilize employee break rooms/areas for Union-related events. Union officials not employed with OST will notify management when entering the facility. When a break room is to be used for a Union event, the Union will request access in writing from the appropriate management official as much in advance as possible.

Article 9: Official Time

Section 1—Purpose

a. The purpose of Official Time is to provide Bargaining Unit employees time to prepare for and conduct Union representational activities.

b. Official Time shall be used during normal working hours, without loss of pay or charge to annual leave. This Article provides an equitable process for the allocation and approval of Official Time and recognizes that the appropriate use of Official Time benefits both Agency management and the Union and contributes to the development of orderly and constructive labor-management relations.

c. Official Time in the Agency shall be administered in accordance with 5 U.S.C. § 7131 and this CBA.

d. A reasonable amount of Official Time is the amount of time necessary to accomplish the specific task for which Official Time is requested to include local travel for conducting representational duties.

Section 2—Representational Functions

a. Officers, Union Vice Presidents, Stewards, and other representatives of Local 3313 are authorized to perform duties properly assigned to them by the Union subject to the restrictions on use of Official Time provided in Section 2d of this Article. The total number of Stewards and Officers eligible for Official Time under this Article will be the greater of the ratio of one (1) to each seventy-five (75) employees in the Bargaining Unit or six (6) Stewards and Officers.

b. Elected or appointed Union representatives may use Official Time for representational purposes as provided by 5 U.S.C. § 7131 during such time as they are otherwise in a duty status. This time will be without charge to leave.

c. Only those Union representatives for whom the Agency has received a written designation will be recognized. The Union will provide written

notification to the Agency of the names of each person designated as Union officers, points of contact, and Stewards, after their designation. The Union will also provide written notification of any change in designation of Union representatives.

d. Official Time is prohibited for any activities performed by any employee relating to the internal business of the Union, including, but not limited to, the solicitation of membership, elections of Union officials, and collection of dues.
e. Official Time for employees and representatives is provided under separate authority to participate in certain statutory appeal procedures. This includes, but is not limited to, proceedings before the FLRA, the MSPB, and the EEOC.

Section 3—Release Procedures for Representational Official Time Use

a. Union representatives will be permitted to leave their assigned work area on Official Time as authorized under this CBA after reporting to their immediate supervisor or appropriate management official and identifying the general purpose of their activity. The Official Time will be reported and tracked in the Agency's time and attendance system.

b. The representative will be released as requested, verbally or in writing, unless the representative's absence would unduly interfere with operational requirements. If the representative cannot be released at the time of the request, the representative and the supervisor will arrive at a mutually agreeable time for release, normally within twenty-four (24) hours. The Union representative will be given time to inform Bargaining Unit employees involved in the delay.

c. If a request for Official Time is denied, upon request, the supervisor shall provide the compelling reasons for the denial in writing.

d. When the Union representative needs to leave the work site and his or her supervisor is temporarily absent from the site and there is no other management official available to receive the request, the representative will notify the supervisor by telephone voice mail, or by sending an email message indicating where he or she is and approximately how long he or she will be gone. A union representative will not leave his/her work site if his/her absence would unduly interfere with operational requirements.

e. Upon entering a work area other than his or her own to meet with an employee, the representative will advise the immediate supervisor of his or her presence, the employee to be contacted, and the estimated duration of the meeting.

f. When informing a manager or supervisor of the need for Official Time, the designated Union representative shall provide the minimum amount of information necessary to the supervisor to allow the supervisor to make an informed determination concerning the request.

Section 4—Allocation of Official Time

a. The Agency will provide Union representatives a reasonable amount of Official Time under the provisions of 5 U.S.C. § 7131 to prepare for and carry out statutory representational functions (e.g., attendance at formal discussions or negotiations, preparation of grievances, and preparation for arbitration).

b. The Agency will provide Union representatives a reasonable amount of Official Time for union-management business, defined as including:

1. Preparing and presenting a grievance and/or investigating possible grievances;

2. Consultation by designated Union representatives with the Agency, including exchanges of information and views relative to formulating, changing, or implementing personnel policies and practices, working conditions, and considering any views, objections, or suggestions before final action is taken;

3. Union representation on joint union-management committees;

4. Preparing for, traveling to, participating in, and returning from meetings called or requested by the Agency, in conjunction with matters described within this Subsection;

5. Investigating, preparing, and presenting a reply (whether oral, written, or both) to a notice of proposed adverse action, performance-based action, within-grade denial, or Reduction in Force (RIF) appeal;

6. Representation in connection with an Equal Employment Opportunity (EEO) discrimination complaint, a request for reconsideration or an

appeal of an acceptable level of competence determination, or a classification appeal;

7. Time to prepare and, if required, participate in an FLRA (unfair labor practice charge or unit clarification), Federal Service Impasses Panel, MSPB, EEOC, or Office of Workers' Compensation Programs (OWCP) proceeding;

8. Negotiations, mediations, and/or arbitrations;

9. Labor relations training for Union representatives;

10. Maintenance of records and reports required of the Union by Federal agencies; and

11. Maintenance of financial records and books required to complete IRS reports.

c. Brief unscheduled passerby communications between a Union representative and an employee do not require a request for Official Time.

d. In order to facilitate predictable office scheduling, the Parties may reopen this Article at any time after a year from the effective date of the CBA, but only regarding dedicated Official Time.

e. Use of Official Time must be requested and approved in advance in a manner consistent with the terms of this Agreement.

Section 5—Duty Time for Employees

a. An employee may request a reasonable amount of duty time to meet with an appointed Union representative (in person or by telephone) regarding grievances or other representational matters. The employee will request through his/her immediate supervisor permission in advance to meet with a Union representative. The employee will inform his/her supervisor of the purpose of the meeting, the appointment time, and when he/she expects to return to the office. The employee should be released unless the absence will cause a work disruption. If the time is denied, the employee will be advised as to the time when approval can be granted.

b. Brief unscheduled passerby communications between a Union

representative and an employee do not require prior approval.

Section 6—Training

a. Consistent with the Agency's mission requirements, the Agency will grant up to one hundred and sixty (160) hours total of Official Time per calendar year to the Union Local, for its current Union officials to attend labor relations training or other training related to employees' conditions of employment. In addition, newly appointed Stewards may request Official Time for periods up to forty (40) hours to attend New Stewards Training.

b. Under this Section, Official Time approved for training will generally cover such areas as contract administration, handling of statutory actions such as grievances, and information related to Federal labor relations laws, regulations, and procedures. The Union may request additional hours of Official Time for training. A Union representative may not attend the same type of training within a one (1) year period.

c. Official Time will not be granted for training if the primary purpose is to train or inform employees as to solicitation of memberships and dues, or other internal Union business.

Article 10: Hours of Work

This Article will be administered in accordance with 5 U.S.C. Chapter 61, 5 C.F.R. Part 610, the Fair Labor Standards Act (FLSA), the Federal Employee Pay Act (FEPA), OST policy, and this Agreement. This Article will supersede any previous agreements to hours of work, including work schedules.

Section 1—General Provisions

a. The official business hours of the OST Program Offices are 9:00 a.m. to 5:30 p.m. Monday through Friday. Program Offices may vary their offices' official business hours to meet operational requirements by providing notice to the Union and bargaining in accordance with law.

b. Program Offices may establish work schedules that include Saturdays and Sundays to meet operational requirements. The Agency will inform the Union prior to implementing work schedule changes, e.g., number of shifts and shift starting times, and bargain to the extent required by law.

c. Standard Work Schedules consist of ten (10) fixed eight (8)-hour days in a bi-weekly pay period. Schedule changes within the administrative work week will not be used solely to avoid overtime pay unless it would seriously handicap the Agency in carrying out its functions or would substantially increase costs. Upon request, the Agency will provide the Union a written rationale for changing these work schedules.

d. Regular Day Off (RDO) is a calendar day, to include Saturday and Sunday, that an employee is not scheduled to work under a standard or alternative work schedule (AWS).

e. Core Hours are designated periods when employees must be on duty, on approved leave, or on an RDO. The Core Hours for OST are 9:30 a.m. to 2:30 p.m. Program Offices may establish alternative Core Hours consistent with specific mission requirements or organizational goals of an office, as well as Core Hours for shifts other than the regular day shift.

f. Core Days are designated workday(s) of the week on which an employee must be on-duty at their designated duty station, except when on leave or official travel. OST core days shall be established at the discretion of the Agency. In determining core days, Agency leadership should take into consideration factors such as mission requirements, the level of meaningful in-person interactions, and general staff needs. Exceptions will be addressed on a case-by-case basis and in accordance with applicable Agency policies (e.g., reasonable accommodations, telework exceptions, etc.). Supervisors will ensure that the identification of any core day(s) shall be reflected in an employee's Telework Agreement.

g. In the event the government declares an emergency and authorizes unscheduled telework on a scheduled on-site core day, employees will not be required to make up that in-office day unless there is a mission requirement necessitating their in-office presence.

h. If employees are required to work evenings, weekends, or holidays, those days will be scheduled fairly and equitably among affected employees who are qualified and perform similar work.

i. All work schedules will be assigned between 6:00 a.m. and 6:00 p.m. except for supervisor-approved overtime or for regular work schedules to meet operational requirements. Employees that request and are approved to work before 6:00 a.m. and after 6:00 p.m. will not be authorized night differential pay.

j. A scheduled non-overtime workday will not exceed ten (10) paid working hours, except to meet mission requirements.

k. Supervisors will schedule an employee's arrival and departure for the same time from day to day, except as approved for employees working flexible work schedules.

l. Employees will self-certify arrival, departure, leave, as well as any other exceptions to the normal workday using the Agency time and attendance system.

m. All work schedules and changes must be approved in advance by the supervisor prior to the effective date of the work schedule change. Supervisors shall make a determination in writing on an employee's

request for a work schedule change within two (2) full pay periods.

n. Supervisors will normally provide at least two (2) full pay periods' advance notice in writing for a management-directed schedule change, unless the shift change requirement is urgent in support of the office's operations.

Section 2—Alternative Work Schedule (AWS) Program

The use of alternative work schedules has the potential to improve employee productivity and morale and accomplish the Agency's mission and goals in an efficient fashion. Exclusion or denial from participation will be based solely on either operational requirements or the Flexible and Compressed Work Schedules Act, 5 U.S.C. §§ 6120- 6133.

a. AWS must be consistent with organizational needs, provide for adequate, continuous office coverage, and result in no diminution of work performed.

b. The Agency will notify the Union when Bargaining Unit positions are determined to be ineligible, or an employee is denied an AWS. The Agency will provide the employee a reason for the denial. Position(s) or employee(s) removed from eligibility to work an AWS will be bargained in accordance with the terms of the Mid-Term Bargaining Article.

c. An employee may be terminated from an AWS for discipline or diminution in performance related to the employee's work schedule.

d. Employees are eligible to simultaneously have an AWS and be on a telework agreement.

e. Supervisors are responsible for approving or disapproving in writing an employee's request for an AWS, to include start and end times under flexible work schedules, scheduling the work, usage of credit hours, and the designation of an employee's RDO to ensure sufficient available staffing and office coverage to meet operational requirements.

f. Consistent with mission requirements, upon request by an employee, the Agency will be flexible in approving participation by

employees in the AWS program and the employees' selection of specific AWS plans.

g. Employees may request one of the following types of Agency-approved AWS to fulfill their basic work requirement:

1. Compressed Work Schedules (CWS):
    a. 5-4/9 work schedules consist of a fixed schedule within a bi-weekly pay period, with a nine (9)-hour work requirement for eight (8) days, an eight (8)-hour work requirement for one (1) day, which provides two (2) RDOs one week and three (3) RDOs the alternate week, to complete the basic work requirement of eighty (80) hours per bi-weekly pay period; and
    b. 4-10 work schedules consist of a fixed schedule within a bi-weekly pay period, with a work requirement of four (4) 10-hour days and three (3) RDOs each week, with the RDOs falling on the same days each week, to complete the basic work requirement of eighty (80) hours per bi-weekly pay period.

2. Flexible Work Schedules (FWS):
    a. Flexitour—The employee pre-selects arrival and departure times from a flexible band. The employee must be on duty in the office or teleworking during Core Hours.
    b. Gliding Schedule—The employee has a basic work requirement of eight (8) hours per day. However, the employee workday may start up to one (1) hour prior or after his or her regularly scheduled workday with no additional approval required. For example, if an employee is scheduled to report to work at 8:00 a.m., the employee may arrive as early as 7:00 a.m. or as late at 9:00 a.m. without requesting advance approval.
    c. Maxi-Flex—The employee has a basic work requirement of eighty (80) hours per pay period; the employee may vary the length of the week and the length of the workdays to work fewer than ten (10) days a pay period. Employees are expected to be available during Core-hours. As referenced here, a Maxi-

Flex schedule specifically refers to an employee's availability during core hours and does not modify designated duty station attendance requirements (e.g., core days).

h. Denials of requests to work alternative work schedules will not be arbitrary or capricious.

i. The Agency has the authority to determine which positions may use an AWS. The approval of a specific work schedule may be delegated to first- line supervisors. Only supervisors who have delegated authority may approve an AWS for specific employees.

j. Supervisor approval is required for changes to an RDO in an AWS.

k. When necessary, a supervisor may adjust an AWS to a standard work schedule when the employee is on official training, travel, or another temporary work assignment.

l. When considering the removal of an employee from an AWS based on performance, the Agency will identify in writing the specific connection between the schedule and the employee's performance.

Section 3 - Credit Hours

Credit hours are hours that an employee elects to work, with the supervisor's approval, in excess of the employee's eighty (80)-hour non-overtime work requirement under an FWS. The Agency will administer credit hours in accordance with 5 U.S.C., Subpart E, Chapter 61, and 5 C.F.R. Part 610.

a. Employees working a standard or CWS may not earn credit hours.

b. The employee must elect to perform work voluntarily; the supervisor must approve the credit hours prior to being worked or used.

c. Credit hours earned must be in excess of the basic work requirement for the employee.

d. Credit hours can only be used after they are certified in the Agency's time and

attendance system.

e. Employees earn credit hours equivalent to hours approved and worked, e.g., one (1) hour worked, one (1) credit hour earned.

f. Credit hours will be earned in one (1) minute increments and used in fifteen (15) minute increments.

g. Overtime and Sunday premium pay, and night differential, are not paid when an employee earns or uses credit hours.

h. A full-time employee may carry over a maximum of twenty-four (24) credit hours from one (1) pay period to the following pay period.

i. Employees are responsible for monitoring their credit hour balance in their leave and earning statements. Amounts in excess of the maximum allowed to be carried over to a subsequent pay period will be forfeited.

j. If an employee separates from Federal employment, transfers to another agency, or is no longer eligible to work a FWS, he or she will be paid his or her balance of credit hours up to the maximum allowable carry over limit.

Section 4—Employee Work Schedules

a. The Agency retains the right to determine the work objectives of any given unit and to disapprove in writing any work schedule that does not allow those objectives to be met. Supervisors, with the involvement of their employees, shall develop employee tours of duty/work schedules that provide for adequate office coverage during official hours and days of operation and are otherwise necessary to accomplish the Agency's mission. Supervisors may adjust work schedules to ensure adequate office coverage, accommodate training, and ensure service to the public. Upon request, the supervisor will provide to the employee(s) in writing the reason for the denial or change.

b. Supervisors will consider changes in individual schedules or assignments to permanent shifts requested by employees to pursue

further self- development activities when completion of the courses will equip the employees for more effective work within the Agency.

c. When operational requirements require a change in an employee's permanent schedule, supervisors will provide the employee with written notice of the change at least one (1) pay period in advance, except in unusual circumstances (e.g., unforeseen work requirements, special projects, or natural disaster).

d. Employees may be required to post their daily work status, to include RDO, travel, leave, and telework, along with official contact information, outside their offices or workstations.

e. Normally, employees will not be required to report to work unless they have had at least twelve (12) hours off-duty time between work tours.

f. Prior to changing or discontinuing an authorized work schedule, employees must submit a request to their supervisor in advance for approval prior to the start of the pay period when the change will occur.

Section 5—Meal/Lunch Periods

a. With supervisor approval, meal/lunch periods may be thirty (30), forty-five (45), or sixty (60) minutes in duration, and should be scheduled as close to the middle of an employee's tour of duty as possible and cannot be taken at the beginning or end of a shift.

b. Meal/lunch periods are not compensable work time, and the time taken for the meal period must be added to the employee's workday.

c. Meal/lunch periods may be staggered to ensure adequate office coverage.

Section 6—Adjustment of Work Schedules For Religious Observance

An employee whose personal religious beliefs require that he or she abstain from work at certain times of the workday or workweek must be

permitted to work alternative hours so that the employee can meet the religious obligation, unless it would cause undue hardship on the Agency's business. Disapprovals will be given to the employee in writing within two (2) workdays of the request.

Section 7—General Rules for Days In-Lieu-of Holidays

a. If a holiday falls on a Saturday, the preceding Friday is the in-lieu-of holiday.

b. If a holiday falls on Sunday, the following Monday is the in-lieu-of holiday.

c. If a holiday falls on the non-workday of an employee, other than Saturday or Sunday, the preceding workday is normally the employee's in-lieu-of holiday.

d. RDO adjustments required by a scheduled holiday or day in-lieu-of holiday will be determined by the supervisor in consultation with the employee.

Section 8 - Union Training and Education

The parties agree that BUEs shall be afforded a minimum of 30 minutes of approved duty time to participate in a Union sponsored meeting designed to exchange information or provide education on representational issues. The union will submit to the Labor and Employee Relations office, an electronic copy of their tentative agenda for approval of duty time, prior to scheduling such a meeting. The occurrence of such meetings is limited to 4 times per calendar year (2 occurrences which will be a members-only attendance). Employee attendance of such a meeting will not supersede any mission requirements. Supervisors will not unduly burden their staff members attending such a meeting.

Article 11: Overtime

Section 1—General

a. Employees shall be compensated for overtime hours worked in accordance with the provisions of the FLSA, the FEPA, and other applicable statutes, government-wide regulations, and provisions of this CBA.

b. All Bargaining Unit positions will be determined to be FLSA "exempt" or "non- exempt" at the time the position is classified. When classification actions are proposed that will result in a change to the FLSA determination, the proposed changes will be provided to the employees and the Union thirty (30) calendar days prior to the effective date.

c. Overtime will not be distributed or withheld to reward or penalize employees. Management will ensure fair and equitable assignments of overtime work, and maintain documentation of overtime worked and/or refused by the employee. Documentation will be made available upon request to employees and the Union. Hold-over overtime assignments will first be offered to qualified employees currently on duty.

d. When overtime work is transferable among similarly qualified employees, the supervisor will offer overtime on a volunteer basis before directing overtime.

Section 2—Overtime Pay

a. Overtime pay for FLSA non-exempt employees is equal to one and one-half (1.5) times the employee's hourly rate of pay.

b. Overtime pay for FLSA exempt employees is equal to one and one-half (1.5) times the employee's hourly rate of pay. However, if the employee's rate of pay exceeds the rate for a GS-10, Step 1, including any applicable special rate of pay or special pay adjustments, a locality-based comparability payment, or any applicable special rate of pay, the overtime rate is the greater of:

    1. One and one-half (1.5) times the applicable minimum hourly rate of basic pay for GS-10, Step 1; or

    2. The employee's hourly rate of basic pay.

Section 3—Types of Overtime

a. Regularly Scheduled Overtime

Any overtime work scheduled in advance, normally seven (7) days of the administrative work week as part of an employee's regularly scheduled work week is considered regular overtime. An employee shall be compensated for every minute of regular overtime work, in fifteen (15) minute increments, in accordance with the statutes and provisions of OPM regulations.

b. Irregular or Occasional Overtime

Overtime work that was not scheduled in advance of the administrative work week and made a part of an employee's regularly scheduled work week is considered irregular or occasional overtime. Irregular or occasional overtime work is paid in accordance with the FLSA, the same as regular overtime work, unless the employee requests in writing to receive compensatory time off in lieu of overtime premium pay. No advance notice is required for this type of overtime, which must be directed and approved by the supervisor.

c. Call-Back

Call-back overtime is a form of irregular or occasional overtime work performed by an employee on a day when work was not scheduled for the employee or for which he or she is required to return to his or her place of employment after having already concluded his or her tour of duty and departed the work site. It is understood that employees' safety is paramount and call-backs will be held to a minimum, and that employee rest requirements will be considered. In all call-back situations, the employee will be paid a minimum of two (2) hours of overtime, as provided for by government-wide regulation.

Section 4—Impact on Leave

a. Leave usage or balance will not be a factor in offering or assigning employees overtime. However, employees in a leave status will not be offered or assigned overtime until they return to duty. Overtime in conjunction with leave usage in the same pay period is permitted.

b. Employees on Military Leave under 5 U.S.C. § 6323(a) or Court Leave under 5 U.S.C. § 6322 are entitled to the same compensation they would have otherwise received but for their absence on military or court leave. This

overtime duty must be regularly scheduled overtime work, which would have otherwise required the employee to work overtime.

Section 5—Compensatory Time in Lieu of Overtime Pay

a. For FLSA non-exempt employees, the Agency shall provide overtime pay for all overtime work performed. After considering mission requirements, the Agency may grant compensatory time off for overtime work performed; however, non-exempt employees shall not be required to accept compensatory time off in lieu of payment for any overtime work performed. The Agency will consider employee-initiated requests, in writing, for compensatory time off in lieu of overtime pay.

b. Compensatory time off earned must be used by the end of the 26th pay period after such time was earned.

c. Upon expiration of twenty-six (26) pay periods or upon separation of the employee from the Agency, the Agency will pay FLSA non-exempt employees for any unused compensatory time off earned in lieu of overtime pay to the employee's credit, at the overtime rate in effect when the compensatory time off was earned.

d. FLSA exempt employees' earned compensatory time off will be forfeited if not used prior to the expiration of twenty-six (26) pay periods. However, if an employee is prevented from using compensatory time off due to an exigency of the Agency's business, the unused compensatory time off will be paid out at the overtime rate in effect when earned.

e. For FLSA exempt employees, whose rate of basic pay is above the rate for GS-10, Step 10, the Agency may at its discretion require the employee to receive compensatory time off in lieu of overtime pay for irregular or occasional overtime.

f. FLSA exempt employees whose rate of pay does not exceed the rate for GS-10, Step 10, may request, in writing, to receive compensatory time off in lieu of overtime pay for irregular or occasional overtime. Such written requests will normally be granted, subject to mission requirements. If the employee does not make such a written request, or if the Agency does not approve that request, the employee is entitled to compensation in accordance with the overtime requirements.

Section 6—Standby Duty and On-Call

a. Standby duty:

Time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official order to a designated post of duty and is assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes. Employees are compensated if the standby conditions are met in accordance with 5 C.F.R. Part 550 for exempt employees and 5 C.F.R. Part 551 for non-exempt employees.

b. On-call status:

Time spent in an on-call status is not hours of work, and the employee shall be considered off duty:

1. If the employee is allowed to leave a telephone number or 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

2. If the employee is allowed to make arrangements for another qualified person to perform any work that may arise during the on-call period.

Article 12: Annual Leave

The rules, policies, and procedures applicable to leave will be consistent with those set forth in 5 U.S.C. Chapter 63 and 5 C.F.R. Part 630. It is a right, not a privilege, for an employee to take annual leave, subject to the right of the supervisor to schedule the time at which annual leave may be taken.

Section 1—Annual Leave

a. Accrual: Annual Leave will be earned, accrued, approved, and used in accordance with applicable laws and regulations.

b. Scheduling: Supervisors shall manage and approve scheduled annual leave in their area of responsibility in a fair and equitable basis. Annual leave approval should be considered based on the following:

   1. The number of employees granted leave during any given period shall be governed by workload requirements and the number of employees required for necessary office coverage.

   2. Supervisors shall manage annual leave requests, to the extent practicable, so as not to preclude employees from taking consecutive weeks of leave in a leave year.

   3. Supervisors may restrict the scheduling of leave during certain periods for operational reasons. Barring urgent mission requirements, the employees and Union will normally be given a minimum fifteen (15) calendar day advance notice of the leave restriction.

c. Requests:

   1. Employees must request approval for anticipated leave in advance through the Agency's Time and Attendance system.

   2. Requests for annual leave should be made as far in advance as is practicable.

   3. When leave requests are made one (1) day prior to the leave start, the supervisor will make a leave determination as soon as possible.

4. Annual leave may not be charged in increments of less than fifteen (15) minutes.

5. Leave requests or changes, approvals and denials, along with the reason for denial, will be documented through the Agency's Time and Attendance system.

6. Changes from previously authorized annual leave to sick leave will be allowed in accordance with 5 C.F.R. § 630.406.
7. Employees will be informed in a timely manner of whether their requests for leave have been approved or denied, normally within five (5) work days of the request through the Time and Attendance system.

8. For an employee's annual leave request that includes the business day before or after a Federal holiday (other than Inauguration Day), a supervisor would not be considered untimely in approving or denying such request until ninety (90) calendar days prior to the holiday. This will allow a supervisor to consider all leave requests in reference to operational requirements.

9. A supervisor will normally approve an employee's request for scheduled annual leave in accordance with applicable law, policies, and this Article. Leave may be denied if it interferes with the supervisor's capability to meet operational requirements.

d. Requests for Unscheduled Leave:

1. If the need for leave cannot be anticipated, the employee shall contact his or her immediate supervisor or designated official to request approval of unscheduled leave as soon as possible prior to shift start, but no later than one (1) hour after the start of their normal work day. In the event that either the supervisor or other designated official is not available, the employee may utilize voice mail or email to notify the Agency of the need for unscheduled leave. If the leave cannot be granted, the supervisor will immediately notify the employee to report to work.

2. The supervisor normally will grant annual leave requests not made in advance based on a reasonable explanation, unless the employee is on leave

restriction or the employee's presence on duty is necessary for the mission. When an emergency requires more than one (1) day of leave, the approving supervisor will inform the employee of any requirement for requesting approval on a day-to-day basis thereafter, unless the employee requests more than one (1) day initially.

e. Explanations for Requests: A supervisor may not require an employee to provide a detailed explanation for why an employee wishes to take annual leave scheduled in advance. An employee may request annual leave for any reason he or she desires.

f. Multiple Requests: When a supervisor receives requests for annual leave from more than one (1) employee for a given period and cannot grant all requests due to the work needs of the office, an effort should be made by the employees involved to resolve the conflict. If it is necessary for the supervisor to get involved, the supervisor and employees involved will meet to discuss the matter and they will consider the following factors:

1. "use or lose" leave
2. Employee circumstances
3. Rescheduled or canceled leave
4. Financial implications

If the supervisor and the involved employees cannot resolve the conflict, the supervisor will use a random selection process to resolve the conflict. All affected Bargaining Unit employees should be present during the random selection process.

g. Annual Use-or-Lose Notice: The Agency will provide employees with annual notice of the date by which employees must use leave not eligible to be carried over to the following year ("use or lose"). Supervisors should encourage employees to schedule and use annual leave throughout the year.

h. Advancing Annual Leave: Subject to supervisory approval, an employee may be allowed to use advanced annual leave in situations where the employee lacks sufficient leave to cover the period being requested, but will earn enough leave to cover the amount of the advance by the end of the leave year; provided that workload permits, the employee is not on leave restriction, and it is

anticipated that the employee will remain an employee through the end of the leave year.

i. Annual Leave for Union Representatives: Subject to supervisory approval and workload considerations, an employee who is a steward or other Union official will be granted annual leave or Leave Without Pay (LWOP) to attend internal Union functions that are not covered by Official Time as set forth in this CBA. Normally, an advance notice of five (5) work days will be required.

Article 13: Sick Leave

Section 1—Accrual and Approval

a. Employees will earn and accrue sick leave in accordance with applicable law and regulations. Employees may utilize sick leave in fifteen (15) minute increments.

b. The Agency will approve an employee's request for sick leave when the employee:

    1. Is scheduled to receive medical, dental, or optical examination or treatment;

    2. Is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;

    3. 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; or

    4. Provides care for a family member with a serious health condition;

    5. Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;

    6. 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; or

    7. Must be absent from duty for purposes relating to his or her 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.

c. The Agency will also approve sick leave for medical related appointments for employees with disabilities, and for employees that require rehabilitation and therapy.

d. Employees shall attempt to contact the immediate supervisor or designated official to request approval of unscheduled sick leave by telephone or email, prior to the start of the employee's normal work day, but no later than one (1) hour prior the start of the employee's normal work day unless a medical

emergency precludes such notification. Employees subject to a leave restriction shall follow the procedures outlined in the leave restriction.

e. In the event that the supervisor or designated official is unavailable, the employee may leave a voice mail message or email to notify the supervisor of the need for unscheduled sick leave. Failure to request sick leave within one (1) hour of the time established to report for duty will not be the sole reason to deny sick leave. An employee may use a surrogate to contact the supervisor in cases where the employee is not capable of contacting the supervisor.

Section 2—Substitution of Annual Leave for Sick Leave

a. Upon request by the employee, an approved absence that otherwise would be chargeable to sick leave may be charged to annual leave. Employees should make every reasonable effort to request such changes prior to certification of the time and attendance submission for that pay period.

b. Upon approval of the request to substitute annual leave for sick leave, employees may use the appropriate leave code in the CASTLE timekeeping system (Leave Code: 025 – Annual in Lieu of Sick).

Section 3—Scheduling

Employees should schedule non-emergency medical, dental, optical, psychological, or alcohol/drug counseling appointments as far in advance as practicable and should request sick leave in advance for such appointments.

Section 4—Denials of Sick Leave Requests

a. When an employee submits administratively acceptable evidence of illness or incapacitation prior to disciplinary action being taken, the employee is entitled to sick leave and may not be denied sick leave solely based on the failure to follow proper sick leave procedures and may not be charged with Absence Without Leave (AWOL).

b. Denials of sick leave requests will be based on consistent and valid mission related reasons. The supervisor will notify the employee of the denial as soon as possible, normally not more than two (2) hours after the employee's request. Other than a leave abuse situation, the employee will be charged

sick leave while awaiting approval and will be given a reasonable amount of time to report to work without a charge of AWOL.

Section 5—Administratively Acceptable Evidence

a. Supervisors may require employees to provide administratively acceptable documentation to substantiate a sick leave request that exceeds three (3) consecutive workdays.

b. Employees will not normally be required to furnish administratively acceptable evidence to substantiate a request for approval of sick leave for three (3) consecutive workdays or fewer unless such a requirement has been formally imposed by the supervisor in writing, or the supervisor reasonably believes that a request for sick leave is not legitimate.

c. Administratively acceptable evidence normally means a written statement signed by a registered physician or other recognized medical practitioner certifying the incapacitation, examination or treatment, or the period of disability while the employee was receiving medical care. An employee's self-certification may also satisfy this requirement, subject to supervisory discretion. In addition, a supervisor may waive the requirement to provide medical certification when the employee suffers from a well-documented, chronic medical condition that requires infrequent absences in excess of three (3) days. Any medical documentation or evidence submitted by an employee is confidential and may be discussed with other officials only on a need-to-know basis.

Section 6—Advanced Sick Leave

a. Employees who are incapacitated for the performance of duties because of serious disability or ailment may request advance sick leave not to exceed thirty (30) calendar days. The number of days an employee may be granted advanced sick leave for a medical condition will be in accordance with 5 C.F.R. § 630.402.

b. Requests for advance sick leave will normally be granted in accordance with governing regulations when all of the following conditions are met:

    1. The employee is eligible to earn sick leave;

    2. The employee's request does not exceed two hundred and forty (240) hours

for a full-time employee;

3. There is no reason to believe the employee will not return to work after having used the leave, and the employee has sufficient funds in his or her retirement account or any other source of monies owed to the employee by the government to reimburse the Agency for the advance, should the employee not return to work;

4. The employee has provided acceptable medical documentation of the need for advance sick leave; and

5. The employee is not subject to leave requirements.

Section 7—Privacy

The Agency will treat as confidential any medical information provided by an employee to any agent or representative of the Agency in support of a request for sick leave. The Agency may disclose such information only to the extent permitted by law, including the Privacy Act of 1974, 5 U.S.C.§ 552a and Section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 791.

Section 8—Enforced Leave

The MSPB and the courts have determined that placing an employee on sick leave against his or her will is tantamount to a suspension. Therefore, the Agency will not place an employee on enforced sick leave without following the procedures contained in the Disciplinary and Adverse Actions Article of this CBA.

Article 14: Leave Requirements

Section 1—Letters of Requirement

a. A pattern of questionable leave usage can be defined as multiple occurrences (generally, three or more instances) of such within a limited period of time; specific patterns should be identified on a case-by-case basis. If a supervisor reasonably believes, based on objective information, that there is a pattern of an employee using excessive unscheduled leave, taking leave associated with days off, or other questionable patterns, a supervisor may take the following measures:

    1. Counseling: The supervisor first will counsel the employee verbally and maintain a record of the counseling.

    2. Written Notice: If the employee's use of leave continues to indicate abuse, the supervisor will provide to the employee written notice of the requirements for the use of leave. A written notice is a non-disciplinary letter to the employee that conveys the following information:

        - The supervisor's expectations regarding leave usage.
        - Specific information about leave balances and/or specific dates when employee has not followed proper procedure or the pattern of leave abuse.
        - The leave procedures that they are required to follow.
        - The period of the requirement(s).
        - Consequences of not following the procedures in the future.

    Where the underlying reason for the leave is a medical condition, administratively acceptable medical documentation to substantiate future absences may be required, regardless of the duration of the absences.

b. Six Month Review: After six (6) months and at six (6)-month intervals thereafter, the supervisor will review the leave requirements imposed on the employee for the purpose of deciding whether to continue this requirement. Concurrent with the initial and each subsequent review, the supervisor will

advise the employee, in writing, as to the requirements for the use of leave. The employee will be notified in writing when he or she is no longer on leave requirement(s).

c. Absence Without Leave (AWOL): AWOL is a non-pay status that covers an absence from duty which has not been approved. An employee may be charged with AWOL and be subject to disciplinary action if the employee fails to meet the leave requirements to request or support a period of leave request, unscheduled absence(s), or tardiness as communicated to the employee by the supervisor.

d. Illness while on Leave Requirement: Normally, when a noticeably sick employee who is also on leave requirement requests to be released from duty because of illness, he or she may not be required to furnish medical documentation to substantiate sick leave for the time he or she was released from duty that day.

e. Chronic Medical Condition: An employee suffering from a chronic medical condition and who has furnished administratively acceptable medical documentation of a medical condition shall not be required to furnish additional medical documentation to substantiate a sick leave request for subsequent occurrences of the same condition. However, the Agency may periodically require further medical certification to substantiate the continued existence of the medical condition.

Article 15: Other Leave

Section 1—Family and Medical Leave Act

a. Administration: The Agency will administer leave requests made pursuant to the Family and Medical Leave Act of 1993 (FMLA) in accordance with 5 U.S.C. §§ 6381- 6387 and 5 C.F.R. Part 630, subpart L.

b. Eligibility: To be eligible for coverage under the FMLA, an employee must have completed at least twelve (12) months of civilian service with the Federal government or twelve (12) months of honorable active service in the Army, Navy, Air Force, Space Force, or Marine Corps of the United States

c. Entitlement: Eligible employees will be entitled to a total of twelve (12) administrative workweeks of unpaid leave (LWOP) during any 12-month period. An employee may elect to substitute any accrued annual or sick leave for the covered period (consistent with existing sick leave regulations).

d. Grounds for Leave: An eligible employee may take FMLA leave for the following reasons:

    1. birth of a son or daughter and care of newborn (within one (1) year after birth);

    2. care of spouse, son, daughter, or parent with a serious health condition;

    3. placement of a son or daughter with employee for adoption or foster care (within one (1) year after placement); or

    4. serious health condition of employee that makes employee unable to perform duties of the employee's position.

e. Injured Military Member: A Federal employee, who is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative) of a covered service member with a serious injury or illness and provides care for such service member, is entitled to up to twenty six (26) weeks of FMLA leave during a single twelve (12)- month period to care for the service member. However, the serious illness or injury

must have been incurred by the covered service member in the line of duty while on active duty in the Armed Forces.

f. Continuation of Employment and Benefits: An employee who takes FMLA leave is entitled to be restored to the same position with equivalent benefits, pay status, and other terms and conditions of employment. The leave will not result in the loss of any employment benefit accrued before the leave began. If the employee uses LWOP, he or she may elect to continue Federal Employee Health Benefits (FEHB) coverage and make arrangements to pay the employee contribution.

g. Requirements: Eligible employees will normally provide at least thirty (30) days' notice of the need for FMLA leave, as practicable, by submitting an application (DOL Form WH-380) for FMLA leave to the Agency. The employee is required to provide medical documentation to process the application in accordance with FMLA regulations.

Section 2—Excused Absence (Administrative Leave)

a. Definition: An excused absence (frequently called "administrative leave") is an absence from duty administratively authorized by supervisors without loss of pay and without charge to leave.

b. Eligibility for Excused Absence: With the exception of emergency conditions, an employee must be in duty status at the beginning and/or end of a period of excused absence in order to receive benefit of the excused time. If operational requirements preclude an employee from receiving the full amount of excused absence authorized in this Section for a specific purpose, the remaining time is not available for future use by the employee.

c. Voting: If necessary, the employee will be authorized an amount of excused absence that will permit him or her to report for work up to three (3) hours after the polls open or leave work up to three (3) hours before the polls close, whichever requires the lesser amount of time off.

d. Donating Blood: Employees who donate blood to the Red Cross or other recognized Blood Banks, which the Agency sponsored, will be excused from duty for a period of not more than four (4) hours, including travel, and any necessary recovery time following the donation.

e. Preventative Medical Program Participation: Employees may be excused from duty to attend Agency-sponsored preventive medical programs offering health education, physical examinations, or immunizations.

f. Weather and Safety: Whenever the workplace is closed or otherwise not operational due to a declared emergency, workplace situation, or inclement weather, employees who are scheduled to work, but are not telework ready or eligible, will be granted weather and safety leave for the duration of the closure. However, employees who are telework ready and can perform their assigned duties are required to telework as directed by the Agency or take unscheduled leave.

g. Investigative Leave: The Agency may place an employee on investigative leave if the employee is subject to investigation and the Agency has made a determination with respect to the employee that the continued presence of the employee in the workplace during an investigation of the employee may:

- Pose a threat to the employee or others;
- Result in the destruction of evidence relevant to an investigation.
- Result in loss of or damage to Government property; or
- Otherwise jeopardize legitimate Government interests.

h. Notice Leave: The Agency may place an employee on notice leave if the employee is in a notice period, and the Agency determines the employee meets the criteria for notice leave as identified in 5 U.S.C. § 6329b. The term "notice period" means a period beginning on the date on which an employee is provided notice required under law of a proposed adverse action against the employee and ending on the date on which the Agency may effectuate the adverse action.

i. If a government-declared emergency condition prevents employees from arriving at work in a timely manner, even though the workplace is not closed, employees may be granted administrative leave for a part of the workday in accordance with the emergency declaration.

Section 3—Court Leave

a. Definition: Court leave is paid time off without charge to leave or loss of compensation for service as a juror or for attending court in a nonofficial capacity as a witness on behalf of the United States or the District of Columbia. The court may be a State, Federal, or District of Columbia court. For court leave purposes, municipal courts are considered state courts.

b. Administration: The Agency will provide employees with court leave, and employees will provide documentation to the Agency, in accordance with 5 U.S.C. § 5515, 5537, and 6322; and other applicable statutes, regulations, and policies.

c. Pay Status Requirement: The Agency will grant court leave only for days within the employee's regularly scheduled tour of duty when he or she otherwise would be in a duty or pay status.

d. Leave Period**:** The leave will start on the date on which the employee must report to the court, as identified in the summons, and will run until the date on which the court discharges the employee from service. It does not include:

   1. time during which the employee is excused or discharged by the court for an indefinite period subject to recall by the court; or

   2. time during which the employee is excused or discharged for one (1) or more days or for a substantial part of a day, meaning more than five (5) hours.

e. An employee who is normally assigned to evening shift, night shift, or other work schedules and is required to appear in court, whether on jury duty or as a witness during the day, will be granted an adjustment in his or her regular schedule in order to coincide with the court day(s), at his or her request. In the alternative, the employee may request court leave for the employee's regularly scheduled tour of duty, to allow for sufficient rest to perform his or her court duties. In such cases, the employee will not suffer any loss of pay and will continue to be entitled to night differential or other regularly scheduled premium payments in accordance with applicable payroll policies.

f. If an employee on court leave is excused from court with sufficient time to enable that employee to return to duty for at least two (2) hours of the scheduled workday, including travel time, the employee shall return to duty or request approval to telework, unless granted appropriate leave by the Agency. Employees will request and receive approval prior to going on leave to the extent practicable, using procedures as set forth above.

g. Employees may keep any court-provided expense money received for mileage, parking, or required overnight stay, to the extent consistent with law.

Section 4—Military Leave

a. Administration: The Agency will grant military leave to eligible employees in accordance with 5 U.S.C. § 5519, 5 U.S.C. § 6323, Public Law 106–554 (December 21, 2000), Public Law 108–136 (November 24, 2003), and other applicable statutes, regulations, and policies.

b. Eligibility: A full-time employee who is a reservist of the Armed Forces or a member of the National Guard is entitled to military leave for active duty or for training, in accordance with applicable statutes, regulations, and policies.

c. Pay Status Requirement: The Agency will grant military leave only for days within the employee's regularly scheduled tour of duty when he or she otherwise would be in a duty or pay status.

Section 5—Leave Without Pay

a. Definition**:** Leave Without Pay (LWOP) is a temporary non-pay status and absence from duty authorized by the Agency.

b. Entitlements**:** An employee is entitled to LWOP in the following circumstances:

1. Medical Treatment for Disabled Veterans: Disabled veterans are entitled to LWOP for medical treatment, examinations, and absences from duty in connection with their disability after presenting an official statement from a medical authority that such treatment is required. An employee must give prior notice of

the period during which the employee's absence for treatment will occur.

2. Military Duty: Full time employees who are Military Reservists or National Guardsmen are entitled to LWOP for the time periods during which they are required to perform active duty or training if they have exhausted their military leave or are not entitled to military leave, in accordance with applicable laws and policy.

3. FMLA: Eligible employees are entitled to LWOP for certain family and medical needs covered by the FMLA.

4. Workers Compensation: Employees are entitled to LWOP for the period during which they are receiving worker's compensation payments from the U.S. Department of Labor.

c. LWOP to Serve in Certain Union Offices

1. The Agency will approve LWOP for one (1) employee for a period of up to one (1) year in the event that the employee is elected or appointed to any Union office that requires full-time service.
2. Upon request, the Agency may grant a one (1) year extension of LWOP status for this purpose. All requests for extensions must be made thirty (30) days prior to expiration of the LWOP.

3. Employees on extended LWOP while serving as employee Union representatives may arrange to make payment for retirement, Thrift Savings Plan (TSP), and health and life insurance benefits in accordance with applicable regulations.

d. Discretionary Grants of LWOP: The Agency may grant LWOP in other circumstances, but will not do so unless the leave will result in:

1. better work performance;

2. protection or improvement of the employee's health;

3. retention of a desirable employee; or

4. furtherance of a program of interest to the government (e.g.,

Peace Corps volunteers).

e. Substitution for Annual Leave: An employee, at his or her option, may substitute LWOP for annual leave in the following situations:

   1. officers and/or duly elected delegates of the Union for attendance at the Union's biennial convention;

   2. for leave granted in conjunction with a death in the immediate family.

Section 6—LWOP or Compensatory Time for Religious Observances

a. Subject to the Agency's mission requirements, when an employee has personal religious beliefs that require absence from work, the Agency may grant annual leave, LWOP, or compensatory time off for such religious observances.

b. When the employee requests and the Agency grants compensatory time off for religious observance, in each instance the Agency will afford the employee the opportunity to earn such compensatory time-off hours.

c. An employee may work compensatory time-off for religious observances before or after taking such compensatory time-off on an hour-for-hour basis. A grant of advance compensatory time-off for religious observances will be repaid by the appropriate amount of compensatory time worked within three (3) pay periods or such time will be charged to annual leave.

d. Compensatory time worked to repay time-off for religious observance is not subject to premium pay provisions applicable to overtime hours.

Section 7—Leave for Bone Marrow and Organ Donation

a. Employees may use up to seven (7) days of paid leave each year, in addition to annual and sick leave, to serve as bone marrow donors.

b. Employees may use up to thirty (30) days of paid leave each year, in addition to annual and sick leave, to serve as organ donors.

Section 8—Absence without Leave (AWOL)

a. Definition: AWOL is a temporary non-pay status and absence from duty not authorized by the Agency.

b. Administration: A supervisor may record as AWOL in the Agency's timekeeping system a period during which an employee is absent from duty without supervisory approval, including for tardiness or for a period for which the Agency denied an employee's request for leave.

c. Disciplinary Status: Recording an employee's unauthorized absence or tardiness as AWOL in the Agency's timekeeping system is not a disciplinary action, but it may serve as the basis for discipline.

d. When a supervisor records a period of unauthorized absence or tardiness as AWOL in the Agency's timekeeping system, the supervisor will inform the employee in writing as soon as practicable. The message will include the reason for recording AWOL in the Agency's timekeeping system and the date and time of the AWOL period. The aforementioned messaging will not preclude supervisors from taking a subsequent disciplinary action. AWOL will be changed to the appropriate leave status if it is later determined that the absence was excusable.

Section 9—Paid Parental Leave (PPL)

a. Paid Parental Leave (PPL) is a paid leave category that provides eligible employees with up to 12 weeks of PPL in connection with the birth of an employee's son or daughter or the placement of a son or daughter with an employee for adoption or foster care. Use of such leave is governed by the provisions found in 5 CFR Part 630, Subpart Q.

b. An employee must meet all eligibility requirements for use of Family and Medical Leave Act (FMLA) leave to qualify for PPL.

c. Eligible employees are entitled to up to 12 administrative workweeks of PPL per qualifying birth or placement as long as the employee maintains a parental role.

d. Prior to using PPL, an employee must enter into a written agreement to

complete a 12-week work obligation after the use of PPL concludes. Employees should be aware that the 12-week post-leave obligation is fixed and not proportionally reduced if they use less than 12 weeks of paid parental leave.

e. Employees will complete and submit their application for PPL through the Agency's timekeeping system. The Agency will process such requests from eligible employees within 10 working days. Although self-certification may suffice, the agency may require additional appropriate documentation, (e.g., birth certificate, document from an adoption of foster care agency, etc.) of an employee's eligibility for final approval for the use of PPL.

Section 10—Disabled Veteran Leave

a. Subject to the eligibility requirements and requesting procedures outlined in 5 CFR Part 630, Subpart M, an employee who is a veteran with a qualifying service-connected disability rating of 30 percent or more from the Veterans Benefits Administration (VBA) of the Department of Veterans Affairs is entitled to a one-time benefit of Disabled Veterans Leave (DVL). Eligible full-time employees are entitled up to 104 hours of DVL. An employee who has a part-time or seasonal work schedule or an uncommon tour of duty will receive a proportionally equivalent amount of DVL based upon the hours in the employee's work schedule.

b. The Agency will notify all incoming disabled veterans of the leave benefit via the New Hire Orientation training session. Current employees may submit general inquiries related to DVL and/or eligibility requirements to OST_Benefits@dot.gov.

Article 16: Workers' Compensation

Section 1—Coverage

a. The Federal Employees' Compensation Act (FECA) provides workers' compensation to employees who become disabled due to an employment-related disease or injury sustained in the performance of duty. Administered by the U.S. Department of Labor, the Office of Workers' Compensation Programs (OWCP), the applicable laws and regulations are set forth in 5 U.S.C. Chapter 81 and 20 C.F.R. Part 10.

b. In accordance with appropriate regulations concerning FECA, 5 U.S.C. 8101, an employee may request to buy back annual or sick leave used in lieu of injury compensation.

Section 2—Responsibilities

a. The Office of Human Resources, HR Operations, will serve as the liaison for the OWCP to provide guidance to Bargaining Unit employees on the procedures for filing claims.

b. Employees are responsible for promptly reporting job illnesses and injuries to their immediate supervisor or other appropriate management official.

c. When notice of a job illness or injury is received by the supervisor, the supervisor will:

   1. provide employees with the appropriate CA form(s);

   2. assist employees in completing their portion of the forms, as necessary;

   3. complete the supervisory portion of forms; and

   4. ensure the completed forms are submitted to the Federal Aviation Administration's Workers' Compensation Program Office in a timely manner.

   5. be responsible for obtaining any witness statements and for entering the proper codes required on the appropriate CA form and should also submit any other information or evidence pertinent to the merits of the claim to the appropriate office.

Article 17: Tardiness

Section 1—Employees' Responsibility

All employees are responsible for reporting to work promptly at the beginning of their assigned work shifts. Employees must make every reasonable effort to be at their assigned areas and ready for work at their specified start time. If an employee is not going to report at the beginning of his or her scheduled start time, he or she must notify his or her supervisor as soon as possible via telephone, email, or in person upon arrival to their work location.

Section 2—Supervisors' Discretion

a. Immediate supervisors are responsible, on a case-by-case basis, for addressing the tardiness of the employees whom they supervise in a fair and equitable manner.

b. An employee's supervisor may excuse, without charge to annual leave, infrequent or unavoidable absence from duty of less than one (1) hour, including tardiness, if the absence is the result of circumstances beyond the control of the employee. If leave is charged, it will be in increments of fifteen (15) minutes. Unavoidable absence or tardiness of one (1) hour or more will be charged to annual leave, except as provided in Section 2c. below.

c. Subject to supervisory discretion, tardiness may be handled in one of the following manners:

    1. The supervisor may allow the employee to compensate for the absence by additional work for an equivalent period, if the tardiness is a rare occasion for the employee.

    2. The absence may be charged against any compensatory time to the employee's credit.

    3. The supervisor may approve the employee's request for the use of sick leave, if applicable, or LWOP for the period of absence.

    4. In cases of chronic or excessive tardiness, the employee's supervisor may decline to excuse the tardiness and charge the employee with AWOL.

Article 18: Telework

Section 1—Introduction

a. Telework is authorized in the Telework Enhancement Act, December 9, 2010. Telework is primarily an arrangement established to facilitate the accomplishment of work. Generally, the provisions of the Act apply to all employees subject to limitations described in law or Agency policy. The Act requires Agencies to establish telework policies to identify eligible positions and employees appropriate for telework. The Act does not mandate telework or confer a legal right or entitlement on an individual employee to participate in an Agency telework program. The Act does not obligate an employee to participate in an agency telework program. Accordingly, employee participation is voluntary.

b. The establishment of the Agency telework program in accordance with the provisions of the Telework Enhancement Act does not abrogate the Agency's statutory and regulatory authority to compel employees to work from an alternate worksite due to mission requirements–whether or not they have a telework agreement in place. Such instances may include, but are not limited to, evacuation orders during an emergency or during a catastrophic event that disrupts agency operations and results in the invocation of the Agency's Continuity of Operations Plan.

c. The Parties acknowledge that a vibrant telework program is consistent with and supports Departmental and performance goals. Telework reduces congestion and mobile source emission; serves as a recruitment and retention tool; and improves work life quality. More importantly, telework is an effective and efficient means for continuing government operations when employees cannot travel to their duty locations. However, telework is not guaranteed to employees. Telework-eligibility does not confer automatic participation in the Agency telework program and supervisors are not required to approve an employee's request to telework.

d. This Article will be administered in accordance with the Agency telework policy. Telework can be temporarily or permanently suspended or terminated by the participant, the supervisor, or other senior management in accordance with the provisions of this Article and the terms and conditions of applicable telework agreements.

e. The Agency will provide training to encourage the effective use of telework consistent with the Agency's mission. The goal will be to develop strategies that will assist supervisors and employees to eliminate barriers that limit the use of telework.

f. Telework shall be authorized for the maximum number of positions to the extent that mission readiness is not jeopardized. To the broadest extent possible, telework should be made available to eligible employees on a regular and recurring basis.

Section 2—Definitions

a. Official Worksite: the official location of an employee's position of record where the employee regularly performs his/her duties.

b. Alternate Worksite: is an approved worksite other than the official duty station (e.g., the employees residence, a telework center, another federal facility, etc.) from which the employee would otherwise work.

c. Telework Agreement: a written agreement between the supervisor and the employee defining the employee's obligations and responsibilities under the Agency telework policy.

d. Telework-ready: is when an employee participating in the telework program is able to effectively perform their agreed-upon alternate worksite duties.

e. Portable Work: work normally performed at the employee's official worksite that can be effectively performed at an alternate worksite. This work is part of the employee's regular work assignment or approved special work assignments.

f. Non-Portable Work: assignments that are not portable include those assignments that require face-to-face customer contact or the employee's physical presence at the official worksite.

g. Government-Furnished Equipment (GFE): means any accountable tangible item and/or electronic IT resource, wired or wireless, intended for individual use and necessary for job performance, to include laptops, smart phones, tablets, and other devices. This term applies to both standard issued equipment and loaner equipment.

Section 3—General

a. Consistent with operational/mission requirements and agency policy, the Agency will consider an employee's request to participate in the telework program and notify the employee of their decision.

b. Telework-eligible employees may be authorized to telework on a regular basis with the approval of their supervisors; employees must have sufficient portable work to support days requested to telework.

c. All telework-eligible employees who request to telework are required to complete an electronic Telework Agreement. Telework agreements must be completed and submitted for approval via electronic system as designated by the Agency. Employees must complete mandatory telework training before being allowed to telework. Employees must comply with the terms and conditions of their Telework Agreement.

d. Telework should be seamless as if working in the office; when practical and appropriate, employees should forward their office phones, and respond to phone calls and emails in a reasonable time.

e. Management reserves the right to direct an employee to report to the official worksite or cancel his or her scheduled telework day based on operational requirements.

    1. Normally, the supervisor will notify the employee at least twenty-four (24) hours in advance when requiring the employee to cancel his or her scheduled telework day.

    2. Normally, the employee will be allowed to reschedule his or her canceled telework day during the same pay period.

f. Employees are eligible to simultaneously have alternative work schedules and be on a Telework Agreement. Subject to the supervisor's approval, consistent with organizational needs and DOT policy, an employee may be approved to telework the day before or after an RDO.

g. An employee's request for a change to his or her Telework Agreement(s) must be approved in advance by the supervisor prior to the date or pay period of the requested change.

h. Subject to supervisory discretion and approval, employees who are injured, recuperating, or temporarily disabled may be permitted to telework provided they are capable of completing their work assignments at an alternate worksite.

i. Employees are responsible for maintaining a proper working environment at their telework work site. Management has the right to visit an employee's home for official business as permitted by law or government-wide rule, regulation, or agency policy. For any such visit, management must have a safety or security reason and shall provide a minimum of forty-eight (48) hours advance notice when practicable. Alternate worksite visits should occur during the teleworker's regular Core Hours. Management will not inspect non-work space in an employee's residence.

j. Employees are responsible for adjusting their transportation benefits to appropriately account for their telework schedule. Employees are not to receive transportation benefits for the days they telework.

k. Employees are covered under FECA if injured while performing official duties during telework. The employee must immediately notify his or her supervisor of any accident or injury that occurs while on duty at his or her approved alternate worksite.

l. Teleworkers are in a duty status when teleworking and are expected to have the resources necessary to perform their jobs and concentrate on official duties without interruption. Employees may not use duty time for any purpose other than performing Agency-assigned work.

m. Management is responsible for supervising work in accordance with the FLSA and the provisions of this CBA.

n. Teleworkers and non-teleworkers shall be treated the same for the purposes of:

    1. periodic annual appraisals of job performance;

    2. training, rewarding, reassigning, promoting/reducing in grade, retaining and removing;

    3. work requirements; and

4. other acts involving managerial discretion.

o. Telework-Eligibility Reconsideration Process: In accordance with the Agency telework policy, an employee may request reconsideration of telework eligibility from a second-level reviewer if his or her supervisor or manager has determined that the employee, or his or her position, is not telework-eligible.

p. Telework Evaluation: Upon the establishment of the LMF, the Parties may take up topics including the evaluation of the effectiveness, the marketing of the telework program, and the goals and objectives for the telework program. The Union shall be provided a copy of any annual status of telework report provided to DOT within ten (10) business days of issuance.

q. Right to Grieve: The Grievance Procedures Article negotiated within this CBA will serve as the exclusive process for resolving telework disputes or terminations of telework for Bargaining Unit employees.

Section 4—Eligibility

a. Position Eligibility Criteria: Consistent with the Agency telework policy, position eligibility should be reviewed based on job function. The position and employee criteria described in this Section shall apply when determining eligibility. Positions that have the following characteristics are eligible for teleworking:

1. Sufficient work activities that are portable and are not dependent on the employee being at the official worksite.

2. Work activities that are conducive to remote supervisory oversight because of clear and measurable performance standards and results.

3. Adequate technology for offsite work is available. Materials and information necessary to perform the duties of the position can be readily moved to and from the official worksite, consistent with data and systems security requirements, including Privacy Act protection requirements.

4. Necessary interaction with coworkers, subordinates, superiors, and customers can be maintained electronically or by telephone without adversely affecting coworkers, customer service, or unit productivity.

5. Other position eligibility criteria that management determines to be appropriate, consistent with the Department's goals and objectives for telework.

b. Positions generally not eligible for Telework: Some position characteristics, tasks and duties are not generally suitable for telework. These include, but are not limited to the following:

   1. positions that require the employees to have daily, in-person contact with coworkers, supervisory officials, customers, Administration officials, Congressional officials, or the general public in order to be effective;

   2. positions in which operational requirements dictate employee physical presence at specific work locations; and/or

   3. positions that require routine access to classified information; unless required storage and equipment are readily available and the employee's servicing security organization has approved the telework arrangement in writing in advance.

c. Upon request, the Agency will identify all Bargaining Unit positions that are not eligible to participate in telework and provide the Union with justification for ineligibility.

d. Employee Eligibility Criteria: Upon approval of the supervisor, eligible employees, including probationary employees, may participate in telework on a voluntary basis. Employees may withdraw from the program at any time by notifying their immediate supervisor.

e. Supervisors and senior management are to assess individual performance characteristics and criteria when considering an employee for a telework arrangement. A supervisor may defer approving a Telework Agreement for a newly assigned employee for up to ninety

(90) days to assess the employee's ability to work independently. In order to be eligible, an employee must meet the following minimum eligibility criteria:

1. have a performance rating of record of at least "Fully Successful";

2. not be under a Performance Improvement Plan (PIP);

3. demonstrate dependability and the ability to work independently;

4. be able to prioritize work effectively and utilize good time management skills;

5. be in compliance with Federal Government and Agency standards of conduct;

6. not have been officially disciplined for violations of 5 CFR Part 2635 Subpart G – Misuse of Position for reviewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties as provided in 5 U.S.C. § 6502;

7. not have been officially disciplined for being absent without leave (AWOL) or disciplined within the preceding 12 months for misconduct or performance issues action that have a nexus to Telework.

8. is not on leave requirement;

9. is not excluded from participation by law, government-wide rule or regulation; and

10. has access and the ability to use the required teleworking equipment and services.

Section 5—Categories

Eligible telework-ready employees may work under the following categories as defined:

a. Core Telework: An employee approved to telework on a regular, recurring scheduled basis, for any number of days allowed by law, government-wide rule or regulation, or Agency policy, as approved by the supervisor in the Telework Agreement.

b. Ad hoc or Situational Telework: The employee teleworks on an occasional or intermittent basis at an alternate worksite. Telework may include an approved temporary project, on a case-by-case basis, or for personal emergency or for the purpose of meeting operational requirements, where the employee may work less than a full day at the alternate worksite, and where there is no set schedule of regular telework.

c. Emergency Telework: Emergency telework is utilized during a crisis situation or instances of emergency including natural disasters, pandemic health concerns, and national security threats.

d. Unscheduled Telework: Unscheduled telework is a type of situational or ad-hoc telework, that will allow employees in the Washington, DC area to work from their alternate worksite, when OPM announces a modified operating status due to inclement weather or special events that severely impact commuting.

Section 6—Official Worksite Shared Workspace

Employees who telework two (2) or fewer days per week will keep their workstation. Employees who telework more than two (2) days per week may be required to share space with other employees. Shared space will include necessary office automation equipment needed to perform the required duties of the position and access to a locked storage area.

Section 7—Telework Procedures

a. Work performed under a Telework arrangement may be scheduled or situational.

b. Employees may request to participate in scheduled telework at any

time. Requests shall be considered at the supervisor's discretion.

c. If the supervisor terminates or the employee voluntarily withdraws from telework, the employee may request to renew the Telework Agreement after one hundred and eighty (180) days.

d. Requests to Participate in Telework

1. Employees will request to participate in the telework program by submitting a Telework Agreement and a Self-Certification Safety Checklist Form via electronic system as designated by the Agency.
2. The supervisor and employee will meet to discuss and finalize the Telework Agreement.
3. The supervisor and the employee shall work together to determine the appropriate telework schedule. The amount of day(s) for a core telework schedule is subject to the availability of an appropriate amount of work that can be suitably performed at an alternate worksite, mission requirements, and Agency policy.
4. The supervisor will act on requests within ten (10) working days of the request for scheduled telework. If the employee's request is denied, the supervisor will state his or her business-related reasons for the denial by annotating it on the Telework Agreement. The employee may request a meeting with the supervisor to discuss a modification to the original telework request, e.g., as to the number of days per week requested.

e. Annual Review: The supervisor will meet with the employee to conduct an annual review of the Telework Agreement. Employees will need to submit future renewal requests via electronic system as designated by the Agency.

f. Office Closures: The office is closed for weather/safety reasons and maximum telework is in effect. In general, employees will be granted weather and safety leave for the number of hours they were scheduled to work unless they are (1) an emergency employee (as defined in agency policy), (2) a telework program participant, (3) a remote worker, (4) on official travel outside of the geographic area of the official worksite, (5) on preapproved leave (paid or unpaid) or other paid time off, or (6) on an Alternate Work Schedule (AWS) day off or

other non-workday.

1. Remote workers and telework program participants do not receive weather and safety leave when a closure is announced. Instead, they must work for the entire workday, take other leave (paid or unpaid) or other paid time off, or use a combination of work hours and leave or other paid time off.

2. A telework program participant may be provided weather and safety leave if, in the agency's judgment, they could not have reasonably anticipated the severe weather or emergency and thus were not prepared to telework.

3. The Agency may consider exercising their authority to grant weather and safety leave to telework program participants and remote workers on a case-by-case basis (e.g., for electricity/infrastructure/connectivity issues).

4. Telework program participants are not entitled to weather and safety leave when severe weather can reasonably be predicted and an employee has not taken the necessary steps to prepare for teleworking (i.e., be "telework-ready").

5. This section does not apply when the issuance of government-wide operating status announcements from the U.S. Office of Personnel Management (OPM) [for the Washington, D.C. area] result in a hybrid operating status (i.e., Open or Delayed Arrival with option for unscheduled telework or leave).

g. Early Dismissal/Late Opening: If there is an early dismissal or late opening at the official worksite due to emergency circumstances, and the employee is working at his or her residence as the alternate worksite, the employee is required to complete a full workday, unless the employee takes appropriate leave or is not telework ready.

h. Administrative Leave: When Administrative leave is authorized for half-day work, (such as Christmas Eve), the telework employee may also take the administrative leave and is not required to work his or her full day.

i. Overtime: An employee may be permitted to work overtime in a

telework duty status in accordance with the overtime provisions of this CBA.

j. Leave: Requests for leave on scheduled telework days will be handled in accordance with this CBA.

Section 8—Work Assignments

a. Employees and supervisors will discuss and document, as necessary, the job tasks/assignments that will be carried out or completed while teleworking.
b. An employee teleworking will complete assigned work according to the work procedures agreed upon by the employee and supervisor and according to the job elements and performance standards established in the employee's performance plan.

Section 9—Restriction and Termination

a. Barring work performance or disciplinary actions that directly affect job performance, a supervisor’s decision to terminate an employee’s Telework Agreement will be based solely on operational work requirements.

b. Telework arrangements may be terminated by either management or the employee by written notification of termination of the Telework Agreement, except under emergency situations. Reasons for termination of a Telework Agreement may include a decline in performance or productivity, or if the telework arrangement no longer benefits the organization or the employee’s needs.

c. The Agency may terminate an employee’s Telework Agreement with documentation to support a decline in performance, productivity, or a pending disciplinary action that supports terminating telework.

d. Management may remove an employee from telework for poor performance, but the use of this provision should not be used as punishment. Management may revoke telework to the extent that management ensures the environment at the official worksite is conducive to facilitating improved performance by the employee.

e. Employees will suspend telework during travel, temporary duty (TDY), training, and other work assignments outside their normal work environment. Employees on detail may telework with the approval of the detail supervisor and if work requirement permits.

f. The Agency may temporarily restrict telework for a short period of time for a group or an individual in order to meet operational requirements. Barring an urgent operational requirement, the employees will be provided notice at least five (5) workdays in advance.

g. The employee's Telework Agreement may be terminated if he or she does not meet one (1) or more of the eligibility criteria or the terms of the Telework Agreement.

h. Management will counsel employees about specific problems, including a diminishment in performance, before removing an employee from the Telework Program, except in the case of egregious violations.

i. When an employee's participation in the Telework Program is terminated, the employee will be notified in writing of the reason for termination and the effective date of the termination. Management will consider individual circumstances when considering the effective date of removal from the program.

j. An employee who has voluntarily terminated his or her participation in the telework program or has been removed from the Telework Program may reapply for Telework after 180 days.

Section 10—Equipment and supplies

a. Based on funds, equipment availability, and operational requirements, GFE, including computers and other telecommunications equipment, may be provided by the Agency for use by employees participating in the telework program. GFE is to be used only for official government business.

b. The Agency is responsible for the maintenance, repair, and replacement of GFE. Employees are responsible for bringing the equipment into the office for maintenance.

c. Employees are responsible for repair and maintenance of personally owned equipment and associated costs for telecommunications and internet services.

d. Approved supplies will normally be procured through established office procedures.

e. GFE will be signed out and returned in accordance with Agency policies and procedures. The employee must return all GFE and material to their official worksite at the conclusion of the telework arrangement or upon request.

f. As appropriate, the Agency shall provide GFE in support of a requested and approved reasonable accommodation.

Section 11—Computer and Information Security

a. Employees who telework are to follow all required security protections and Agency policies as they pertain to the protection of information, equipment, information system resources, classified information, computer security, and the Privacy Act of 1974, 5 U.S.C. 552a.

b. All DOT IT account holders are required to complete annual training in Information Security and Privacy Awareness to maintain network access to DOT IT systems, including Microsoft Outlook (email), Teams, SharePoint, and other IT resources, and in accordance with the Federal Information Security Modernization Act (FISMA) and Office of Management and Budget (OMB) Circular A-130. Employees who access DOT systems as a part of their telework arrangement must complete the Cybersecurity and Privacy Awareness Training (SAT) online course each fiscal year via DOT's Learning Management System (DOT Learns). Employees may complete an alternate training module as identified by the Office of the Chief Information Officer (OCIO) that would satisfy initial and refresher cybersecurity and privacy literacy training requirements.

Article 19: Transit Benefits

Federal Agencies are authorized under 5 U.S.C. § 7905 to establish programs to encourage employees to use means other than single-occupancy motor vehicles to travel to and from work.

1. The Agency will support the transit benefit program up to the maximum extent allowable as a non-taxable benefit under the Internal Revenue Code and authorizing legislation including Federal Appropriations Law.

2. The Agency will notify the Union and employees when the amount of the IRS non-taxable benefits change within ten (10) business days of IRS or Congressional action.

3. The amount of a transit benefit depends on the employee's or student intern's allowable commuting costs. Eligibility for the transit benefit programs are defined in the DOT Transit Benefit Policy and the DOT Bicycle Policy.

4. As soon as the Agency's financial information/budget for each fiscal year becomes available, it will inform the Union whether the full amount of funding is available for transit benefits. If the Agency determines that the full amount of funding is not available due to budgetary constraints, and it is unable to continue to provide employees with the maximum allowable transit benefit, it will notify the Union in a timely manner and the Union may choose to re-open negotiations on this Article.

5. During the life of this contract, either party may propose changes to the options addressed in Section 2, which shall be negotiable under the Mid-Term Bargaining.

Article 20: Travel

Section 1—General

The rules, policy, and procedures applicable to travel will be consistent with the Federal Travel Regulations (FTR).

a. When employees travel on official business, the authorization will be prepared by the employee and authorized consistent with the applicable laws, rules, regulations, and the terms of this CBA.

b. When employees travel locally and written authorization is not required, such travel will be paid consistent with applicable law, rule, regulation, and the terms of this CBA.

c. Compensation during travel is governed by applicable laws, rules, regulations, and the Overtime Article of this CBA.

Section 2—Scheduling

a. Whenever feasible, the Agency will schedule travel during employees' regularly scheduled work hours. If circumstances require the employee's presence on Monday, too early to permit travel that day, the employee may perform the travel on the preceding day (Sunday), leaving his or her residence or ODS at a reasonable time. If the employee prefers, travel may be permitted during duty hours on the preceding Friday. Per diem reimbursement will be limited to that which would have been payable if the departure was made on Sunday.

b. If the travel is expected to require employees to be absent from their ODS for more than thirty (30) days, employees will be given at least thirty (30) days prior notification of their date of departure, when practicable.

Section 3—Hours of Work

a. In accordance with 5 U.S.C. § 5542(b)(2) and 5 C.F.R. § 550.112(g), time in travel status away from an employee's ODS constitutes hours of work when it occurs within the days and hours of an employee's regularly scheduled administrative work week.

b. For FLSA-covered employees, time spent traveling is hours of work in

accordance with FLSA and 5 C.F.R. § 551.422.

c. The Agency may not adjust an employee's normal regularly scheduled administrative workweek solely to include travel hours that would not otherwise be considered hours of work unless the supervisor and employee mutually agree to a schedule change.

Section 4—Compensatory Time

a. In accordance with 5 U.S.C. § 5550b and 5 C.F.R. Part 550, Subpart N, in connection with official travel, an employee may earn compensatory time off for time spent in a travel status away from the employee's ODS when such time is not otherwise compensable.

b. Employees must submit a request for scheduled travel compensatory time for approval prior to travel.

c. For the purpose of compensatory time off for travel, time in a travel status includes:

   1. time spent traveling between the ODS and a TDY station;

   2. time spent traveling between two (2) TDY stations;

   3. the "usual waiting time" preceding or interrupting such travel; and

   4. travel to a transportation terminal, except normal home-to-work/work-to-home commuting time.

d. An "extended" waiting period—i.e., an unusually long wait during which the employee is free to rest, sleep, or otherwise use the time for the employee's own purposes—is not considered time in a travel status.

e. Travel outside of regular business hours may be subject to an offset for commuting or meal time under by 5 C.F.R. Part 550, Subpart N.

Section 5—Per Diem (Lodging, Meals, and Incidentals)

Employees who travel for government business are entitled to a per diem when performing official travel away from the employee's ODS, which may include actual expenses as are necessary, in accordance with the FTR.

Section 6—Travel Authorizations and Vouchers

a. All Agency personnel must process travel authorizations and vouchers through the DOT Travel Management System. Travel authorizations must be approved in advance of travel.

b. Employees are expected to submit travel vouchers within five (5) business days of the last day of travel as specified on an approved travel authorization. Failure to do so may result in a delay of reimbursement. Employees in travel status for an extended period of time must submit travel vouchers at least every twenty-one (21) calendar days.

c. The Agency will make a good faith effort to provide the approvals necessary within the DOT Travel Management System to ensure that travel vouchers submitted by employees are forwarded for processing within five (5) business days after an accurate and complete voucher is entered into that system.

d. In accordance with the FTR 301-71.209, a late payment fee, in addition to the amount due to the employee, must be paid for any proper (accurate and complete) travel claim not reimbursed within thirty (30) calendar days of submission to the approving official.

Section 7—Accommodating Special Needs

a. Consistent with the Agency's obligations under applicable laws, rules, regulations, to include 41 C.F.R. § 301-13.3 and the provisions of this CBA, it shall provide reasonable accommodations to employees with special needs.

b. Reasonable accommodations may include, but are not limited to:

1. transportation and per diem expenses incurred by a family member or other attendant who must travel with the employee to make the trip possible;

2. specialized transportation to, from, and/or at duty locations;

3. specialized services provided by a common carrier to accommodate employees' special needs;

4. costs for handling baggage that is a direct result of employees' special needs;

5. renting and/or transporting a wheelchair;

6. other than coach-class accommodations when necessary to accommodate employees' special needs; and

7. services of an attendant, when necessary, to accommodate employees' special needs.

Section 8—Mode of Transportation

a. When an employee must travel for work, the Agency may select the method of transportation that is most advantageous to the government when cost and other factors are considered as identified by 5 U.S.C. § 5733 and 41 C.F.R. § 301-310.4.

b. The Agency may not require an employee to use the employee's privately owned vehicle (POV) for official travel. However, when an employee is authorized to use a POV, the Agency will reimburse the employee the mileage allowance and related expenses as authorized by the FTR.

c. An employee authorized to use a POV will not be required to carry any passenger(s).

d. The Agency should grant duty time or administrative leave to an employee when an emergency arises while the employee is in official travel status driving a POV. In such situations, the employee will, as soon as practicable (within an hour, if possible), provide the supervisor with an estimate of the situation and obtain appropriate instructions. Duty time or administrative leave should be granted by the Agency upon presentation by the employee of reasonable, acceptable explanation, or documentation relating to the emergency.

Article 21: Government Travel Cards

Section 1—Introduction

The Travel and Transportation Reform Act of 1998 (Pub. Law 105-264), mandates the use of the government-sponsored, contractor-issued travel cards—"Government Travel Cards" (GTC)—by employees who meet the Agency's requirements for issuance of the card. A GTC is a charge card used by authorized individuals to pay for official travel and transportation related expenses for which the contractor bills the employee.

Section 2—Governing Law, Regulation, and Policy

a. Where applicable, employees will obtain and use GTC in accordance with the FTR; the OMB Circular A-123, Appendix B; the Travel and Transportation Reform Act of 1998; the DOT Travel Card Management Policy dated January 1, 2010; the OST Travel Card Management Policy dated October 14, 2011; and this CBA.

b. Any change to the OMB Circular A-123, Appendix B, or any other law, rule, regulation, or policy that affects the GTC program requires notice to the Union and an opportunity to bargain, to the extent permitted by law, prior to its implementation.

c. Upon request, the Agency will provide the Union with copies of relevant agreements between the Agency and GTC contractors.

Section 3—Traveler Use and Payment

a. A GTC holder must use the GTC for all expenses related to official travel and may not use personal funds (cash, personal credit cards, etc.) to pay for such transactions when the GTC serves as an acceptable alternate method of payment.

b. A GTC may not be used to complete any transactions, personal or otherwise, unrelated to official travel, including payment for conference registration fees.

c. An employee who holds a GTC is responsible for payment in full of undisputed balances in monthly billing statements from the GTC service

provider regardless of whether reimbursement for the travel has occurred.

d. Any failure to adhere to applicable law, regulation, and/or policy, including those that govern the prompt payment of undisputed balances, will subject a GTC holder to administrative or disciplinary action in accordance with the penalties set forth in the Departmental Travel Card Management Policy.
e. The Agency may initiate salary offset, defined as collecting undisputed, delinquent GTC balances, via direct deductions from an employee's payroll disbursement or retirement annuity, on behalf of the GTC service provider.

f. Discipline and negative credit impact are not appropriate for instances or events that are not within the direct control of the employee.

g. The Agency shall take reasonable steps to ensure Bargaining Unit employees are protected from adverse impact pursuant to the appropriate use of the GTC for official travel purposes, consistent with applicable regulations and the terms of this CBA, including but not limited to:

    1. providing annual training for all employees on the GTC program policies and procedures to help ensure compliance and to minimize any adverse impact from the use of a GTC;

    2. ensuring the procedure to dispute a GTC transaction is communicated to Bargaining Unit employees and that Bargaining Unit members will not be required to pay any part of any appropriately disputed billing to the contractor pending resolution of that dispute;

    3. notifying employees of the Agency Point of Contact for getting assistance with any GTC issue.

Section 4—Exemptions

The Agency may exempt Bargaining Unit employees from using a GTC when:

a. payment through a GTC is impractical or imposes unreasonable burdens or costs on employees or agencies;

b. the employee is an infrequent traveler; or

c. it is in the best interest of the United States to do so.

Section 5—Credit Worthiness

a. Credit worthiness requirements for Bargaining Unit employees regarding the GTC Program shall be consistent with OMB Circular A-123, Appendix B, Chapter 6, Credit Worthiness.

b. If it is not possible to issue an unrestricted GTC to a particular employee, the travel card service provider will issue the applicant a restricted travel card.

Article 22: Position Classification

Section 1—Position Descriptions (PDs)

a. Employees are entitled to a complete and accurate PD, which clearly and concisely states the major and grade controlling duties, responsibilities, and supervisory relationships of the position. This will be provided to the employee at the time of assignment or upon request.

b. PDs will be current, accurate, and classified to the proper occupational title, series, and grade in accordance with 5 U.S.C. Chapter 51 and OPM regulations for each position covered by this Agreement.

c. All Agency information provided to OPM in connection with classification standards and current PDs will be provided to the employee or the Union upon request.

d. Whenever an existing PD is amended or new descriptions for employees are developed, the Agency will normally provide copies of the amended or new descriptions to the Union and affected employees two (2) weeks in advance of the proposed implementation. Upon request, the Agency will provide the Union with copies of all Agency guidance provided to OPM in connection with any classification standards and will consider the Union's oral or written views concerning occupational classification standards when making recommendations to the Office of Personnel Management and will notify the Union of outcomes.

e. The phrase “other duties as assigned” and other phrases having similar meaning as used in PDs, means duties related to the basic duties of the position. Such phrases will not be used to regularly assign work to an employee that is not reasonably related to the duties listed in the PD or not documented in the employee’s performance plan.

f. If an employee has a question concerning his or her classification or PD, he or she is entitled to discuss his or her PD with his or her supervisor. If the employee wishes to pursue the matter further, he or she may request a desk audit, file a grievance as appropriate, or file a classification appeal.

Section 2—Desk Audits

a. Employees have the right to Union assistance in desk audits and classification appeals. Employees or their designated representatives may request a desk audit through the employee's supervisor. Upon such notification, the Agency will acknowledge receipt of the request and within fourteen (14) workdays provide a reasonable date and time for the audit to be accomplished.
b. Employees who are the subject of a desk audit will be provided timely notice by the Agency prior to the desk audit. Notices will identify the position, reason, purpose, and date/time for the audit.

c. While a desk audit is in process, the Agency will not reassign duties for the sole purpose of avoiding reclassification of the position.

d. Upon completion of the audit, the Agency shall designate an official to discuss the findings with the employee and the representative, if the employee requests a representative.

e. As appropriate, desk audits will be performed at the employee's workstation or at a place mutually agreeable to both the employee and Human Resources Office.

Section 3—New Classifications

a. Classification decisions rendered by the Agency or OPM having the effect of establishing a grade level that did not exist before within an occupation will be forwarded by the Agency to the Union with the basis for that decision.

b. Grade increases resulting from the application of a new classification standard or correction of a classification error will normally become effective no later than the beginning of the first full pay period following a management determination, provided the applicable qualification, performance, or other requirements for the position are met by the affected employee(s).

Section 4—Downgrades

a. For a downgraded position, the employee's pay and grade will be set in accordance with law and regulations.

b. An employee whose position is reclassified to a lower grade that is based in whole or in part on a classification decision is entitled to a prompt written notice from the Agency. This notice will be issued to affected employees within fourteen (14) work days of the decision. The notice will explain:

    1. The reasons for the reclassification action;

    2. The employee's right to appeal the classification decision;

    3. The time limits within which the employee's appeal must be filed in order to preserve any retroactive benefits under 5 C.F.R. § 511.703;

    4. Any other appeal or grievance rights available under applicable law, rule, regulation, or this CBA; and

    5. The effective date of the action.

c. The impact of any notice of downgrading will be negotiated, as permitted by law, in accordance with the Mid-Term Bargaining Article of the CBA.

Section 5—Priority Consideration Due to Reclassification Downgrades

a. Employees who have been downgraded as a result of a classification action are entitled to all rights and procedures afforded as required by OPM regulations.

b. Employees shall be entitled to priority consideration only for vacancies for which the downgraded employee is highly qualified up to the grade level or the equivalent level of the position from which downgraded.

c. All highly qualified eligible Bargaining Unit employees with priority consideration will be interviewed by a panel of at least two (2) supervisors prior to the consideration of other applicants. The panel will make a recommendation to the selecting official.

d. Upon request, if a Bargaining Unit employee with priority consideration

is not selected, the selecting official will provide feedback to the employee in writing for non-selection.

Section 6—Classification Appeals

Employees have a right to appeal a classification decision to the Agency and/or to OPM through its regulations, including 5 C.F.R. Part 511, Subpart F.

Article 23: Student Loan Repayment Program

Section 1—General

The Agency will administer the Student Loan Repayment Program pursuant to 5 U.S.C. § 5379 and 5 C.F.R. § 537 and other applicable DOT rules and regulations as of the effective date of this Article. The Federal student loan repayment program permits agencies to repay federally insured student loans as a recruitment or retention incentive for candidates or current employees of the Agency. A decision to offer a student loan repayment is an individual determination made on a case-by-case basis, based on organizational need or an employee's high or unique qualifications and budgetary limitations, without regard to political affiliation, race, color, religion, national origin, age, sex, or disabilities. There is no entitlement to participate in the program. Repayment of student loans is at Management's discretion and subject to budgetary considerations of each Secretarial and Departmental Office.

Section 2—Consideration

a. In recommending an employee or job candidate for a student loan repayment, a supervisor will make a determination in writing, based on specific case justification, that the employee or job applicant meets all criteria required by law and regulation. The employee or job applicant must provide all necessary information to justify consideration.

b. The Assistant Secretary, Departmental Office equivalent, or designee is the approving official for the Student Loan Repayment Program.

c. The Agency will make its determination on a recommendation for repayment of a student loan in a timely manner.

d. In accordance with 5 C.F.R. § 537.103(d), the Agency's selection process for employees or job candidates to receive student loan repayment benefits will ensure fair and equitable treatment.

e. In accordance with 5 C.F.R. § 537.106(c), repayments of student loans are subject to maximum limits of $10,000 per calendar year and a total of $60,000 per employee.

f. Any employee or job candidate receiving this benefit must sign a service

agreement. The length of the service agreement will be as directed by applicable law, government-wide rule and regulation, or DOT policy.

Section 3—Criteria

The Agency will follow the criteria for student loan repayments as set forth in 5 U.S.C. § 5379 and 5 C.F.R. § 537.105.

Section 4—Reporting

a. The Agency shall provide the OST Local 3313 Vice President with a copy of any report on the student loan repayment program that it provides to DOT within fifteen (15) calendar days after submission.

b. The Parties agree to meet annually to discuss annual benchmarks and goals for the allocation of resources and to review the effectiveness of the program.

Section 5—Applicability

Management reserves the right to determine the extent to which the program addresses recruitment versus retention. None of the provisions of this Article may be interpreted in a manner that is contrary to law or inconsistent with the requirement of an effective and efficient Government.

Article 24: Training and Career Development

Section 1—General

a. The training and development of employees is important in carrying out the mission of the Agency. The Agency is responsible for determining the training necessary to meet its mission, and for making such training available to Bargaining Unit employees.

b. Employee training and development will be administered in accordance with all applicable laws, rules, regulations, and the provisions of this CBA.

c. Either employees or managers may initiate discussion of individual training needs. Such discussions may or may not be linked to an Individual Development Plan (IDP).

d. The Agency shall, to the maximum extent practical, ensure that training occurs during the normal workweek, including travel to and from training.

e. Employees may be granted work schedule variations, leave options, and in some circumstances, administrative leave, for supervisor-approved training to improve the employees' job performance or mission-related career development.

Section 2—Non-Discrimination

The nomination and/or selection of employees to participate in training and career development programs and courses shall be in accordance with EEO guidelines and consistent with other applicable laws, rules, regulations, and the terms of this CBA.

Section 3—Training Programs

a. The Agency recognizes its responsibility to ensure that all employees receive the training necessary for the performance of their assigned duties. To the extent possible, employees will be notified of Agency-wide opportunities for career development. Supervisors and employees should discuss career development opportunities during one-on-one meetings and

how those opportunities can be fulfilled.

b. Training nominations and/or approvals will be based on the potential use of the training to improve organizational and individual performance and other criteria established by applicable law, rule, regulation, and the provisions of this CBA. Nomination and selection for training and career development programs and courses will be made in a fair and equitable manner.

c. When an employee is nominated for training, a copy of the employee's IDP (if any) will be considered in the process. Employees will be notified in writing of the approval or disapproval of their nominations and the reason(s) for disapproval. To the extent feasible, employees will be notified of the approval or disapproval prior to the starting date of the training.

Section 4—Career Development

a. An IDP is a document that is voluntarily developed by the employee with the assistance of the supervisor or an Agency-designated management official to be used as a guide to an employee's professional and career development. The Agency shall give employees the opportunity to prepare an IDP.

b. Upon request, the supervisor or other Agency-designated management official will assist the employee in the preparation of the IDP and will review it with the employee to ensure that the plan conforms to organizational and individual career needs. Employees may seek assistance from others who may provide advice and assistance in the preparation of the plan.

c. The employee has the ultimate responsibility to develop and finalize the IDP. In partnership, the supervisor or an Agency-designated management official shall assist the employee with reviewing his or her draft IDP within thirty (30) days and finalize the IDP within ninety (90) days of the employee's request for an IDP.

d. Each IDP shall establish a series of milestones. The primary emphasis of the plan will be:

    1. to address the competencies (or knowledge, skills, and abilities) needed for the Bargaining Unit employee to improve his or her ability to perform in his or her current position;

2. to address the competencies needed for advancement beyond his or her current journey level; and

3. to prepare the employee for new career opportunities within the Agency.

e. Bargaining Unit employees who have an approved IDP will normally be granted duty time for any training or developmental activities approved by the supervisor.

f. Bargaining Unit employees will not be penalized, including during the performance evaluation process, for not completing or not implementing an IDP. The scheduling of training will be consistent with Agency mission needs.

g. For approved government-sponsored training to meet mission and training requirements identified in the employee's IDP, the supervisor may adjust the Bargaining Unit employee's normal work schedule.

Section 5—Training and Career Development Expenses

a. Subject to the availability of funds, the Agency shall pay for supervisor-approved, Agency-required training, including all or part of the necessary expenses.

b. When training not required by the Agency is approved, the Agency may pay costs of tuition, required textbooks, and other expenses as appropriate, and pay travel costs, pursuant to applicable laws, rules, regulations, and this CBA, subject to fiscal considerations.

c. Subject to the availability of funds, the Agency shall pay employees' expenses for attending supervisor-approved conferences and meetings authorized by 5 U.S.C. § 4110 when the following criteria are met, as provided in 5 C.F.R. § 410.404:

1. the announced purpose of the conference is educational or instructional;

2. the content is germane to improving individual or organizational performance;

3. most of the conference consists of planned, organized exchanges of information between presenters and audience; and

4. the employee will derive developmental benefits through attending.

d. Subject to the availability of funds, the Agency may reimburse employees' appropriate costs associated with the pursuit of an academic degree in accordance with 5 U.S.C. § 4107.

e. Subject to availability of funds, the Agency may reimburse appropriate costs for mandatory study required to obtain and/or maintain certification and/or licensure related to employees' current positions.

Section 6—Equipment and Time for Continuing Education

a. Approval for duty time will normally be granted, absent compelling business reasons (to include coverage and/or mission requirements). If the request for duty time is denied, Management will provide the reason for the denial in writing and send a copy to the Union.

b. LWOP may be granted at the discretion of the supervisor for personal development or approved Agency-sponsored community service for educational purposes when the course of study or research is in line with a type of work performed by the Agency and would contribute to the mission of the Agency.

c. With supervisory approval, employees may use the Agency's computers to enroll in and take Agency-sponsored electronic or online courses on duty time.

Section 7—Reporting

The Agency shall provide the Union a copy of any training reports provided to DOT within fifteen (15) calendar days after its submission.

Article 25: Employee Notices and Orientation

Section 1—Representation Rights

In January of each year, the Agency will, in accordance with 5 U.S.C. § 7114 (a)(2)(B) and (a)(3), notify employees of their rights to Union representation. The notice will contain the statutory reference and language as follows:

a. Bargaining Unit employees are entitled to Union representation during any examination by a representative of the Agency in connection with an investigation if:

   1. the employee reasonably believes that the examination may result in disciplinary action against him or her; and

   2. the employee requests representation.

b. The following statement will also be included in the above notice: "In accordance with 5 U.S.C. § 7114 (a)(2)(A), the Union is authorized to be present at any formal discussion between one (1) or more representatives of the Agency and one (1) or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment."

Section 2—Frequency of Employee Orientation

a. Employee orientation training will be conducted on a recurring scheduled basis at least once every quarter, and all new OST Bargaining Unit employees shall attend unless they have previously attended new employee orientation.

b. The Agency shall provide the Union a list of Bargaining Unit employees that entered on duty and are scheduled to attend orientation. When available, the list will include the following information: name, grade, title, and organization.

Section 3—Union Participation in Employee Orientation

The Union will be provided Official Time to address Bargaining Unit employees for new employee orientation. Normally, the Union's presentation time will be scheduled as close as possible prior to the lunch break. If a Bargaining Unit

employee does not attend a scheduled orientation session, the Union may request Official Time to meet with the employee as soon as practicable.

Article 26: Merit Promotion

Section 1—Purpose

The purpose and intent of this Article is to ensure that merit promotion principles are applied in a consistent manner, with equity to all Bargaining Unit employees and based solely on job-related criteria.

Section 2—Actions Covered By Competitive Procedures

In accordance with 5 C.F.R. § 335.103, competitive procedures will apply to the following types of personnel actions for Bargaining Unit positions:

a. Promotions, except those listed in Section 3 of this Article.

b. Temporary promotions for more than one hundred and twenty (120) calendar days.

c. Details over one hundred and twenty (120) calendar days to higher graded positions or to positions with known promotion potential greater than the employee's present position.

d. Selection for training required for promotion.

e. Reassignment or demotion to a position with greater promotion potential than the position last previously held. Exceptions are actions permitted by reduction-in-force regulations and reassignment of an intern or trainee as part of the training and development plan.

f. Transfer to a higher-grade position never previously held.

g. Reinstatement to a permanent or temporary position at a higher grade level than previously held in a non-temporary position in the competitive service.

h. Reclassifications to a higher grade level when:

    1. The organizational location of the position changes;

    2. supervisory duties are added to a non-supervisory position;

3. two grade interval work is assigned to a one-grade interval position; or

4. more than one employee is at the same grade in the same or similar position with the same geographic location and office unless the reclassification is a result of the accretion of additional responsibilities.

Section 3—Actions not Covered by Competitive Procedures

In accordance with 5 C.F.R. § 335.103, competitive procedures will not apply to the following personnel actions, which are exceptions to Section 2 above:

a. Promotion Based on Reclassification when:

1. No significant change occurs in the duties or responsibilities of the position and the position is upgraded due to issuance of a new classification standard, an updated Agency-wide classification policy or the correction of a classification error;

2. The position is upgraded due to accretion of additional duties and responsibilities and the following provisions are met:
   a) the employee continues to perform the same basic functions in the same organization, working for the same supervisor (the duties of the former position are absorbed into the new position, and the former position is abolished);

   b) the new position has no promotion potential;

   c) the additional duties and responsibilities assigned or accrued by the incumbent do not adversely affect or impact other positions in the unit;

   d) the accretion is supported by a written analysis of the position (which may involve an audit with the employee and/or the employee's supervisor, or other fact gathering method);

   e) the employee has performed the higher level duties consistently and Management concurs on the continuation of the employee performing the additional duties and responsibilities;

   f) the position must be in the same series as the former position and is not reclassified from a one (1)-grade interval position to a two (2)-

grade interval position; and

g) the position does not require supervisory responsibilities.

b. Permanent promotion to a position held under a temporary promotion when:

1. the assignment was originally made under competitive procedures;

2. it was known to all competitors at the time that the assignment may lead to a permanent position.

c. Temporary Promotion of an employee for fewer than one hundred and twenty (120) days; or for more than one hundred and twenty (120) days to a grade level previously held on a permanent basis, unless the employee was demoted for reason related to performance or misconduct.

d. Placement as a result of priority consideration when the referral is a remedy for candidates not given proper consideration in a competitive promotion action.

e. RIF placements that result in an employee receiving a position with higher promotion potential.

f. Promotion to a grade previously held on a permanent basis in the competitive service, from which the employee was separated or demoted for other than performance or conduct reasons.

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

h. Promotion resulting from successful completion of a training program for which the employee was competitively selected.

i. Selection from the re-employment priority list at the same or lower grade level than the position from which the employee was previously separated.

j. Reinstatement to any position if a career or career conditional employee who served under a career Senior Executive Service (SES) appointment consistent with 5 C.F.R.§ 335.103(c)(3).

k. Promotion as a legal remedy as ordered and agreed upon in a

legal or administrative proceeding.

l. Details for one hundred and twenty (120) days or fewer to a higher graded position or to a position with known promotion potential.

m. Placement as a result of a reasonable accommodation at the same or lower grade level than the position which an employee previously held.

Section 4—Temporary Promotions

Bargaining Unit employees will not be detailed or temporarily promoted to higher graded positions for more than a cumulative total of one hundred and twenty (120) calendar days during any twelve (12) month period without the use of competitive procedures.

Non-competitive retroactive temporary promotions may be done in accordance with and for the purposes identified in 5 C.F.R. § 335.103(c)(2)(iii).

Section 5—Priority Referral or Consideration Before Using Competitive Procedures

a. An employee who is involuntarily demoted in the Agency without personal cause, or who is in grade retention status, is entitled to all rights and procedures afforded as required by OPM regulations, including priority consideration as discussed in Article 22, Section 5.

b. If an employee is not given proper consideration due to a harmful administrative error in a previous competitive action, Human Resources will give the employee priority referral for the next vacancy to which he or she qualifies that becomes available in the same occupational series and office as the position to which he or she was not properly referred. Priority referral is only offered once. This means that the employee must be referred to the selecting official for consideration before using the competitive procedures; this does not mean that the employee is guaranteed to be selected for the position.

c. If selected on the basis of the priority referral, the employee shall be promoted or reassigned noncompetitively.

Section 6—Vacancy Announcements

a. All vacancies within the Bargaining Unit, which require competitive procedures in accordance with this Article, will be announced electronically.

b. Vacancy announcements will include:

1. a statement of nondiscrimination;
2. the announcement number and posting and closing dates;
3. position title(s), series and grade(s);
4. the number of anticipated vacancies to be filled; include few or many
5. the Area of Consideration (AOC), which at a minimum will include OST Headquarters, Volpe, and/or TSI, as appropriate (unless the AOC is limited by the hiring office with a written business justification approved by the Associate Director for HR Operations);
6. the test to be used, if any;
7. a description of promotion potential, if any;
8. all selective placement factors;
9. when using an automated recruitment system, each factor/question used to determine the basic eligibility and/or best-qualified candidates will be available to access on each announcement through hyperlink;
10. the geographic and organizational location;
11. a statement when relocation expenses will be paid;
12. a summary of the duties of the position;
13. a summary of eligibility and qualification requirements;
14. permanent or temporary nature, and, if temporary, the duration and if the position may be made permanent;
15. The contact information of the DOT Automated Staffing Office for information relating to the announcement;

16. special working conditions, such as tour of duty, travel requirements, expected overtime, etc.;

17. a statement of whether the position is in the AFGE Bargaining Unit;

18. the different levels at which the position may be filled if it is a multiple-level announcement;

19. specific information relevant to the evaluation of the candidates, e.g., writing samples, portfolios;

20. a statement when a position is subject to drug testing;

21. a statement as to when a position has been classified to be "essential" for purposes of reporting to work when the facility might otherwise be closed;

22. a statement of the position sensitivity and if the appointment is subject to investigation/continuous vetting; and

23. a statement if the position is exempt or non-exempt for FLSA purposes.

c. Vacancy announcements, other than Interagency Career Transition Assistance Plan (ICTAP) or announcements with applicant limits, will be open for a minimum of five (5) calendar days.

d. Open continuous announcements and announcements for standing registers may be used.

e. Amending or re-advertising vacancy announcements: If a vacancy announcement has been posted and is later found to contain a substantial error, a determination will be made by Management as to whether the announcement should be amended or re-advertised. All applicants will be notified. The amendment should cite the change(s) and indicate whether or not the original applicants need to re-file in order to be considered.

f. Notice of cancellation of vacancy announcements will be communicated to applicants through the automated recruitment system.

Section 7—Employee Applications

a. To be considered for a vacancy, an employee must complete his or her

application as described in the announcement.

b. Electronic Application

1. The Agency will give Bargaining Unit employees access so they may use Agency computers to complete automated applications under this Article. With a supervisor's approval, an employee may be granted a reasonable amount of time during working hours to prepare or modify his or her application.

2. Upon request, the Agency will provide assistance on how to file for a vacancy and how to complete the appropriate form(s).

c. The time limits for filing for a posted vacancy are as follows:

1. Open Continuous Announcements: An employee may file at any time as outlined on the vacancy announcement.

2. Individual Announcements: In those instances where only electronic applications are utilized, the closing date reflected on the vacancy announcement will be the acceptance deadline.

Section 8—Establishing the Best Qualified List

a. To be eligible for promotion or placement, candidates shall meet the legal and minimum qualification standards prescribed or approved by OPM and selective placement factors or other qualification requirements identified as essential for successful performance by the closing date of the announcement. Ineligible applicants shall be notified through USAJOBS of the determination of ineligibility prior to submission of the referral list to the selecting official.

b. Assessment criteria used to evaluate candidates must be fair, job related, and applied equitably.

c. A job analysis must be conducted to determine the competencies required for the position. This may include the knowledge, skills, and abilities (KSA), and other characteristics and (if applicable) selective factors required to identify the best- qualified candidates for the position to be filled. Job analysis requirements shall conform to the Uniform Guidelines on Employee Selection Procedures at 29 C.F.R.§ 1607, and 5 C.F.R. § 300, Subpart A.

d. Assessment questions are developed based on a job analysis that identifies the KSAs, and other characteristics and (if applicable) selective factors required to determine the best-qualified candidates for the position to be filled.

e. Candidates will be rated against the KSAs/competencies and assessment questions as described in the vacancy announcement. Candidates will be ranked according to their final rating scores.

f. When there are more than ten (10) qualified competitive candidates, the Best Qualified candidates who will be referred for consideration will be determined based on the most logical (natural) break in the scores, i.e., two (2) or more points. All tied scores equal to or above the natural break will be forwarded to the selecting official.

g. If there are fewer than ten (10) Best Qualified candidates, only the Best Qualified candidates will be referred.

h. If there are fewer than three (3) qualified candidates, the selecting official with the concurrence of the human resources representative, may determine if the vacancy announcement will be extended or re-advertised to expand the AOC.

i. Normally, all merit promotion referrals list will be issued in alphabetical order.

Section 9—Selection Procedures

a. Selecting officials have the right to select or not to select. However, no selection shall be made until the selecting official has interviewed all available Bargaining Unit candidates on the certificate who are within the work center of the position being advertised.

b. The selecting official or panel will ask valid job-related interview questions that allow for an objective evaluation of the candidate's competencies as they relate to the position being filled.

c. When a face-to-face interview is not possible, a telephone interview or other electronic method is acceptable.

d. The selecting official has the right to select or not select any candidate(s) referred.

e. Priority lists governed by law, rule, or regulation will be reviewed by the

selecting official prior to reviewing external candidates.

f. The selecting official will give consideration to the candidates' qualifications. The selection shall be based solely on job-related criteria.

g. If a rationale for the selection is prepared, it will be made a part of the case file.

h. Release and Notification of Applicants: The Office of Human Resources will work with program officials to establish mutually agreeable release dates based on mission and program requirements. Normally, an employee will be released no later than one (1) complete pay period for promotions, following the selection and after required security clearance or other condition(s) are satisfied (i.e., pre-employment drug test). When local workforce and program conditions permit, an employee will be released no later than two (2) complete pay periods for reassignments/transfers, following the selection and after required security clearance or other condition(s) are satisfied (i.e., pre-employment drug test). When an employee is nearing the end of a waiting period for a within-grade increase (WIGI), consideration should be given to releasing the employee at the beginning of a pay period on or after the effective date of the WIGI, provided such an action would benefit the employee.

i. An employee may contact the DOT Automated Staffing Office to request information regarding his or her application.

j. Upon request, an employee may seek guidance on how he or she can potentially improve an application to increase his or her chances for future consideration to similar positions.

Section 10—Career Ladder Promotions

a. A Career ladder promotion is a type of promotion that generally permits an employee to progress towards the full performance level of the position. It is the policy of the Agency to provide appropriate opportunities for Bargaining Unit employees to develop and advance in their careers.

b. Pursuant to 5 C.F.R. § 335.104, career ladder promotions are not automatic; an acceptable level of performance must be demonstrated for progression. The Agency must have the appropriate level of work available and necessary budgetary resources to support the promotion. Once the promotion has been made, supervisors will assign work at the new grade level.

c. Career ladder positions are generally developmental. In addition to the requirements listed in Section 10(b), an employee in a career ladder position, at a minimum, must meet the following criteria, in the supervisor's judgment:

    1. meet all performance requirements and, education requirements, if applicable, for the duties and responsibilities of the current position, and also have performed specific assignments or projects typical of the next higher grade position;

    2. have regularly and clearly demonstrated, through assigned work performed in the current position, the probability of satisfactory performance in the next higher graded career ladder position; and

    3. time in grade requirements.

d. Employees in career ladder positions will be given the opportunity to reach the full potential of their assigned career ladders. Upon placing an employee in a career ladder position, the supervisor will identify the job requirements and expectations to reach the next higher level. The supervisor will hold discussions with the employee at each level of the employee's progression within the career ladder.

e. Career ladder promotions are permitted when an employee is appointed or assigned to any grade level below the established full performance level of the position (i.e., the position has a documented career ladder and promotion potential). These promotions may be made non-competitively for any employee who entered the career ladder by:

    1. competitive procedures; or

    2. non-competitive appointment under special authority.

f. At the time an employee meets time-in-grade and any other legal promotion requirements, the supervisor will make a decision to promote or not to promote. This decision will be made in a timely manner but no employee shall receive a career ladder promotion unless his or her rating of record is "achieved results" or higher.

g. If an employee satisfies the career ladder promotion criteria, and all required documentation is received by HR, the promotion can normally be made effective at the beginning of the next pay period.

h. The supervisor will periodically provide feedback to the employee about

his or her performance in the career ladder position.

i. Failure to Meet Promotion Criteria

1. Employees not meeting the criteria for promotion will be counseled by their supervisor regarding areas needing improvement before the promotion can be effected in accordance with applicable law, rules, or regulation.

2. The supervisor and employee will work together to assist the employee in meeting the specific promotion requirements. Such assistance should identify applicable training as well as any other appropriate support. Employees may request Union assistance.

Section 11—Promotion Records for Unit Positions

In accordance with 5 C.F.R. § 335.103, a file sufficient to allow for reconstruction of the competitive action will be kept for two (2) years, unless there is a grievance or complaint pending on the particular promotion action, in which case the file will be kept pending final decision of the grievance or complaint, whichever is longest.

Article 27: Awards

Section 1—Types of Awards

a. The Agency will conduct any award programs in accordance with 5 U.S.C. Chapter 45 and 5 C.F.R. Part 451.

b. Performance awards, Quality Step Increases (QSI), Time Off Awards (TOA), Special Act Awards, Honorary Awards, and On-the-Spot Awards are granted by the Agency on the basis of merit, and within applicable budget limitations, to individuals or groups. Such awards will be granted in a fair, consistent, and objective manner without discrimination.

c. Absent budget constraints and mission requirements, management will strive to utilize the awards budget to the fullest extent authorized.

d. Managers and supervisors are encouraged to make use of Special Act Award, when appropriate, throughout the year.

e. Should the Agency determine, at any time during the life of this CBA, to modify its policies on awards, it shall give the Union formal notice in writing. Upon such notice, either Party may negotiate the procedures and appropriate arrangements of the Agency's proposed change. Such negotiations shall be conducted in accordance with the provisions of Mid-Term Bargaining provisions of this CBA.

Section 2—Performance Awards

Performance awards are monetary awards or time off earned as a result of an employee's annual performance rating and are allocated and distributed based on performance as documented by the current year's performance evaluation. All awards are subject to budgetary constraints.

1. Barring budgetary and time-off award allocation constraints, an employee who receives a rating of record of Outstanding will receive a performance award or Quality Step Increase (QSI).

i. To be eligible for a QSI, employees must be below the step 10 of their grade level and not have received a QSI within the preceding 52 consecutive calendar weeks.

2. An employee who receives a rating of record of Exceeds Expectations should normally receive a performance award.

3. An employee who receives a rating of record of Fully Successful should be considered for and may receive a performance award.

   i. If an employee does not have a rating of record when performance awards are granted, the employee will be considered for an award when he or she is assigned a rating of record for the rating cycle/period.

   ii. Management will make retroactive adjustments, as appropriate, to awards for employees whose end of the year performance ratings are revised to a higher level.

   iii. Management will normally pay out performance awards by the end of the fiscal year.

   iv. An employee may request a TOA in lieu of a monetary performance award.

Section 3—Time Off Awards (TOA)

a. The purpose of the TOA is to increase employee productivity and creativity by rewarding employee contributions to the quality, efficiency, or economy of Government operations. The award is also intended to increase the quality of work life for all employees, as well as encourage and recognize onetime, non-recurring accomplishments above or beyond normal job requirements.

b. A TOA provides an employee with an excused absence without charge to leave or loss of pay. Bargaining Unit employees shall be eligible for a TOA unless an employee is or was on leave requirements within the previous twelve (12) months. However, employees on leave requirement are not precluded from receiving other types of performance awards.

Section 4—Reporting

a. If the Agency establishes any performance award budgets for General Schedule employee awards, the Agency will notify the Union of those budgets and the amounts to be allocated.

b. The Agency will provide the Union, on an annual basis, the number of BUE employees as well as the number of non-BUEs who have received a QSI for the current performance year.

Article 28: Personnel Records

Section 1—Official Personnel Files

a. The official files of all personnel, including employee performance documentation, will be managed by the Office of Human Resources. OST will maintain employees' Electronic Official Personnel Folders (e-OPFs) in accordance with 5 C.F.R. Part 293 and other applicable OPM laws and regulations.

b. An employee has the right to examine the contents of his or her e-OPF, at any time, via a computer connected to the DOT system.

Section 2—Supervisory Notes

a. Supervisors may retain notes, commonly referred to as "memory joggers." These notes are considered to be mere extensions of a supervisor's memory and are not Agency records subject to the record keeping or other requirements of applicable laws and regulations, including the Privacy Act. Notes may be retained or discarded, at the discretion of the supervisor. Supervisors must maintain such notes in a secure manner and not disclose them to anyone without a need to know.

b. If a supervisor uses any information contained in his or her personal notes/memory joggers as part of an official record, that information will be maintained in accordance with the Privacy Act, and the employee is entitled to be notified of the intent to use that information and provided a copy upon request.

c. The maintenance of a supervisor's notes will not preclude the supervisor from addressing any conduct or performance issues in a timely manner.

d. Personnel records/files/notes that do not have legal or regulatory requirements to be maintained beyond their expiration date shall be considered expunged from the record.

Article 29: Performance Management

Section 1—Overview

a. The Agency will administer the Performance Management program in accordance with 5 U.S.C. Chapter 43 and 5 C.F.R. 430 and agency policy.

b. The purpose of the performance management system is to provide a framework to ensure constructive feedback and open, two-way communications between employees and their supervisors/rating officials. The system focuses on contributions within the scope of the employee's performance standards in achievement of the Agency's overall service mission.

c. The Agency and the Union are committed to providing quality public service. Accomplishment of the Agency mission should be achieved in an environment that recognizes the value of its employees and the importance of teamwork.

d. Performance of Agency objectives is a function of systems implemented and administered by management, and individual performance by motivated, trained, and valued individual employees.

e. At a minimum the performance management system will emphasize employee development and their contribution to the Unit and group achievement of the Agency's mission/objective(s).

f. The Agency will not prescribe a distribution of levels of ratings for employees covered by this CBA. Each employee’s performance will be judged solely against their performance standards.

Section 2—Policy

a. The provisions of this Article apply to all Bargaining Unit employees in the competitive, excepted service, and Federal Wage System (WG).

b. The employee performance management system and its application will be fair, equitable, reasonable, and relative to the employee's position description (PD) and related duties assigned.

c. The performance management system will not:

   1. be used as a disciplinary, punitive, or adversarial tool;

   2. foster individual competition;

   3. be based on numerical goals and/or numerical performance levels not contained in the employee's performance standards;

   4. apply absolute performance standards except where they are critical to life, safety and the mission; or

   5. be based on expectations or requirements that are unrealistic and unattainable by most employees working under normal conditions.

Section 3—Definitions

a. Terms used in this Article that relate to the Performance Management System, such as "appraisal," "critical element," or "performance rating" will, to the extent applicable, have the same meaning as in government-wide regulation.
b. The terms supervisor and/or rating official can be used interchangeably in this Article and refer to the supervisory and/or management official who is responsible for providing an employee with a performance appraisal and rating of record.
c. The term "reviewing official" refers to a higher-level management official than the supervisor/rating official of an employee.
d. The term "performance plan" refers to the documented critical and additional performance elements and standards by which an employee's performance will be evaluated during any given rating period.

Section 4—Critical Elements (CE)

a. Critical Elements (CE) are those work assignments or responsibilities of such importance that unacceptable performance on an element would result in a determination that the employee's overall performance was unacceptable.

b. CE's may be consistent for like positions. Variations in CE's should be based on significant differences between positions and/or mission requirements.

c. Consistent with Management's right to assign work, CE's should

normally be consistent with the duties and responsibilities contained in an employee's PD.

Section 5—Performance Standards

a. For each employee's performance plan, to the maximum extent feasible, performance standards will describe how the requirements and expectations provided in the performance plan are to be evaluated and should be based on the SMART standards: Specific, Measurable, Achievable, Relevant and Timely. Expectations established in the performance elements and standards are quantifiable, observable, and/or verifiable which permits appropriate evaluation of the employee's job performance.

b. Performance standards for each Element will be written at the performance level that will satisfy the requirements at the "Fully Successful" level (Level 3) of performance.

c. There will be three to ten standards per Performance Element.

d. The supervisor and employee will meet to discuss the development of the performance standards for each element and what is required for the employee to meet the "Fully Successful" level (Level 3) of performance.

e. Application of all performance standards shall be fair and equitable, and consistent with regulatory requirements.

Section 6—Standardized Critical Elements and Performance Standards

The Agency will provide to the Union a copy of Bargaining Unit employees' performance plan when standardized (multiple performance plans) Critical Elements and standards are created for a new job or changed within an entire career series for a Secretarial or Departmental office.

Section 7—Communications

a. Within the first thirty (30) calendar days of the start of every rating period or within thirty (30) calendar days of employment or reassignment, the rating official will establish an employee's performance plan in the Agency's electronic performance management system.

    1. Prior to the establishment of the performance plan, rating officials should

meet with their employees to discuss performance objectives and/or expectations, to include critical elements, and performance standards (whenever possible these discussions will be face-to-face whether in-person or virtually).

2. Prior to the establishment of a performance plan, supervisors/rating officials should present to their employees, for feedback, a proposed performance plan in writing that contains the Critical Elements and any Additional Performance Elements, as well as the performance standards for each of these elements. Performance elements and standards should be written at the "Fully Successful" level (Level 3).

3. A performance plan is approved and in effect when the supervisor/rating official signs the plan in the Agency's electronic performance management system. An employee's signature on the performance plan acknowledges receipt of the plan but does not necessarily indicate agreement with the plan. Failure on the employee's part to sign their performance plan does not void the establishment of the plan or its contents.

4. An employee may request to discuss with their supervisor/rating official the expected performance goals to receive an "Exceed Expectations" performance rating or higher.

b. Supervisors/rating officials may modify or change an employees performance elements and standards when there is a change in agency mission or work situations. Supervisors/rating official should communicate any changes to their employees to ensure their awareness of the change in expected performance standards. Such changes include, but are not limited to:

1. Detail assignments;

2. absences of ninety (90) days or more;

3. a component's goals or objectives;

4. work assignments; or

5. the work process or product of the component.

c. Ongoing performance discussions:

1. Informal discussions are a standard part of supervisory responsibilities and should occur throughout the performance appraisal period. Discussions may be initiated by the rating official or employee. Discussions may be held one-on-one or in a work group. If an employee requests a discussion with their supervisor/rating official to discuss their performance, it should be scheduled within fifteen (15) workdays, if possible.

2. Discussions should be candid, forthright dialogues between the rating official and employee aimed at improving the work process or product and developing the employee. Performance Management is a collaborative effort between supervisors and employees, as appropriate, the discussion will provide the opportunity to assess accomplishments and progress and identify and resolve problems.

3. As appropriate, the rating official should provide additional guidance aimed at developing the employee(s), addressing any obstacles that may be beyond the control of the employee and or supervisor, and improving the work product or outcome. Discussions will provide the employee the opportunity to seek further guidance and understanding of their work performance and offer suggestions for improving processes.

Section 8—Procedures

a. Bargaining Unit employees will receive an annual performance rating for the performance appraisal period. Normally, performance ratings are issued in writing to the employees within thirty (30) days following the end of the rating period. The performance cycle will be extended when an employee is on a Performance Improvement Plan (PIP) to allow completion of the PIP.

b. Within thirty (30) days of appointment, reassignment, or if there is a change in supervision and the new supervisor/rating official wishes to amend standards, the employee will be issued a new performance plan.

c. New employees must be working under a performance plan for a minimum of ninety (90) days before a rating of record can be given**.**

d. In rare instances, when performance plan changes are made fewer than ninety (90) days before the end of the rating period, the rating period will be extended to allow the employee the minimum observation time for an

appropriate job performance rating.

e. Supervisors/rating officials will give employees at least one (1) formal progress review, normally during the mid-point of the rating period, although more are encouraged. This review can be documented with a written progress review or with a signature on the electronic performance appraisal form.

    1. One (1) progress review is required if the rating official believes the employee is not performing in a successful manner**.** The progress review will indicate to the employee what would be necessary for the employee to perform at the "Fully Successful" level (Level 3).

Section 9—Uses of the Performance Rating

a. The performance rating given to employees under this performance management system is used for a number of purposes, to include but not limited to: An employee, whose most recent rating of record is at least "Fully Successful" will be eligible for appropriate WIGIs.

b. The rating of record will be used in consideration for appropriate awards, promotions, and other personnel actions.

c. The performance rating will be considered in making determinations regarding Agency reductions in force (RIF) in accordance with the law, government regulation, and this CBA.

d. The rating of record may be used in evaluating candidates under the merit promotion system contained in this CBA.

e. Identifying systemic changes in operations, work processes, training, teamwork, etc.

Section 10—Performance Improvement Period (PIP)

a. The purpose of the PIP period is to provide the employee with an opportunity to demonstrate acceptable performance at the "Fully Successful" level (Level 3).

b. It is the responsibility of the Agency to monitor employee performance throughout the performance appraisal period. Examples of monitoring may

include recurring meetings between the supervisor and the employee or written status reporting. Communication is required consistent with agency policy. Such meetings may discuss progress and communicate requirements. If at any time during the performance appraisal period, the supervisor/rating official determines that an employee is performing at the "Unacceptable" level in one (1) or more Critical Elements, the rating official will call for a meeting with the employee to discuss the employee's performance.

c. The PIP notice will identify the critical element(s) and assigned task(s) for which performance is unacceptable and inform the employee of the performance standard(s) goals that must be attained in order to demonstrate acceptable performance at the "Fully Successful" level (Level 3). The plan will state that the employee must demonstrate a "Fully Successful" level (Level 3) of performance in the Critical Element(s) they are failing, and the consequences of failing, such as reduction in grade, reassignment, or removal from Federal service. The notice may also reference organizations and resources that the employee may contact to include the union and/or EAP for assistance.

d. The PIP will afford the employee a minimum of a sixty (60) day opportunity period to demonstrate performance at the "Fully Successful" level (Level 3) and resolve the identified performance-related problem(s) as noted in the PIP.

e. The PIP will be tailored to the specific needs of the employee and may include formal training, on-the-job training, counseling, assignment of a mentor, or other assistance as appropriate.

f. The PIP will state which supervisor or management officials will be available to guide, coach, and otherwise assist the employee in reaching the "Fully Successful" performance level (Level 3) and establish periodic counseling and reassessment by the supervisor during this period.

g. The employee will be informed in writing that a WIGI or award will be withheld while this level of performance continues.

h. At any time during the performance improvement period, the supervisor/rating official may conclude that assistance is no longer necessary because the employee's performance has improved to at least "Fully Successful." The supervisor/rating official will notify the employee of this determination in writing.

i. An employee's failure to maintain their performance at the "Fully Successful" level (Level 3) for a period of one-year, from the start date of a PIP period, may result in the Agency taking an adverse performance based action as identified in the original PIP notice. The agency will include language in a PIP notice advising the employee of this requirement and possible penalty.

j. No performance-based action (5 C.F.R. Part 432) will be proposed until the completion of the PIP.

Section 11—Action Based on Unacceptable Performance

a. If the employee's performance is determined to continue at the "unacceptable" level, the supervisor will provide written notification to the employee of one (1) of the following actions:

   1. The employee may be reassigned to another position in the same grade for which he or she qualifies.

   2. When the employee is not capable of performing any position at the same grade but is capable of performing a position at a lower grade, in the same or different job series, the supervisor may propose a demotion to a position at a lower grade.

   3. The supervisor may propose a removal; the Agency may accept an employee's request to resign in lieu of removal.

b. An employee who is reassigned or demoted to a position at a lower grade based on unacceptable performance will receive a new performance plan, in accordance with this Article.

c. An employee whose reduction in grade or removal is proposed for unacceptable performance is entitled to:

   1. a thirty (30) day advance written notice of the proposed action, which identifies the specific basis for the proposed action, including specific instances of unacceptable performance;
   2. a representative (the employee must inform the deciding official, in writing, of the representative's name); a reasonable time, normally not to exceed fifteen (15) days, to answer orally and in writing and to provide witnesses and work product or other evidence to challenge the proposed

action; and

3. requests for reasonable extensions of time to answer a proposed action.

d. The employee will be given a decision on the proposed demotion or removal in writing. Unless the action is proposed by the Head of the Agency, the deciding official will be at a higher management level than the proposing official. The decision will:

   1. specify the instances of unacceptable performance and the Critical Element(s) for which the employee did not achieve "Fully Successful" (Level 3) performance, and on what the decision is based; and

   2. specify the action to be taken, the effective date, and inform the employee of their right to appeal to the MSPB in accordance with applicable law, and of the Union's right, on behalf of the employee, to timely file a written request to invoke arbitration under the terms of this CBA, but not both.

e. An employee shall be deemed to have exercised their option when the employee timely initiates an appeal under the statutory procedure, or when the Union, on behalf of the employee, timely files a written request to invoke arbitration, whichever occurs first. Arbitration must be invoked no later than thirty (30) days after the effective date of the action unless EEO counseling is initiated.

Section 12—Electronic Performance Management System

a. USA Performance (USAP) is an automated, web-based tool. This automated system is used to create, review, and approve performance plans; document modifications to performance plans; document progress reviews; document employee input on their individual performance; and document performance appraisals.

b. USAP is the only automated appraisal tool that has been authorized for use in administering and documenting activities under U.S. Department of Transportation (DOT) Performance Management and Appraisal System. Where supervisors or employees do not have access to USAP, they must use the Department Performance Appraisal Form (DPAF).

c. Should the Agency propose to change the current electronic system for processing any part of the Performance Management System, the Union will

be notified and have an opportunity to bargain in accordance with the Mid-Term Bargaining Article of this CBA. No system changes will be implemented until negotiations are completed.

Section 13—Special Circumstances

As appropriate, performance appraisals will take into account:

a. factors or changes that affect performance which are beyond the control of the employee;

b. authorized absences; and

c. authorized use of Official Time by Union officials as permitted in accordance with the Article 9 of this CBA.

Article 30: Within-Grade Increases

Section 1—General

a. In accordance with 5 C.F.R. Part 531, Subpart D, WIGIs are provided to employees who occupy permanent positions who have maintained an acceptable level of competence.

b. Denial of a WIGI is not to be used as a punitive measure for an act of misconduct in lieu of appropriate disciplinary actions. Denial of a WIGI will only be based on unsatisfactory performance.

c. The WIGI will be effective on the first day of the first pay period following the end of the required waiting period, provided:

   1. the employee has attained an acceptable level of competence, defined as "Achieved Results" (or equivalent) performance on his or her most recent rating of record under the Performance Management Article; and

   2. the determination to grant or withhold a WIGI is based on the employee's appraisal of record and his/her current performance under a performance plan for ninety (90) days or more.

   3. The employee has not received an equivalent increase in pay during that required waiting period.

Section 2—Procedures for WIGI Denial and Reconsideration

a. At any time, but normally, not later than sixty (60) days prior to the end of the WIGI waiting period, the supervisor will notify the employee if his or her job performance is falling below an acceptable level, and unless his or her performance improves, the WIGI may be denied. The notice may be in the form of written counseling, progress reviews, or the performance appraisal.

b. When it is determined that current performance is not at an acceptable level, a rating must be prepared to document current performance.

c. When being denied a WIGI, the employee will be notified in writing prior to the end of the pay period in which the WIGI is due. The notice will include the following:

   1. a statement that the employee's work has been reviewed;

2. a statement that the employee's work has been determined to be of less than an acceptable level of competence;

3. a statement that identifies the performance elements in which the employee's performance was less than fully successful;

4. specific examples of how the employee's performance failed to meet the fully successful level for that particular performance element;

5. a statement that the employee has the right to request, in writing, a reconsideration of the negative determination, provided the request is made within fifteen (15) calendar days of the employee's receipt of the negative determination (the reconsideration official will normally be at a level higher than the rating official);

6. the name and title of the reconsideration official to whom the employee may submit a request;

7. a statement that the employee may have a Union representative in presenting a request to the reconsideration official; and

8. a statement that the employee is authorized a reasonable amount of duty time to review the materials relied upon in reaching the negative determination and to prepare a response.

d. A decision on reconsideration will be made within thirty (30) calendar days from the date of the request. If the reconsideration official determines that the employee has met an acceptable level of competence, the WIGI effective date will remain the first day of the first pay period following the end of the required waiting period.

e. If the reconsideration official upholds the negative determination, the employee may file a grievance. The grievance would be filed at the Step 3 of the grievance procedure.

Section 3—WIGI Approval after a Denial

When an employee's performance is determined to be at an acceptable level of competence following an earlier negative final determination, the effective date of the WIGI will be the first day of the first full pay period following the new determination and rating of record.

Article 31: Employee Assistance Program

Section 1—Policy

This Article will be administered in accordance with applicable Federal laws and regulations, including 5 C.F.R. Part 792 governing Federal Employees' Health and Counseling Programs. The Agency agrees to promote an Employee Assistance Program (EAP) that provides no-cost, short term, confidential counseling to assist employees with issues of a personal nature related to work and family.

The program includes referral services for problems related to alcohol; drug abuse; personal/emotional, financial, marital, family, and legal matters; and follow-up services to help an employee readjust to his or her job during and after treatment. No employee will be required to use an EAP service unless this requirement is agreed to in writing as part of a mutually agreed upon settlement of a work-related matter.

Section 2—Employee Assistance Program

a. The Agency will maintain an EAP and make this service available to Bargaining Unit employees at no cost. The EAP will be staffed with professional counselors who will assist employees in addressing problems that have had an adverse effect on their job performance, reliability, and health.

b. As appropriate, supervisors will offer the availability of the EAP to employees who are experiencing performance and conduct issues. However, supervisors will not attempt to diagnose employee problems, e.g., alcohol or drug abuse, depression, etc. The EAP can be important in preventing and intervening in workplace violence incidents; delivering critical incident stress debriefings; and providing assistance to management and employees during Agency restructuring or other major organizational transitions or developments.

c. The EAP website will be linked to the DOT webpage and the Agency will annually forward EAP information to all Bargaining Unit employees via email.

Section 3—Voluntary Participation and Employee Responsibility

a. An employee will not be required to participate in nor be penalized for declining EAP services unless participation is required as part of a settlement agreement or to comply with DOT's Federal Employee Drug and Alcohol Testing Program, DOT Order 3910.1, DOT Drug and Alcohol Testing Guide, and Executive Order 12564, "Drug Free Federal Workplace."

b. Prior to leaving the workplace to meet with an EAP counselor, the employee must inform his or her supervisor and make appropriate arrangements for the absence. When employees do not want their supervisors to know of their attendance or their supervisor does not grant duty time, the employee must make arrangements for EAP appointments outside of duty hours or request leave.

Section 4—Access to EAP Services

a. The Agency may grant duty time to an employee to participate in the EAP, provided that the employee informs the supervisor of the appointment. The Agency may grant duty time to an employee to meet with an EAP counselor for up to six (6) sessions as determined by the EAP counselor.

b. Employees who are referred to community services for treatment will request leave in accordance with the Leave Articles established in this CBA.

Section 5—Confidentiality of the Program

a. The Parties recognize that all confidential information and records concerning an employee's counseling and treatment through the EAP will be maintained in accordance with The Privacy Act of 1974 (5 U.S.C. § 552a).

b. The Agency may not obtain or disclose information about the substance of the employee's involvement with the EAP without an employee's written consent.

c. Disclosure without consent is permissible only in a few instances, such as the following:

    1. To medical personnel in a medical emergency.

2. In response to an order of a court of competent jurisdiction.

3. To comply with DOT's Federal Employee Drug and Alcohol Testing Program, DOT Order 3910.1, DOT Drug and Alcohol Testing Guide, and Executive Order 12564, "Drug Free Federal Workplace."

4. An EAP counselor is required by law to report incidents of suspected child abuse and neglect (in some states, elder and spouse abuse) to the appropriate state and local authorities.

5. An EAP counselor may make a disclosure to appropriate individuals, such as law enforcement authorities and persons being threatened, if the employee has committed, or threatens to commit, a crime that would physically harm someone. This can be done only if the disclosure does not identify the employee as an alcoholic or drug abuser.

Section 6—Confidentiality: (Unacceptable Performance, Disciplinary and Adverse Actions)

a. Any information obtained from the EAP with or without the employee's authorization may not serve as the basis for disciplinary or adverse actions except as described in Section 5 of this Article. Disciplinary actions that are not related to substance abuse should be based on job behavior or performance problems, not progress in a counseling program. In evaluating an employee's work performance and job-related conduct, the supervisor may consider whether an employee referred to counseling is cooperating with a recommended plan of counseling and may postpone the action if deemed appropriate.

b. If an employee receives a proposed disciplinary or adverse action, and the employee notifies the Agency for the first time that he or she has a substance abuse problem that significantly contributed to the misconduct and is seeking the services of the EAP, Management and the employee will adhere to the requirements contained in the Department's Federal Employee Drug and Alcohol Testing Order, DOT 3910.1D.

Article 32: Equal Employment Opportunity

Section 1—Policy

The Agency and the Union affirm their commitment to equal employment opportunity (EEO) and the prohibition of discrimination on the bases of race, color, religion, sex (pregnancy, sexual orientation and gender identity), age, national origin, disability, genetic information, or reprisal for opposing any practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Equal Pay Act, the Genetic Information Nondiscrimination Act (GINA), , the Pregnant Workers Fairness Act, the Rehabilitation Act of 1973, as amended, and the standards of the Americans with Disabilities Act (ADA) as applicable to Federal employees under any act of Congress that prohibits unlawful discrimination.

Section 2—Participation in EEO and Affirmative Employment Plans

The Union will partner with the Departmental Office of Civil Rights to examine employment policies, procedures, and practices in order to identify actual problems, barriers, and "triggers" that may limit employment opportunities for employees and applicants for employment.

Section 3—EEO Complaints

a. Allegations of discrimination may be filed under the EEO complaint process (29 C.F.R. Part 1614).

b. Allegations of discrimination may also be filed as a "mixed case appeal" with the MSPB in connection with an appeal of an Agency action that is appealable to the MSPB.

Section 4—Reasonable Accommodations

a. As provided by the Rehabilitation Act of 1973, the Agency agrees to make reasonable accommodations for known physical or mental limitations of

qualified employees with disabilities that will enable them to perform the essential functions of their positions, unless the Agency can demonstrate the accommodation would impose an undue hardship on the operation of the Agency's program. Agency policy will be followed for processing reasonable accommodation requests. Employees may request an accommodation, orally or in writing. Requests will normally be made to the employee's supervisor, who will engage in a private interactive process with the employee to discuss reasonable accommodations options. Medical information will only be shared on a need-to-know basis.

b. As provided by the Pregnant Workers Fairness Act, the Agency agrees to make reasonable accommodations for a qualified employee's known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the Agency can demonstrate the accommodation would impose an undue hardship on the operation of the Agency's program. Agency policy will be followed for processing reasonable accommodation requests. Employees may request an accommodation, orally or in writing. Requests will normally be made to the employee's supervisor, who will engage in a private interactive process with the employee to discuss reasonable accommodations options. Medical information will on be shared on a need-to-know basis.

c. At the time medical documentation is requested, the Agency will notify the employee requesting an accommodation that submission of medical documentation provides the Agency with consent to share that information with another party as necessary for processing the request (e.g., Federal Occupational Health).

Section 5—Information and Notice to Union and Employees

a. Upon written request, the Agency will provide the Union copies of regulations in the Agency's possession that describe the discrimination complaints process and statistical reports concerning discrimination complaints filed by Bargaining Unit employees.

b. Provision of any information under this Article does not impact any rights the Union may have under 5 U.S.C. § 7114 (b) or the Freedom of Information Act.

c. If a Complainant elects to use the grievance procedure with Union representation, instead of the statutory procedure for filing a discrimination complaint, the Union shall have the right to information in accordance with 5 U.S.C. § 7114 (b). The Union representative will have the same access to information as the Complainant.

d. The Union will be provided information relating to the demographics of the workforce when requested to represent the Bargaining Unit employees in a potential or actual grievance. The Agency will also provide this information to the Union within ten (10) workdays of receiving a written request from the Union. If needed, the Agency may request an extension for providing requested data.

e. Upon request, the Agency will provide the Union with copies of any reports and plans submitted concerning the Agency's implementation of the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act).

f. The Union will be notified of, and provided with, the opportunity to be present in any formal discussion affecting the terms and conditions of employment during the processing of any EEO complaint as required by law. The Agency will notify the Union designee as far in advance of the formal discussion as possible under the circumstances and inform him or her of the nature of the original complaint. The Union representative will be acknowledged at the start of the formal discussion and will be given an opportunity to participate, which includes the opportunity to speak, comment, and make statements.

Article 33: Disciplinary/Adverse Actions

Section 1—Policy

a. Disciplinary actions are written reprimands and suspensions of fourteen (14) or fewer days. Adverse actions are suspensions of more than fourteen (14) days, reductions in grade, reductions in pay, furlough of thirty (30) or fewer days, or removals. Adverse actions and suspensions of fourteen (14) days or fewer will be taken in accordance with 5 U.S.C. Chapter 75. Bargaining Unit employees will be subject to disciplinary or adverse action only for such cause that promotes the efficiency of the service.

b. The primary objective of discipline is to correct and improve employee behavior. Discipline should be preceded by counseling or oral warnings. Counseling and oral warnings are informal in nature. Memoranda of caution or warning (including written admonishments) and letters of counseling are not disciplinary actions under this Article but are used to correct employee performance, conduct, or behavior.

c. Discipline, memoranda of caution or warning, admonishments, and negative counseling will not be conducted publicly or in such a manner as to embarrass the employee.

d. The concept of progressive discipline, which encourages supervisors to use the lowest level of discipline necessary to correct a problem, is designed to correct and improve employee performance, conduct, or behavior, and will guide supervisors in making disciplinary decisions. A common pattern of progressive discipline is written reprimand, short term suspensions of fourteen (14) days or fewer, and adverse actions. Progressive discipline requires the Agency to consider the relevance and proximity of previous offenses.

e. Any of the steps in the progressive discipline process may be bypassed when the severe nature of the behavior makes a lesser form of discipline inappropriate.

f. Disciplinary and adverse actions will be consistently applied. The Agency will administer disciplinary and adverse action procedures and determine appropriate penalties to all employees in a fair and equitable manner.

g. If the Agency believes that disciplinary or adverse action is necessary, such action will be initiated within a reasonable period of time after an investigation.

h. The deciding official in suspensions and adverse actions will normally be different from the official who proposed the action, although in certain instances they may be the same person. The deciding official will be at an equivalent or higher level than the proposing official.

i. Employees and their representatives are entitled to copies of all of the material relied upon by the Agency in proposing any disciplinary action.

j. The termination of a probationary employee is not governed by this Article.

Section 2—Reprimands

a. A reprimand is the lowest level of discipline and is issued to an employee for misconduct. An official reprimand is a written disciplinary action that specifies the reasons for the action and does not require prior notice to the employee. If a discussion is held with the employee when a reprimand is to be given, the employee may request Union representation prior to the start of the discussion. The official written reprimand will specify that the employee may be subject to more severe disciplinary action upon any further offense; that he or she has the right to file a grievance under the negotiated grievance procedure; that he or she has the right to Union representation during all aspects of the grievance procedure; the timeframe by which a grievance must be filed; and the name, telephone number, and email address of the management official to whom a grievance should be filed.

b. An official letter of reprimand and its related documents may not remain in an employee's e-OPF for more than two (2) years from the date of the reprimand unless the employee engages in other documented misconduct.

Section 3—Procedures for Disciplinary/Adverse Actions

When a supervisor proposes to suspend, demote, or remove an employee, the following procedures will apply:

a. For proposed suspensions of fourteen (14) or fewer calendar days:

    1. The employee will receive notice at least fifteen (15) calendar days prior to

the effective date of the proposed disciplinary action and will have ten (10) work days to answer the charges and specifications, orally and/or in writing. The employee may submit affidavits and/or other documentary evidence in support of his or her reply. The Agency may provide the employee with an extension of time in which to reply, if requested by the employee in writing, setting forth the reason for the request. Generally, the Agency will not grant an extension for the reply that would have the effect of extending the notice period beyond thirty (30) calendar days.

2. The employee will be given a reasonable amount of duty time to prepare and present an oral and/or written response to the proposal. If an oral reply is the only response provided by the employee, a summation of that response will be made by the receiving supervisor. A copy of this summation will be provided to the employee or the employee's representative. The employee or representative will have five (5) calendar days to review the summation and provide edits and comments as necessary. If the employee does not provide comments, the document will be considered final.

3. In the event that the employee cannot report to work, the charges and specifications may be furnished to him or her by any mail service that utilizes a tracking system.

b. For proposed suspensions of fifteen (15) calendar days or more and removals:

1. The Agency will give employees written notice at least thirty (30) calendar days prior to the effective date of any proposed adverse action and the employee will have a reasonable time but not fewer than fifteen (15) calendar days to answer the charges and specifications, orally and/or in writing, subject to the exceptions set forth in 5 C.F.R. § 752.404(d). The employee may submit affidavits and/or other documentary evidence in support of the employee's reply. The Agency may provide an extension of time in which the employee may reply, if requested by the employee in writing, setting forth the reason for the request. Generally, the Agency will not grant an extension for the reply that would have the effect of extending the notice period beyond thirty (30) calendar days.

2. The employee will be given a reasonable amount of duty time to prepare and present an oral and/or written response to the proposal. If an oral reply is the only response provided by the employee, a summation of that response will be made by the receiving supervisor. A copy of this

summation will be provided to the employee or the employee's representative. The employee or representative will have five (5) calendar days to review the transcript and provide edits and comments as necessary.

3. In the event that the employee cannot report to work, the charges and specifications may be furnished to him or her by any mail service that utilizes a tracking system.

Section 4—Off-Duty Misconduct

In cases where a disciplinary or adverse action is issued or proposed for reasons of off- duty misconduct, the Agency's written notification will contain a statement of the nexus between the off-duty misconduct and the efficiency of the service. The notification will describe why and how there is a connection between the specific off-duty misconduct and the efficiency of the service.

Section 5—Agency Decision

a. In arriving at its written decision on any proposed disciplinary or adverse action, the Agency shall not consider any reasons for action other than those specified in the notice of proposed action. It shall consider any answer that the employee and/or his or her representative made to a designated official and any medical documentation furnished, as well as all the information and/or evidence relied upon in the proposal notice. It will explain how the Agency resolved any factual disputes that were raised or developed. In taking adverse actions, a deciding official will consider a list of mitigating and/or aggravating factors known as the "Douglas Factors" in deciding a penalty. The decision will summarize how the relevant factors were treated in the deciding official's determination of the imposed penalty. If the imposed penalty is less severe than what was proposed, the decision will also specify why the penalty was mitigated.

b. In the rare instances where additional information in support of a charge is provided to the deciding official for consideration, the employee will be given an opportunity with a reasonable amount of time to respond to the additional information.

c. If the decision is to effect a proposed action, it will specify the reasons, the effective date, the action to be taken, and the employee's appeal and/or grievance rights regarding the decision. A second copy of the letter and any

attachments will be provided to the employee's representative upon request.

d. Decision notices will be issued at least one (1) day prior to the effective date of the action.

e. Final decisions on adverse actions may be appealed to the MSPB or grieved in accordance with the grievance procedures of this CBA, but not both.

Section 6—Employee Rights

The employee will have the right to:

a. Be represented by a representative designated by the Local Union or another representative as authorized by law. Verbal designations will be confirmed in writing.

b. Raise any defense to the deciding official allowed by applicable laws and regulations.

c. Prepare and enter a concise statement of disagreement with any document filed in Agency-maintained records. All personnel records shall be maintained in accordance with National Archives and Records Administration (NARA) Schedule.

Section 7—Allegations of Discrimination

If an employee alleges that a disciplinary/adverse action is based, in whole or in part, on discrimination, the employee may file an EEO complaint and/or MSPB appeal as permitted by applicable law and regulations or (under the Union's sole authority) proceed in accordance with the Negotiated Grievance Procedures, as outlined under this CBA, but not both. The Union has the sole authority to request arbitration.

Section 8—Investigations

a. If an employee is interviewed regarding potential misconduct, the following information will be provided:

   1. the general subject of the interview or allegation;

2. that he or she is the subject of the investigations; or
3. whether he or she is being interviewed as a witness.

b. Weingarten Rights provide for a Union representative to be present at any Agency representative's examination of a Unit employee if "the employee reasonably believes that the examination may result in disciplinary action" and "the employee requests representation."

c. When Bargaining Unit employees are interviewed as witnesses in a matter being grieved/arbitrated or charged as an unfair labor practice, the Agency will notify the Union and afford it the opportunity to be present.

d. Under Brookhaven (9 FLRA No. 132), when Management interviews a Unit member who is a potential witness in an Unfair Labor Practice (ULP) or Arbitration hearing, the employee should be assured by Management that no reprisal (discipline) will be taken if the employee declines to be interviewed. Employees who decline to be interviewed must not be coerced otherwise.

e. If the matter being investigated concerns potential criminal misconduct, the matter will normally be referred to the Office of Inspector General (OIG). Should the OIG decline to investigate and the Agency conducts an administrative investigation of a matter that concerns potential criminal misconduct, then the following warnings will be provided to interviewed employees as appropriate:

    1. Garrity Warnings: Inform a Federal employee who may face criminal prosecution that he or she will not be subject to discipline for refusing to answer questions if answering may tend to incriminate him or her.

    2. Kalkines Warnings: Inform a Federal employee that the possibility of criminal prosecution has been removed, usually by a declination to prosecute by the Department of Justice, and that the employee is required to answer questions relating to the performance of his or her official duties or be subject to disciplinary action.

Article 34: Grievance Procedures

Section 1—Purpose

This Article is to ensure that the Union and the Agency settle grievances in an orderly, prompt, and equitable manner so that the efficiency of the Agency may be maintained and the morale of employees is not impaired. Every effort will be made to settle grievances at the lowest possible level of the grievance procedure. Employees and their representatives will be unimpeded and free from restraint, interference, coercion, discrimination, or reprisal in seeking resolution of grievances. This Article will be administered in accordance with this CBA, 5 U.S.C. Chapter 71, and other governing laws.

Section 2—Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) processes, including mediation, may be used at any stage in a grievance upon mutual agreement of the Parties. If ADR/mediation is used, the grievance time limits are suspended until the conclusion of the ADR process.

Section 3—Definitions

For Grievance purposes "day" means calendar days, including Saturdays, Sundays, and Federal holidays in accordance with FLRA regulations, 5 C.F.R. § 2429.21.

Grievance means any complaint:

a. by any employee concerning any matter relating to the employment of the employee;

b. by the Union or the Agency concerning any matter relating to the employment of any employee; or

c. by any employee, the Union, or the Agency concerning:

1. the effect, the interpretation, or a claim of breach regarding

the collective bargaining agreement; or

2. any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 4—General

a. A grievance will be filed in writing and will contain the following:

1. name(s) of the grievant(s);

2. the date the grievance is submitted;
3. a statement of the circumstances giving rise to the grievance, including the date the alleged grievance arose and the responsible management official(s) alleged to be involved;

4. the specific Article and Section of this CBA alleged to have been violated, and/or the law, rule, policy, or regulation claimed to have been violated or the specific condition of employment in contention;

5. the relief requested;

6. whether the employee will be self-represented or represented by the Union; and

7. the name and contact information of the Union representative, if any.

b. The procedures set forth in this Article, except as provided in Section 4 below, will be the exclusive procedure available to Bargaining Unit employees and to the Parties for the resolution of grievances.

c. Bargaining Unit employees have the right to be represented by a Union representative in the processing of any grievance filed under the provisions of this Article and to be accompanied by a Union representative at any meeting that the employee may attend concerning the grievance.

d. Bargaining Unit employees also have the right to file and process a grievance under these procedures without Union representation. If the grievance of an employee is resolved, the resolution will be consistent with the terms and provisions of this CBA. Employees may submit a request for a reasonable amount of duty time to prepare said grievance.

The employee will request through their immediate supervisor permission in advance to prepare their grievance. The employee will inform their supervisor of the amount of time needed to prepare the grievance. Supervisors may elect to approve such a request contingent upon operational constraints. If a request is denied the supervisor will inform the employee of the reasons for the denial. Supervisors may also elect to provide the employee with an alternate schedule/amount than when/what was originally requested. If no such alternate arrangements are provided for, or the arrangement provided results in delaying the employees grievance preparation, employees may request an extension of time needed to meet the grievance procedure timeline. The Union has the right to be present and participate during any meeting held between representatives of the Agency and Bargaining Unit employees to discuss any grievance. Upon request, the Union will be provided copies of all documentation generated by any grievance.

e. In the event either Party should declare a grievance non-grievable or non-arbitrable, the original grievance shall be considered amended to include this issue. The Parties agree to raise any questions of grievability or arbitrability of a grievance prior to the time limit for the written answer in the final step of this procedure.

f. For all grievances that are denied, the Agency's decision letter will identify the official for the next step of the grievance process.

Section 5—Exclusions

The following are specifically excluded from coverage of this Article:

a. Any claimed violation of Subchapter III of 5 U.S.C. Chapter 73 relating to prohibited political activities;

b. Retirement, life insurance, or health insurance;

c. A suspension or removal under 5 U.S.C. § 7532 relating to national security;

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;

f. Termination of a probationary or trial period employee;

g. Letters of warning, caution, or supervisory concern which are not disciplinary in nature and which do not have a formal personnel action associated with its issuance.

h. A notice of proposed disciplinary, adverse, or performance based action;

i. The granting of or failure to grant or the amount of an award;

j. Non-selection from a group of properly ranked and certified candidates;

k. The content published in an Agency policy or regulation;

l. An action that terminates a detail or temporary or term promotion;

m. Supervisory determination of job elements and performance standards; or

n. A return of an employee from an initial appointment as a supervisor or manager to a non-supervisory or non-managerial position for failure to satisfactorily complete the probationary period under 5 U.S.C. 3321 (a)(2) or 5 C.F.R. Part 315, Subpart I.

Section 6—Election of Procedures

a. In accordance with 5 U.S.C. § 7121, an employee may raise matters covered under 5 U.S.C. § 4303 (unacceptable performance) and 5 U.S.C. § 7512 (suspensions of more than fourteen (14) days, removals, furloughs without pay for thirty (30) days or fewer, or reductions in pay or grade) under either the appellate procedures of 5 U.S.C. § 7701 or the negotiated grievance procedure in this CBA, but not both. An employee will be deemed to have exercised the employee's option to raise a matter under either the applicable appellate procedure or the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedure or files a grievance in writing in accordance with this Article, whichever event occurs first.

b. An employee affected by a prohibited personnel practice or discrimination may raise the matter under a statutory procedure or the negotiated grievance procedure, but not both. An employee will be deemed to have exercised the employee's option at such time as the employee timely files a grievance in writing or initiates an action under the applicable procedure.

c. Before filing a grievance that alleges discrimination, the employee may first discuss the allegation with an EEO counselor. This discussion must be within forty-five (45) calendar days after the event causing the allegation or after the date the employee became aware of the event. The counselor shall have thirty (30) calendar days to resolve the matter informally. However, if the employee elects mediation, an additional sixty (60) days will be available to attempt resolution. If counseling is unsuccessful, the counselor will provide the employee a written notice stating his or her right to file either a formal complaint under the Federal Sector EEO process or a grievance under this procedure, but not both. The right to file notice will advise the employee that a formal EEO complaint must be filed within fifteen (15) calendar days with the Departmental Office of Civil Rights. The notice will also advise the employee that a grievance must be filed within fifteen (15) calendar days and will identify with whom the grievance may be initially filed.

d. Pursuant to 5 U.S.C. § 7121(d), an employee shall be deemed to have exercised his or her option to raise a matter as such time as the employee timely files a formal complaint of discrimination or timely files a grievance in writing in accordance with the provisions of this Article, whichever event occurs first. If the employee elects to file under the negotiated procedure, he or she shall proceed under Section 8c. of this Article within fifteen (15) calendar days and if the counseling process was used, attach a copy of the counselor's notification to the grievance.

Section 7—Exclusivity

a. Grievances covered by this CBA may be initiated by employee(s) and/or their Union representative or by the Agency. Representation of Bargaining Unit employees shall be the sole and exclusive authority of the Union.

b. Except as provided by law, this is the exclusive procedure available to Bargaining Unit employees, the Union, or the Agency for the resolution of grievances within its scope.

Section 8—Representation

a. Anyone whom the Union has designated, whether verbally or in writing, for a particular issue is the representative of the Union for that issue; otherwise, the Local Union President is to be considered as the exclusive representative. Verbal designations will be confirmed in writing within five (5) calendar days of the verbal designation.

b. The Union has the right to be present during any proceeding under the negotiated grievance procedure. If the Union is not the designated representative, a copy of the grievance will be provided to the Union within five (5) calendar days of the filing date. The Agency will provide the Union reasonable advance notice of any grievance meeting/discussion when the Union is not the designated representative. A copy of each grievance decision will be timely provided to the Union.

c. Where the grievant elects Union representation, meetings and communication with regard to the grievance and any attempts at resolution shall be made through the designated Union representative.

d. In situations where the grievant(s) and representative are on different work schedules and/or locations, the Parties will make every reasonable effort to schedule all steps in the grievance process to be held within the common work times of the grievant and representative unless the Parties mutually agree otherwise; this may include making adjustments to either the grievant's or the representative's work schedule.

Section 9—Procedures

a. Union Grievance:

1. Union grievances not filed on behalf of any particular employee or set of employee(s) must be filed with the OST Employee and Labor Relations Manager within fifteen (15) calendar days of the date of the action being grieved or the date the Union first learned of its occurrence.

2. A meeting by the Parties may be held by mutual agreement within fifteen (15) calendar days of filing a grievance.

3. A response to the Union's grievance will be provided in writing within fifteen (15) calendar days of the meeting, if one is held, or within fifteen (15) calendar days of the filing of the grievance, if no

meeting occurs.

4. If the Union is dissatisfied with the Agency's decision, it may request arbitration in accordance with the Arbitration Article of this CBA.

b. Agency Grievance:

1. Agency grievances will be filed directly with the OST Union Vice President within fifteen (15) calendar days of the date of the action being grieved or the date the Agency first learned of its occurrence.

2. A meeting by the Parties may be held by mutual agreement within fifteen (15) calendar days of filing the grievance.

3. Responses to Agency grievances will be provided in writing within fifteen (15) calendar days of the meeting, if one is held, or within fifteen (15) calendar days of filing the grievance, if no meeting occurs.

4. If the Agency is dissatisfied with the Union's decision, it may request arbitration in accordance with the Arbitration Article of this CBA.

c. Employee Grievance: The Parties agree that it is preferable for workplace issues to be resolved informally at the lowest organizational level possible. Therefore, the Parties encourage employees to seek informal resolution of concerns with their first level supervisor prior to filing a grievance under this procedure.

-Step 1: An employee or the employee's Union-designated representative must file a written grievance with the employee's immediate supervisor within fifteen (15) calendar days of the date of the action being grieved or the date the employee first learned of its occurrence. However, if the grievance concerns an action of the immediate supervisor (unless the immediate supervisor is an Assistant Secretary or equivalent level) the employee may file the Step 1 grievance with the employee's second level supervisor.

The Grievance Official may convene an informal meeting with the employee and Union representative prior to replying to the grievance and will respond in writing to the employee within fifteen (15) calendar days after the date of the meeting or, if no meeting is held, within fifteen (15) calendar days after receipt of the grievance.

Note: If the employee's first-level supervisor is an Assistant Secretary or equivalent level, a Step 2 grievance may be filed with an appropriate management official at an equivalent level. If the Step 2 grievance is unresolved, the Step 3 grievance is waived and the Union may invoke arbitration.

-Step 2: If the grievance is unresolved at Step 1, the employee or his or her Union- designated representative may file a written Step 2 grievance with the designated next level supervisor within fifteen (15) calendar days after the Step 1 Grievance Official's response is due or received. The Step 2 Grievance Official will respond in writing to the employee within fifteen (15) calendar days after receipt of the grievance.

Note: If the employee's second-level supervisor is an Assistant Secretary or equivalent position, a Step 3 grievance may be filed with an appropriate management official at an equivalent level.

-Step 3: If the grievance is unresolved at Step 2, the employee, or the Union- designated representative, may file a written Step 3 grievance with the applicable Assistant Secretary, or designee, within fifteen (15) calendar days after the response from Step 2 is due or received, whichever occurs first. The Assistant Secretary or designee must provide a written reply to the Union within fifteen (15) calendar days after receipt of the grievance, and the next step would be arbitration in accordance with the Arbitration Article.

d. Final decisions on disciplinary and adverse actions:

Grievances challenging final decisions on disciplinary and adverse actions will be filed at Step 3 of this procedure unless the final decision was issued by an Assistant Secretary or equivalent position, or higher, in which case the matter may proceed directly to arbitration in accordance with the Arbitration Article.

Section 10—Failure to Pursue Grievances

Failure on the part of an aggrieved employee or the Union to timely prosecute the grievance at any step of this Article will have the effect of nullifying the grievance. Grievances that fail to comply with the provisions of Section 3a of this Article will be returned to the grievant for the required information.

If the Agency does not issue a decision within the time limits set forth in any step of the Grievance procedure, it will be considered a denial of the grievance and permit the aggrieved employee or the Union to move to the next step of the grievance procedure.

Section 11—Grievance Decisions

All grievance decisions will be in writing and state the issue being grieved, a summary of the findings, and the rationale for the decision. The Agency will provide copies of relevant documents cited in the decision to the employee and the Union.

Section 12—Withdrawal

The Union, acting as the responsible representative of all employees in the Bargaining Unit, may, at any step of the grievance procedure, on a nondiscriminatory basis, withdraw from any grievance.

Section 13—Appeal of Adverse Decisions/Arbitration

Unfavorable decisions issued at the final step of a grievance process for employees and the Union may be submitted to arbitration only by the Union. Unfavorable decisions issued by the Union for Agency Grievances may be submitted to arbitration only by the Agency.

Section 14—Extensions

All time limits in this Article may be extended by mutual consent.

Article 35: Arbitration

Section 1—Purpose

This Article shall be administered in accordance with 5 U.S.C. Chapter 71, and this CBA. This Article establishes the procedures for the arbitration of disputes between the Union and Agency that are not satisfactorily resolved by the negotiated grievance procedure Article of this CBA. A referral to arbitration can be made only by the Union or the Agency.

Section 2—Preliminary Procedures

a. The Union or the Agency may invoke arbitration by serving written notice on the other Party within thirty (30) calendar days following receipt of a final decision under the Negotiated Grievance Procedure. The notice shall identify the grievance and shall be signed and dated by an authorized representative on behalf of the Party submitting the matter to arbitration. "Day" means calendar days, including Saturdays, Sundays, and Federal holidays in accordance with FLRA regulations, 5 C.F.R. § 2429.21.

b. Within ten (10) days after invoking arbitration, the Parties to the arbitration shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS) by jointly submitting a completed FMCS Form R-43, "Request for Arbitration Panel." If one (1) Party refuses to join in the request for arbitrators, the other Party may make a unilateral request to FMCS for a list of arbitrators. A copy of the request to FMCS will be served on the other Party.

c. Within ten (10) days from receiving the list of arbitrators from the FMCS, the Parties shall meet to select an arbitrator. The Parties shall each strike one (1) name from the list alternately and then repeat the procedure until only one (1) name remains. The person whose name remains shall be selected as the arbitrator. The Party striking the first name shall be chosen by a coin toss.

d. In the event either Party refuses to participate in the selection of an arbitrator, or upon inaction or undue delay, the moving Party shall be empowered to make a unilateral selection of an arbitrator to hear the case.

e. Upon selection of the arbitrator, the Parties shall jointly communicate with

the arbitrator and one another to select an agreeable date for the submission of motions and responses dealing with questions of arbitrability, if any, and establish a date for the hearing. Hearings over employee grievances shall take place at the site where the employee works, unless otherwise mutually agreed. Absent cooperation from both Parties, either Party may move the arbitration process forward.

f. Parties may present closing statements orally at the conclusion of the hearing or arrange with the arbitrator to submit post hearing briefs.
g. The Parties may use stipulations of fact and expected testimony for uncontroverted evidence.

Section 3—Grievability/Arbitrability

a. The arbitrator has the authority to make all grievability and/or arbitrability determinations. If either Party raises an issue of grievability/arbitrability, the arbitrator will hear and decide the grievability/arbitrability issue first.

b. Upon mutual agreement of the Parties, issues arising under this Section may be submitted to the arbitrator by brief, and decided prior to a hearing on the merits of the underlying grievance.

c. Any allegations of grievability/arbitrability may be heard either as threshold issues in the hearing or in a separate hearing for grievability/arbitrability issues. If the parties cannot agree on which process will be followed, it shall be the assigned arbitrator's decision.

Section 4—Witnesses and Parties

a. The grievant(s), and one (1) representative, and technical advisor, if any, and all employees identified as witnesses, shall be on duty and granted duty time and travel and per diem expenses to the extent necessary to participate in all phases of the arbitration proceeding, either as a Party or to testify as a witness, without loss of pay.

b. The Agency shall ensure that all witnesses who are employed by the Agency are available for the hearing. In those instances when a witness cannot be made available on the day required, the arbitration may be postponed.

Section 5—Authority of Arbitrator

The arbitrator's decisions shall be final and binding, subject to the Parties' right to file exceptions to an award in accordance with law. However, the arbitrator shall be bound by the terms of this CBA and shall have no authority to add to, subtract from, alter, amend, or modify any provision of this CBA. The arbitrator may retain jurisdiction over a case when necessary to clarify the award, and will retain jurisdiction in all cases where exceptions are taken to an award and the FLRA sets aside all or a portion of the award.

Section 6—*Ex Parte* Communication with Arbitrator

Normally, there will be no communication with the arbitrator unless both Parties are participating in the communication.

Section 7—Computation of Time

In computing periods of time for the purpose of this Article, the first day of counting will be the day after the day of the act or event (e.g., the day after the employee received a final decision to take discipline, or the day after the deadline for submitting a response to a grievance). If the last day in the count is a day in which an unscheduled leave policy is in effect, that day shall not be counted, and the last day will be the next regular work day.

Section 8—Arbitrator's Award

The arbitrator shall render a written decision not later than thirty (30) days after the conclusion of the hearing unless the Parties mutually agree to extend this time limit. If no exception or other appropriate legal action is filed within the time limit established by statute and/or FLRA regulation, the award is final and binding. The appropriate Party will immediately take the actions required by the final award within thirty (30) days after it becomes final and binding, except as provided by the Award.

Section 9—Costs of Arbitration Proceedings

a. The Parties agree to share equally the cost of arbitration, including but not limited to reasonable expenses of the arbitrator.

b. The cost of a reporter and transcript shall be shared equally by the Parties. Upon mutual agreement, the parties may elect not to have a reporter and transcript.

c. If, prior to the arbitration hearing, the Parties resolve the grievance or mutually agree to postpone, any cancellation fees shall be borne equally by both Parties. If a Party requests postponement without mutual agreement, that Party shall bear the full cost of any rescheduling fees or postponement fees.

Section 10—Attorney Fees and Expenses

a. In accordance with the Back Pay Act, 5 U.S.C. § 5596, an arbitrator has jurisdiction to resolve a motion for attorney fees from the Union after an award becomes final and binding, provided that the fee request is filed with the Arbitrator within fifteen (15) days after the award becomes final and binding.

b. The Agency is responsible for reasonable attorney fees and expenses as awarded by Arbitrators consistent with the Back Pay Act.

c. The arbitrator's award on the issue of attorney fees will be issued within thirty (30) days of the arbitrator's receipt of the Agency's response to the Union's request. The arbitrator will provide a detailed explanation of why fees were or were not granted, as well as the hours and rates allowed.

d. All charges of the arbitrator incurred in connection with the award of attorney fees will be shared equally by the Parties.

Article 36: Workspace Assignments

Section 1—Purpose

The purpose of this Article is to outline a clear process for how workspace will be assigned. The Parties agree that management will first determine the need for employee reassignments to vacant workspace, consistent with organizational needs, budgetary limitations, and Agency policy.

Section 2—Mandatory Workspace Assignments

a. An employee who is reassigned to a new workspace will receive at least seven (7) calendar days advance notice of the change.

b. The Agency will provide moving boxes in advance of any scheduled move (if needed).

c. Workplace moves may be accomplished on a gradual basis as the need arises.

d. Barring an urgent situation or work requirement, workplace moves that involve ten (10) or more Bargaining Unit employees or an entire work center, the Agency will provide the Union a copy of the space plan to include the layout and square footage thirty (30) days prior to the move.

Section 3—Voluntary Workspace Assignments

a. The following process will apply to a vacated space reasonably expected by management to be occupied by a bargaining unit employee or new workspace reasonably expected by management to be occupied by a bargaining unit employee. Workspace assignments for bargaining unit employees who meet the eligibility criteria (e.g., work schedules) for DOT's space utilization standard(s) [outlined in Agency policy] will be done in accordance with the following procedure:

    i. If the most senior member is not interested in a vacated or a new workspace to be occupied by a bargaining unit employee, then management shall offer the vacancy to the next most senior person in the unit until someone accepts. This process

ends if no bargaining unit employee accepts the vacancy offer.

ii. Any bargaining unit employee from the same organizational unit may request to move into a space reasonably expected by management to be occupied by a bargaining unit employee. When the request is consistent with operational requirements, agency policy, and budgetary constraints, the request may be approved.

iii. When more than one bargaining unit employee requests to move into the vacant space, the higher-graded employee will be given preference. Within the same grade level, the employee with earliest federal service computation date (retirement) will be given preference. If service computation dates are identical, a random lottery shall be used to break the tie with the employees and/or the union present.

b. Decision-making regarding requests from employees to exchange work locations or move to a vacant workspace will be subject to organizational needs, budgetary limitations, and Agency policy.

Article 37: Details and Temporary Duty Locations

Section 1—Definition

A detail is a temporary assignment of an employee to a different position, or set of duties for a specified period, with the employee returning to his or her regular duties at the end of the detail. The rules and procedures applicable to details will be consistent with 5 U.S.C. § 3341 and 5 C.F.R. Part 300, Subpart C and this CBA. Both parties agree that the Agency may use details to meet Agency needs and/or for employee career development; and that all qualifications being equal, details will be assigned on a fair, equitable, and legal basis.

Section 2—Detail Requirements

a. A record of an employee's detail assignments over thirty (30) days will be created. The record shall be provided to the Union upon written request for which they have a particularized need.

b. Details will be assigned on a fair and equitable basis among qualified employees.

c. Details will not be assigned for the purpose of affording some employees a disproportionate opportunity to gain qualifying experience or to arbitrarily prevent other employees from gaining experience.

d. The following will apply when assigning details for more than thirty (30) calendar days on a non-competitive basis:

    1. The Agency will determine the qualifications of the position of detail, including any task-related qualifications for the work to be performed.

    2. Notices of details will normally be posted electronically.

    3. Postings will normally be for at least five (5) work days.

Section 3—Procedures

a. Details requested by employees for career development, part of a settlement agreement, or reasonable accommodation are not required to be announced.

b. If an employee requests or volunteers for a detail or to take the place of another employee's assigned detail, but the supervisor does not approve, the supervisor will provide the employee with a reason for the denial in writing.

c. The supervisor will provide reasonable advance notice to an employee selected for an involuntary detail, normally fifteen (15) calendar days in advance.

d. In an emergency or urgent situation, an employee may be involuntary detailed immediately.

e. Employees shall be recognized for the work they perform. Therefore, details in excess of thirty (30) days and detail extensions will be documented and maintained as a permanent record in the employee's e-OPF. In addition, employees may request amendment of their e-OPF for details of fewer than thirty (30) days, in accordance with OPM guidelines, as set forth in 5 C.F.R. Part 297.

f. Barring emergency circumstances, the Agency will make a reasonable effort to avoid placing Union officials on details that would prevent them from performing their representational functions.

g. Except for meeting urgent work requirements, when detailing any Union official/representative, the Agency will notify the Local Union Vice President in writing at least five (5) work days in advance of the detail.

h. Employees may be detailed to positions at the same, or to unclassified duties, in increments of one hundred and twenty (120) calendar days or fewer.

i. The Agency agrees to bargain with a Local Union, upon request, when events necessitate details that may require an employee or group of employees to be away from their normal duty locations for extended periods of time and extended distances.

Section 4—Details to Lower and Higher Grades

a. The Agency does not normally detail employees to lower graded duties. However, if an employee is detailed to lower graded duties, there will be no loss of time-in-grade of the employee's permanent position, the detail will not be used as the basis for a lowered performance appraisal, and it will not have

any adverse effect on the employee's eligibility for promotion opportunities.

b. If an employee is detailed to a higher graded position for more than thirty (30) calendar days, barring any legal or regulatory constraints, the Agency will promote the employee temporarily if he or she meets all qualifications. Details will not last longer than thirty (30) calendar days for employees who do not meet the qualifications. For a detail of more than one hundred and twenty (120) calendar days to a higher grade or a position with known promotional potential greater than that of the employee's current position, the Agency will follow the Merit Promotion Article of this CBA.

Section 5—Temporary Duty Location

a. A temporary duty (TDY) location is a place away from an employee's official station, where the employee is authorized to travel.

b. TDY work assignments will be distributed based on Agency needs and employee qualification requirements. When qualifications are equal among eligible employees, TDY work will be assigned to employees on a fair and equitable basis. A record of TDY assignments will be maintained by the Agency and provided to the Union upon written request for which they have a particularized need.

c. If an employee requests or volunteers for a TDY or requests to take the place of another employee's assigned to a TDY, but the supervisor does not approve the request, the supervisor will provide the employee with a reason for the denial.

d. Travel for TDY work assignments will be reimbursed according to the FTR.

Article 38: Furloughs

Section 1—Definition

a. An administrative furlough is a planned event by the Agency that is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any budget situation other than a lapse in appropriations.

b. A shutdown furlough (also called an emergency furlough) occurs when there is a lapse in appropriations or authorization, and can occur at the beginning of a fiscal year, if no funds have been appropriated for that year, or upon expiration of a continuing resolution, if a new continuing resolution or appropriations law is not passed.

c. "Exempt" employees are not affected by a lapse in appropriations. This includes employees who are not funded by annually appropriated funds. Employees performing those functions will generally continue to be governed by the normal pay, leave, and other civil service rules.

d. "Excepted (essential) employees" refers to employees who are funded through annual appropriations, but are excluded from a furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations or authorization. Excepted employees include employees who conduct emergency work involving the safety of human life or the protection of property, or certain other types of excepted work.

Section 2—Coverage

a. Only the minimum number of employees necessary to carry out essential activities will be "excepted" and will not be furloughed.
b. Positions that provide direct support to excepted positions may also be deemed excepted if they are critical to performing the excepted activity. Determinations regarding status of excepted or non-excepted will be made on a position by position basis.
c. Employees who are funded through annual appropriations and not designated as excepted (non-essential) are barred from working during a shutdown except to conduct up to four (4) hours of activities necessary to execute an orderly suspension of Agency operations.
d. During a furlough, exempt employees serving as Union officials shall

continue to be granted Official Time in accordance with this CBA. Other employees serving as Union officials may work on Official Time during a shutdown if such activities fall within the Anti-Deficiency Act's exceptions. The Office of General Counsel will be consulted before approving Official Time during a furlough.

Section 3—Planning

a. For administrative furloughs, the Agency will consider all reasonable alternatives to address budgetary constraints prior to placing employees on furlough.

b. The Agency will consider the Union's pre-decisional input through the LMF; or the Union may request to negotiate as appropriate, regarding any further development of the Agency furlough plan.

c. Subject to mission requirements, employees may request continuous or non- continuous furlough days during an administrative furlough.

d. Upon request, the Agency will provide the Union with the basis for selecting particular employees that are covered by furlough based on the criteria as defined in Section 2 of this Article as well as the reasons for the furlough.

e. For shutdown furloughs, consistent with specific congressional authorization and appropriation for back-pay, the Agency will grant employees who suffer loss of pay through a furlough retroactive pay and benefits that the employees would have received had they not been furloughed.

Section 4—Notification

a. The Agency agrees to notify the Union of an impending furlough as soon as practical after the Agency is informed. Subsequently, the Agency will identify to the Union the impacted organization(s) and the selection process used to determine which Bargaining Unit and non-Bargaining Unit employees will be affected.
b. In advance of a shutdown, the Agency will notify employees, whether they are excepted or non-excepted employees.

c. The Agency will notify the Union and any employees who are necessary for an "orderly shutdown" of Agency activities (e.g., turning in equipment if required).

d. Employees on furlough will be advised that they are not permitted to conduct Agency work or volunteer to work in accordance with OPM guidelines.

e. The Agency will issue furlough notices to affected employees. Notices will normally be delivered as soon as practical after the Agency is informed of the furlough/shutdown. Notices may be issued electronically to employees where possible; or any other delivery method deemed appropriate to ensure receipt. Notices will indicate the actions and steps taken to lessen the impact of the furlough on employees.

f. Employees will be notified that Federal Employee Health Benefits (FEHB) coverage will continue during a shutdown furlough. The employee's share of the FEHB premium will accumulate and be withheld from pay upon return to pay status. The employee can choose between paying the Agency directly on a current basis while in a non-pay status or having the premiums accumulate and be withheld from his or her pay upon returning to duty.

g. Employees will be notified that Federal Employees' Group Life Insurance (FEGLI) coverage will continue for twelve (12) consecutive months in a non-pay status without cost to the employee.

Section 5—Return to Work

Furloughed employees will be notified when to return to work, normally not less than one (1) workday before work is to resume. Employees may be provided a call-in number to determine the status of a furlough in the event they are not at home to receive such notification. Local news media may also be used to notify employees.

Section 6 – Access to Union Office

Access to the Union office during a period of furlough should not be prevented solely on the basis of the Union official's non-duty status. Access to the Union's office by a Union official in a non-duty status does not change his or her furlough status.

Article 39: Reassignment

Section 1—General

a. Reassignment is the change of an employee from one position to another without promotion or change to a lower grade, level, or band. The regulation 5 C.F.R. Part 335 authorizes reassignments of Federal employees. Because they are permanent, all reassignments will be documented in the employee's e-OPF. Requests for voluntary reassignments shall be given prompt and fair consideration.

b. Reassignments may be either Management-directed (e.g., in order to avoid RIF actions or when an employee's skills are better utilized in another equivalent position) or voluntary (employee-initiated). A reassignment may also occur as an accommodation of last resort under the reasonable accommodation process.

c. The employee will receive an SF-50 from the Agency documenting the reassignment and a copy of the new PD for the new job within thirty (30) days of being reassigned.

d. Barring immediate work requirement or specific Management considerations, an employee being involuntarily reassigned to new duties or work location will be given written notification at least fifteen (15) workdays in advance.

Section 2—Management-Directed Work Location Reassignment

a. When making a decision to reassign an employee, Management will be guided by objective considerations in support of the Agency's mission, and/or to promote the efficiency of service.

b. Unless a reassignment is directed for a specific employee(s) for legitimate Management considerations, all other things being equal, seniority (Service Computation Date) will be the final deciding factor. The reassignment opportunity will be given to the most senior qualified volunteer or to the least senior qualified employee if no one volunteers for the reassignment.

c. When the relocation requires a reassignment to a different job position, the

employee will be given a reasonable period in which to become proficient. The Agency will provide the employee sufficient training to allow him or her to become proficient.

d. For other than legitimate Management considerations and mission necessity, the Agency will avoid subjecting Union officials to reassignments that would prevent them from performing their representational functions. The Agency will provide the Union Vice President advanced written notice before conducting a work location reassignment of a Union Officer, Official, or Steward.
e. The Agency will give reasonable consideration to documented reasons that a location reassignment may cause an employee undue personal or professional hardship.

Section 3—Voluntary Reassignment

Employees may volunteer for duty or work location reassignments. All such requests are subject to Management's right to assign employees work, and to determine the personnel by which Agency operations shall be conducted. Such requests will be considered by the Agency, and a good faith effort will be made to balance the needs of the employee with the Agency's program needs. Volunteer reassignments will be processed in accordance with applicable laws, rules, regulations, and this CBA.

Section 4—Relocation Expenses

An employee affected by a management-directed or a voluntarily requested work location reassignment may be entitled to relocation expenses in accordance with the FTR.

Article 40: Reorganization

Section 1—Definition

A reorganization is the elimination, addition, or redistribution of duties and reporting relationships within an organization that affects one (1) or more positions, including the restructuring of the Agency's components.

Section 2—Communications and Bargaining with the Union

a. The Agency will provide the Union, whose Bargaining Unit members may be impacted by a reorganization, with written notice containing sufficient information regarding the scope, impact, and intended implementation of the reorganization.

b. Upon request, a briefing will be provided to the Union, expounding on the specifics/parameters of the proposed reorganization. Afterwards, the Union may request an opportunity to meet/survey the impacted Bargaining Unit employees and to bargain over the procedures and the appropriate arrangements for Bargaining Unit employees impacted by the reorganization.

c. Consistent with 5 U.S.C. § 7114(b)(4), the Agency will provide the Union with the information necessary to conduct bargaining. The status quo will be maintained pending the completion of any bargaining unless the Agency can show the Union that the status quo would adversely impact the functioning of the Agency.

Article 41: Reduction in Force

Section 1—Introduction

When the Agency determines that a Reduction in Force (RIF) may be necessary, it must comply with RIF procedures when an employee is faced with separation or downgrading for a reason such as reorganization, contracting out (A-76), lack of work, shortage of funds, insufficient personnel ceiling, or exercise of certain reemployment or restoration rights. The RIF process will be administered in accordance with 5 U.S.C. Chapter 35 and 5 C.F.R. Part 351.

Section 2—Process

The Agency will:

a. Make efforts to accomplish an RIF through attrition prior to implementing RIF procedures; identify all continuing positions for which the Agency faces shortages of applicants; and, to the maximum extent feasible within budgetary limitations, train employees affected by the RIF who have potential for reassignment to those positions.

b. Keep outside hiring and internal promotions to the minimum necessary to maintain the efficient operation of the Agency. The Agency will release promotion-eligible positions once it has been determined that these positions will not be impacted by RIF.

c. If feasible, request approval from OPM to use the Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Program (VSIP). Meet individually with employees eligible for VERA and/or VSIP, upon an employee's request.

d. In accordance with law, provide the Union with advance notification and an opportunity to bargain over the procedures for implementing the RIF and the appropriate arrangements for employees who are impacted by the RIF.

e. Provide the Union with all information that is necessary to satisfy its bargaining obligations and representational responsibilities consistent with 5 U.S.C. § 7114, such as:

1. total number of positions to be affected;
2. type of anticipated action (separation, downgrades, reassignments, etc.);
3. the competitive levels;
4. title, grade, and series of all affected positions;
5. proposed beginning date of the RIF;
6. which employees received performance credit on their Service Computation Dates;
7. the location of the retention records; and
8. copies of the retention registers

f. Give employees and/or their representatives the opportunity to review retention registers for positions that the employees and/or their representatives reasonably believe may affect the employees' RIF action. The retention registers will list other employees who may be entitled to displace the affected employees as well as employees they may be entitled to displace.

g. To the maximum extent possible, guarantee the best offer of employment to all employees affected by implementation of the RIF procedures in a position as close to their current grade as possible. Any offer letter, if issued, will include:

1. the position title, series, and grade;
2. the geographic and organization location of the position;
3. the deadline for responding to the offer;
4. what could happen to the employee if the placement offer is rejected;
5. if applicable, information on the employee's grade retention, pay retention, reemployment rights, and severance; and
6. the reasons for retaining a lower standing employee in the same competitive level.

h. Instruct supervisors to discuss training needs with the employees on a

continuing basis and provide necessary and appropriate training when needed.

i. The Office of Human Resources shall provide RIF training to the OST Union Vice President or designee. The Union official shall be permitted to use Agency Official Time.

Section 3—Agency Notice to Employees

a. The Agency will inform all employees as fully and as quickly as possible of plans or requirements for an RIF, in accordance with applicable rules and regulations.

b. The Agency notice to affected employees will identify the regulations that govern the RIF and the kinds of assistance available.

c. Employees on detail will be released from their permanent positions (not their detailed positions) as a result of an RIF.

d. The Agency will provide a specific written notice to each employee affected by the RIF, if he or she to be released from his or her competitive level, at least sixty (60) calendar days prior to the effective date. If faced with an unforeseeable situation (e.g., a natural disaster), the Agency may, with OPM approval, give the employee a specific written notice of fewer than sixty (60) calendar days, but at least thirty (30) calendar days prior to the effective date. At a minimum, the notice will include the following information:

   1. the specific action being taken (e.g., separation; demotion; etc.);

   2. the reason(s) for the action;

   3. the effective date of the action;

   4. the employee's Service Computation Date;

   5. the employee's subgroup;

   6. the employee's competitive area;

   7. the employee's competitive level;

   8. why any lower standing employee is retained in his or her competitive level;

   9. the employee's rights to appeal under the negotiated grievance

procedures or MSPB, but not both; such notices shall include time limits for filing appeals; and

10. the last three (3) performance ratings.

Article 42: Contracting Out

Section 1—General

a. The Agency retains the right to contract out work in accordance with 5 U.S.C. § 7106(a)(2)(b). The term "contracting out" refers to a decision or act by the Agency that results in the transfer of functions from performance by Federal employees to performance by a private contractor, such as when mandated by OMB Circular A-76 Revised, dated May 29, 2003 (A-76). The decision by the Agency to contract out is not subject to the negotiated grievance procedure.

b. The Union retains the right to bargain over additional procedures and arrangements for adversely affected Bargaining Unit employees regarding specific decisions by the Agency to contract out the work of Bargaining Unit employees as they occur. If the Union chooses to bargain, Agency implementation will be held in abeyance pending the completion of bargaining, including the resolution of any impasse disputes.

Section 2—Notification of Contracting Out

a. The Agency agrees to notify the Union, as required by law or regulation and this CBA, of its decision to conduct a cost comparison study that may impact Bargaining Unit employees.

b. Management will provide the Union with an opportunity to be present during any formal meetings or discussions with Bargaining Unit employees concerning the contracting out of work affecting Bargaining Unit employees, throughout all stages of the process.

c. The Agency will furnish to the Union information concerning the contracting out study, provided the information is not restricted by law, rule, regulation, or other directive or instructions.

d. During a study, the Agency will solicit and consider the Union's recommendations concerning contracting out. The Agency will invite the Union to participate in only the meetings that discuss Bargaining Unit employee working conditions.

e. The Agency will provide information such as the most efficient organization (MEO) and the performance work statement (PWS) processes of A-76 as they pertain to Bargaining Unit employees.

f. The Agency will provide the Union with copies of all notifications sent to Congress regarding contracting out activities and/or studies that pertain to Bargaining Unit employees at the same time these notices are provided to Congress, provided the information is not restricted by law, rule, regulation, or other directive or instructions.

Section 3—Adverse Impact

a. If the Agency determines that work will be contracted out and that Bargaining Unit employees will be adversely affected, the Agency will notify the Union, as appropriate.

b. Upon request, the Agency will meet and negotiate, as permitted by law, rule, or regulation, concerning the procedures to be followed in implementing the decision to contract out work and appropriate arrangements for Bargaining Unit employees who are adversely affected.

c. The Agency agrees to provide copies of relevant information used in the contracting out process, provided the information is not restricted by law, rule, regulation, or other directives or instructions.

d. The Agency agrees to follow RIF procedures when contracting out results in a release of any employee in the Bargaining Unit.

Article 43: Retirement

Section 1—Purpose

This Article shall be administered in accordance with 5 C.F.R. Part 831 and this CBA. The purpose of this Article is to clarify certain policies covering retirement for all employees in accordance with applicable law and regulation.

Section 2—Retirement

a. Retirement Planning: Retirement planning may include pre-retirement training, seminars, webinars, OPM website references, and retirement counseling. Bargaining Unit employees will be allowed to participate in retirement planning during duty time subject to workload requirements. Upon request, the Agency will assist employees in identifying individual retirement planning information. Subject to budgetary limitations, Bargaining Unit employees may attend in-class retirement courses during duty time subject to workload requirements. Management will have valid mission-related reasoning for denying any Bargaining Unit employee's request.

b. Early Retirement: Upon a retirement-eligible employee's inquiry, the Agency will provide the employee with an estimate of his or her annuity upon early retirement, and the information on the reduction in the annuity amount as compared to regular retirement, the effects on severance pay, unemployment compensation, future benefits, and the estimated start date of the annuity.

c. Voluntary or Involuntary Separation: The Agency will provide employees who separate voluntarily or involuntarily (except by retirement) with information regarding disability retirement, discontinued service annuity, and deferred annuity as provided by law and OPM regulations (5 C.F.R. Part 831 and 5 C.F.R. Part 842).

d. Involuntary Separation: Employees who are involuntarily separated as a result of an inability to perform their assigned duties or misconduct that can be attributed to a disabling condition will be notified by the Agency in the decision letter of their right to file for disability retirement within one (1) year after the date of separation.

e. An employee may withdraw a retirement application at any time prior to its effective date, provided the withdrawal is communicated to the Agency in writing and is received by the Agency prior to its having made a commitment to fill the position of the retiring employee, and unless the employee has committed to retire by or before a designated date, pursuant to a settlement agreement.

Section 3—Thrift Savings Plan

The Agency will provide information relating to the Thrift Savings Plan (TSP) during new employee orientation sessions. Additional information concerning investing in TSP will be made available on the TSP and/or Agency website.

Article 44: CASTLE Interface Repository (CASTLE IR)

Section 1: General

a. The Parties agree that union receipt of data from CASTLE IR concerning dues payer information requires completion of the Union/Association Dues Data Request Form which will include:
   i. The data elements being requested;
   ii. Who will receive or retrieve the data (including name, phone number, and email);
   iii. Where the data will be maintained, and;
   iv. The transmission schedule being requested.

b. "Dues payer information" means data showing the remittance of biweekly union dues by voluntary election of a bargaining unit employee consistent with 5 U.S.C. 7115.

c. Completion of the Data Request Form entitles the union to receive only the data elements specified in Section 4 therein with respect to each bargaining unit employee who elects to allocate union dues.

d. The Union agrees to promptly notify the Information Systems Owner and Personnel Data Custodian identified in the Data Request Form if any of this information changes.

Section 2: Privacy

a. The Parties agree that data may not be distributed to any other parties or organizations or maintained in a manner inconsistent with the requirements outlined in the Data Request Form. The data will only be processed by an individual in order for them to perform their duties in accordance with this article. The signers of the Data Request Form agree to comply with the policies outlined in the Data Request Form.

b. All data transmitted by the Agency will be stored and maintained using FIPS 140-2 compliant encryption, including email, on Union information systems. Under no circumstances should the data be processed in any way that is unsecure or left unattended. System security assessments and audits may require evidence of compliance with federal cybersecurity

requirements.

Section 3: Releasability

a. Dissemination, retrieval and use of the data is contingent upon the union's certification of the criteria outlined in Sections 2 of this article and with the applicable policies, standards, and guidance outlined in the Data Request Form.

Section 4: Grievance

a. The Parties agree that any disputes or grievances regarding the processing of voluntary union dues allotments will be resolved between the union and the respective OA per the terms of applicable law, regulation, and Collective Bargaining Agreements (CBA) governing union dues allotments.

Article 45: Duration

Section 1—Duration

This CBA shall remain in full force and effect for five (5) years from its effective date. This CBA shall automatically renew itself from year to year thereafter.

Section 2—Renegotiation (Term Bargaining)

a. If either Party desires to renegotiate any terms of this CBA, it will furnish written notice to the other Party, identifying the Articles that it wishes to change. The notice must be provided no earlier than one hundred and twenty (120) days prior to the expiration of the Agreement.

b. In the event such notice is given by either Party, the Parties will begin negotiating ground rules for the new negotiations within ninety (90) days from the date of receipt of notice of the proposed changes, unless otherwise agreed.

Section 3—Reopener

Either Party may propose negotiations during the term of this CBA to reopen, amend, or modify this CBA, but such negotiations may be conducted only by mutual consent of the Parties. Such negotiations shall be conducted in accordance with Mid-Term Bargaining Article.

Section 4—Amendments and Modifications

This CBA may only be amended, modified, or renegotiated in accordance with the provisions of this CBA.

Section 5—Electronic Publication

Within sixty (60) calendar days of the effective date of the Agreement, the Agency will make the final version of the CBA

available in 508-compliant PDF format and will post the CBA on its SharePoint site. As technically feasible, the table of contents will be hyperlinked to each Article, each reference to statute and case law will be hyperlinked to the appropriate citation, and the document will be searchable. The OST Human Resources Operations (HRO) SharePoint site will serve as the primary resource to access the CBA.

This Agreement is effective; January 10, 2025

For the Office of the Secretary:

Ernesto Tamayo
Chief Negotiator, OST
Chief, Labor & Employee Relations, OST

Eric Buchanan
Administrative Officer
Office of the Under Secretary for Policy

Carla Contee
Deputy, Chief Financial Officer, OST
Office of the Assistant Secretary for Budget & Program

Allen Kumru
Human Resources Specialist (LER)
Office of Human Resources Operations

Eric Knapp
Attorney Advisor
Office of General Counsel

For the American Federation of Government Employees Local 3313

Jennifer Rodes
Chief Negotiator, AFGE Local 3313
AFGE 3313, Vice-President, OST

Eugene Johnson
AFGE 3313, President

Gary Shoemaker
AFGE 3313, Executive Vice-President

Robert Nazareth
Bargaining Team Member
AFGE 3313

Cecelia Robinson
Bargaining Team Member
AFGE 3313

APPROVED:

PHILIP ADAM MCNAMARA
Digitally signed by PHILIP ADAM MCNAMARA
Date: 2025.01.13 09:01:38 -05'00'

Phillip A. McNamara
Assistant Secretary for Administration

Date