

# **LABOR-MANAGEMENT AGREEMENT**

**BETWEEN**

**U.S. DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT  
Region IX**



**AND**



**NATIONAL FEDERATION OF  
FEDERAL EMPLOYEES  
LOCAL 1450**

**EFFECTIVE: July 27, 2016**  
**(LM)**

**PREAMBLE**

This Agreement is made and entered into by and between the U.S. Department of Housing and Urban Development, Region IX, hereinafter referred to as "Management" and the National Federation of Federal Employees, Local 1450, hereinafter referred to as the "Union," together referred to as the "Parties".

The terms and conditions of this Agreement apply only to the employees within the bargaining unit. Below is the status of Field Office recognition and coverage by this Agreement.

San Francisco Regional Office	Professionals & Nonprofessionals
Reno Field Office	Professionals & Nonprofessionals
Las Vegas Field Office	Professionals & Nonprofessionals
Los Angeles Field Office <sup>1</sup>	Professionals & Nonprofessionals
Santa Ana Field Office	Professionals & Nonprofessionals
Phoenix Field Office	Professionals & Nonprofessionals
Albuquerque Field Office - Southwest Office of Native American Programs (SWONAP) Only	Professionals & Nonprofessionals

In the future, if the Union becomes certified as exclusive representative for employees of the Department not now included with the NFFE Local 1450 bargaining unit, this Agreement shall extend automatically to those employees.

This Agreement reflects the values and commitment of the Department of Housing and Urban Development ("the Department") and its employees through the National Federation of Federal Employees Local 1450 ("the Union") to a positive labor management relationship, while maintaining a diligent focus on the public we serve. It is designed to recognize the realities of the 21<sup>st</sup> Century workplace by remaining flexible to technological and societal changes as they occur.

The terms and conditions of this Agreement apply only to employees within the bargaining unit.

The Department and the Union agree that the labor-management relationship is strengthened by the participation of employees in the formulation and implementation of personnel policies and practices and their conditions of employment. This is best achieved through a constructive and cooperative working relationship.

The Department shall allow employees and their Union representatives to have pre-decisional involvement in all workplace matters to the fullest extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106; provide adequate information on such matters expeditiously to union representatives where not prohibited by law; and make a good-faith attempt to resolve issues concerning proposed changes in conditions of employment, including those involving subjects set forth in 5 U.S.C 7106(b)(1), through labor-management forums.

Advance collaboration and consultation are the preferred methods for maximizing positive results and minimizing conflict.

The Department and Union affirm that 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. The Department and Union affirm that the public service to which the Department is dedicated can be advanced through understanding and cooperation achieved through the collective bargaining process. The provisions of this Agreement shall be administered and interpreted in a manner consistent with the requirement for an effective and efficient Government.

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## DEFINITIONS

**Acceptable Performance-** Performance that meets an employee's performance requirement(s) or standard(s) at a level of performance above Unacceptable (Unsatisfactory) in the critical element(s) at issue.

**Adverse Action-** A suspension for more than 14 calendar days, a reduction in grade, a reduction in pay, or a furlough of 30 calendar days or less.

**Alternative Work Site-** An approved work site other than the official worksite, for which the employee performs his/her official duties. Alternative worksites may include the employee's residence, GSA telework center, HUD office, and/or another location where there is connectivity to the primary office site, and there is an office setting conducive to accomplishing work requirements.

**Appraisal-** The process under which performance is reviewed and evaluated.

**Area of Consideration-** The geographic area in which an intensive search is made for candidates who are eligible for consideration in a specific competitive placement action.

**Best Qualified Candidates-** Those candidates who are determined from among the Highly Qualified candidates who have received the highest possible rating scores and are listed on the selection roster. Determination of the number of Best Qualified candidates to be referred will be based on a natural break between the relative ratings of highly qualified candidates.

**Career Ladder-** A series of positions of increasing complexity and at successively higher grades in the same line of work, through which employees may progress from entrance grade levels to the specified full-performance, or journey grade level. A career ladder may exist within one organizational unit or it may cross organizational lines.



**Career (Non-competitive) Promotion-** A promotion without current competition when:

1. The employee was previously appointed or competitively selected for an assignment intended to prepare him/her for the position currently being filled.
2. The employee's position is reclassified to a higher grade because of additional duties and responsibilities.
3. The employee's position is upgraded without significant change in its duties and responsibilities due to issuance of a new classification standard or the correction of a prior classification error.

**Competitive Level-** A competitive level consists of all the positions in a competitive area that are in the same grade or occupational level and classification series and which are similar enough in qualification requirements, duties, pay schedule, and working conditions, so that the incumbent of one position could successfully perform the critical elements of any other position upon entry into it without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.

**Compressed Work Schedule (CWS)-** A method of establishing individual work schedules that allows full-time employees to work 80 hours in a bi-weekly pay period in fewer than 10 workdays, typically by working eight 9 hour days and one 8 hour day, and having one scheduled day off every other week (5-4/9), or by working 10 hour days having one scheduled day off every week (4-10). Employees must be on a fixed tour of duty as required by applicable statute and regulation. This means that employees on CWS may not vary their arrival and departure times on a daily basis. Employees on a CWS may not begin before 6:00 a.m. or depart later than 7:30 p.m.

**Conditions of Employment (COE) -** Conditions of employment means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise [e.g., by custom or practice], affecting working conditions.

**Confidential Employee** – a confidential employee, as defined in 5 U.S.C. Section 7103.

**Consultation-** The act or process of consulting. A conference at which advice is given or views are exchanged.

**Continuity of Operations (COOP) -** COOP is defined as the activities of individual departments and agencies and their sub-components to ensure that their essential functions are performed.

**Core Hours-** The designated hours that a full-time employee must be present for work. Core hours are 9:30 a.m. to 2:30 p.m.

**Credit Hours-** The time worked within a flexitour schedule which is in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of the work week or work day. Work performed for credit hours is differentiated from overtime work which must be ordered or directed by management. Employees on a compressed work schedule may not earn credit hours. Employees on a flexitour schedule may earn credit hours. The flexible hours for credit hours are 6:00 to 9:30 a.m. and 2:30 p.m. to 7:30 p.m.

**Crediting Plan-** An evaluation method, based on job-related criteria developed through job analysis, to:

1. Rate candidates' qualifications; and
2. Rank candidates for referral in a competitive placement action.

**Critical Element-** A component of a position consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that Unsatisfactory performance on the element would result in Unsatisfactory performance in the position.

**Days-**Unless otherwise indicated, days without the signifier of “work” or “business” denotes calendar days.

**Demotion-** The change of an employee, while serving continuously within the Department:

1. To a lower grade when both the old and the new positions are under the General Schedule or under the same Wage Grade Schedules; or
2. To a position with a lower rate of pay when both the old and the new positions are under the same type ungraded wage schedule, or in different pay method categories.

**Detail -** A detail is the temporary assignment of an employee to a different position or to a

different set of duties for a specified period, with the employee returning to their regular duties at the end of the detail, as the employee continues to be the incumbent of the position from which detailed. Details may not be specifically used to give an employee a competitive advantage for a permanent position.

**Domestic Partner:** For the purposes of this Article, an adult in a committed relationship with another adult, including both same sex and opposite sex relationships. This individual meets the criteria as defined in the Affidavit of Domestic Partnership (Appendix D), and is officially designated by the employee on the Affidavit. The employee can also utilize a state-issued certification of registered domestic partnership.

**Discipline-** An oral admonishment confirmed in writing, a written admonishment, a written reprimand, or a suspension of 14 calendar days or less.

**Disability-** Rehabilitation Act of 1973, as amended, defines a person with a disability as an individual who has a physical or mental impairment that substantially limits one or more of such person's major life activities.

**Emergency-** Emergency is defined as a condition threatening life or property or an event that limits the essential functions of the Agency.

**Emergency Telework-** Non-recurring work away from the conventional office based on an emergency situation or need such as inclement weather (including heavy fog, flooding, snow, mudslides, etc.), natural disasters, or other needs such as office closure due to office and/or building repairs, an emergency event that affects office operations, etc. (which may or may not be associated with a COOP event Emergency Situation).

**Essential Functions-** The limited set of agency-level Government functions that must be continued throughout, or resumed rapidly after, a disruption of normal activities.

**Excepted Service Employee-** An employee whose position is excepted from the

competitive service. These persons are appointed in the Federal personnel system under various authorities including "Schedule A," "Schedule B," and "Schedule C."

**Facilitated Bargaining** – Utilizing the assistance of a mediator, typically from the Federal Mediation and Conciliation Service (FMCS), to attempt to bring about resolution on bargaining disputes. This is the required step before impasse.

**Family Member-** Unless otherwise indicated, the following are considered family

members of the employee:

1. Spouse, domestic partner and parent(s) thereof;
2. Children, including step, foster and adopted children and including children of domestic partner, and their spouse or domestic partner; current or previous legal wards, or for whom the employee stands or stood in loco parentis;
3. Parents of both the employee and the spouse or domestic partner; including adopted step, current or previous foster parent or legal guardian, a person who stands or previously stood in loco parentis;
4. Brothers and sisters, and spouses and domestic partners thereof;
5. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
6. Grandparents and grandchildren, and their spouses or domestic partners, thereof.

**Flexible Hours (flexible time bands)-** The hours in which an employee covered by a flexible work schedule may choose to vary his/her arrival/departure times on a daily basis. The established flexible hours are 6:00 a.m. to 9:30 a.m. and 2:30 p.m. to 6:00 p.m. for flexitour schedule and 6:00 a.m. to 9:30 a.m. and 2:30 p.m. to 7:30 p.m. for Credit Hours.

**Flexitour-** A flexible work schedule program that allows employees to select an arrival time between 6:00 a.m. and 9:30 a.m. and have a one-hour window of flexibility. This flexible work schedule includes core hours and flexible hours. An employee must be at work during core hours and must account for the total number of hours he or she

is scheduled to work.

**Full-Performance Level-** The target or journey grade level in a specific occupational career ladder.

**Furlough of 30 Calendar Days or Less-** The placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons (see Article 34 for Furloughs of 30 days or less).

**Grievance-** A Grievance means any complaint by:

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

**Health Care Provider-** (1) A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations; (2) any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question; (3) a health care provider as stated in (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law; (4) a Christian Science Practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or (5) a Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing

methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with public law.

**Highly Qualified Candidates-** Those candidates who obtained at least 70 percent of the maximum points which may be awarded under the crediting plan.

**Job Analysis-** The systematic process of analyzing the duties of a position to identify the knowledges, skills, abilities and other characteristics (KSAOs) required for successful job performance.

**Known Promotion Potential-** The specified full-performance grade level of a position to which an employee may be non-competitively promoted based on a prior selection through competitive procedures.

#### **Labor Management Relations Statute – 5 U.S.C. Chapter 71**

**Maxiflex-** A flexible work schedule program that allows employees to designate a fixed work schedule involving 10 or fewer than 10 workdays in the biweekly pay period, and in which a full-time employee has a basic work requirement of 80 hours biweekly, but can vary the number of hours worked on a given workday between 5 and 11 hours. The work schedule must be pre-designated and approved by management, and employees on maxiflex must work the core hours and may not schedule an absence (non-leave) for more than 2 days per pay period.

**Medical Certificate-** A written statement signed by a registered practicing physician, other practitioner, or Health Care Provider outlined in Section 21.02(D) certifying to the incapacitation, examination or treatment, or to the period of disability while the patient was receiving professional treatment.

**Occupational Assessment Questionnaire-** An online tool that allows applicants to self-certify their experience levels against technical and general competencies,

developed from the Job Analysis and Crediting Plan and identified as important or critical to success in the position advertised.

**Official Business Hours-** The period each day when a HUD Field Office is officially open for business.

**Official Time-** Official time includes all representational functions including statutory functions for Union business, as defined in Article 4.

**Opportunity to Improve Period (OIP)-** A reasonable chance (opportunity) for an employee whose performance has been determined to be Unacceptable (Unsatisfactory) in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue.

**Oral Admonishments-** Verbal admonition of an employee by a supervisor, in private, of which no written record is issued to the employee. The oral admonishment is not a prior offense with respect to the Table of Penalties.

**Oral Admonishments Confirmed in Writing or Written Admonishment-** Admonitions which are recorded and issued to an employee to call misconduct to the attention of the employee. Such admonishments are not filed in the employee's Official Personnel Folder.

**Order of Release-** Whenever a reduction-in-force occurs, the layoff is made from the bottom of the retention register. Thus, employees in subgroup III-B, (e.g., indefinite/temporary appointment, non-preference eligible) are separated first and employees in subgroup I-AD, (e.g., career, 30 percent or more service connected disability preference eligible veteran) last. Within each subgroup, employees are reached in the order of their length of RIF creditable service, thus the employee with the least amount of service being first.

**Pandemic Influenza-** An influenza pandemic is a global outbreak of disease that occurs when a new influenza virus appears or “emerges” in the human population, causes serious illness, and then spreads easily from person to person worldwide.

**Performance Improvement Period (PIP)-** A reasonable chance (opportunity) for an employee whose performance has been determined to be Minimally Satisfactory (Level 2) in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue.

**Performance Plan-** The aggregation of all of an employee's written critical elements and performance standards.

**Performance Standard-** A statement of the expectations or requirements established by Management for a critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance. Performance standards shall be attainable, measurable, in writing and related to the employee’s officially assigned position.

**Position Change** - A promotion, demotion, or reassignment made during an employee's continuous service within the Department.

**Promotion-** The change of an employee, while serving continuously within the Department:

1. To a higher grade when both the old and new positions are under the General Schedule or under the same Wage Grade Schedule; or
2. To a position with a higher rate of pay when both the old and the new positions are under the same type ungraded wage schedule, or in different pay method categories.

**Qualified Candidates-** Those candidates who meet the minimum qualification standards in the U.S. Office of Personnel Management (OPM) Qualification Standards Handbook and any appropriate selective placement factors for the position.

**Rating Official-** The Rating Official is usually the immediate supervisor.

**Reasonable Time to Demonstrate Acceptable Performance-** An amount of time commensurate with the duties and responsibilities of the employee's job which is



sufficient to allow the employee to show whether he/she can meet minimum performance standards.

**Reassignment-** The change of an employee from one position to another without promotion or demotion.

**Reduction-In-Force (RIF)-** The release of an employee from his/her competitive level by: (1) separation; (2) demotion; (3) furlough for more than 30 days; or (4) reassignment of an employee requiring the displacement of another employee when it is for (a) lack of work or shortage of funds; (b) insufficient personnel ceiling; (c) reorganization; (d) reclassification due to an erosion of duties only if such action shall take effect after the RIF has been formally announced in the employee's competitive area and when the RIF shall take effect within 180 days; or (e) the exercise of reemployment or restoration rights which requires Management to release the employee from his/her competitive level.

**Reduction in Grade-** The involuntary assignment of an employee to a position at a lower classification or grade level.

**Reduction in Grade or Pay-** The involuntary assignment of an employee to a position at a lower classification or job grading level.

**Removal-** The involuntary separation of an employee from employment with the agency, except when taken as a reduction-in-force action.

**Reorganization-** The planned elimination, addition, or redistribution of functions or duties in an organization or activity.

**Reprimand-** A written notice to an employee which sets forth specific actions of misconduct by the employee which are of such a serious nature that lesser corrective action would not be effective. Reprimands are filed in the electronic Official Personnel Folder (eOPF).

**Reviewing Official-** The Reviewing Official is normally one level above the Rating Official.

**Selection Roster-** A list of the best qualified candidates, identified through competitive placement procedures, for use by a selecting official in filling a vacancy.

**Selective Placement Factor-** A selective placement factor is a knowledge, skill, ability or other characteristic in addition to the basic qualification standard that is essential for satisfactory performance on the job. The following are examples of appropriate selective factors for determining eligibility when the factors are essential for successful job performance:

1. Ability to speak, read, and/or write a language other than English;
2. Knowledges and abilities pertaining to a certain program or mission, when these cannot readily be acquired after selection; and
3. Ability in a functional area (for example, ability to evaluate alternative Automated Data Processing (ADP) systems).

**Situational Telework-** Project-oriented, non-recurring, and/or irregular telework. Situational telework may be ideal for employees who encounter infrequent periods of time when projects/assignments have short turnaround times and/or require intense concentration.

**Supervisor-**An individual having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

**Suspension-** The placement of an employee for disciplinary reasons in a temporary status without duties and pay for 15 calendar days or more.

**Suspension of 14 calendar days or less-** The placement of an employee for disciplinary reasons for 14 calendar days or less without duties and pay.

**Team Leaders-** Employees designated as belonging to the bargaining unit who are not supervisors. As determined by management, some general examples of Team Leader responsibilities may include but are not limited to coordination of work assignments, coaching, reporting, facilitating communication on behalf of the team, etc. Management agrees that if a Team Leader is in the bargaining unit, he/she is not a supervisor and does not have the authority to perform the supervisory functions defined under "Supervisor", or other functions involving leave approval, issuing performance evaluations, etc.

**Telecommuter-** An employee who performs work at an alternative work site, under a formal telecommuting agreement.

**Telecommuting-** A supervisor-approved work option that allows an employee an opportunity to perform duties during the established regular/flexible work hours at an alternative work site during an agreed upon portion of the work week.

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

**Unacceptable Performance-** Performance of an employee that fails to meet established performance standards in one 1 or more critical elements of such employee's position.

**Undue Interruption-** A degree of interruption that would prevent the completion of required work within the allowable limits of time and quality. Depending upon the pressures of priorities, deadlines, and other demands, the ordinary work program generally would not be unduly interrupted if the optimum quality and quantity of

work were regained within 90 days after a reduction-in-force. Lower priority programs might tolerate even longer interruption.

**Voluntary Early Retirement Authority (VERA)/"Early-Out"** - For areas that are undergoing substantial restructuring or downsizing; the allowance through OPM approval to temporarily lower the age and service requirements for specified employees in order to increase the number of employees who are eligible for retirement.

**Voluntary Separation Incentive Payment (VSIP)/"Buyout"** - For areas that are undergoing substantial restructuring or downsizing; the allowance through OPM approval to offer employees lump-sum payments of up to \$25,000 as an incentive to voluntarily separate.

**Work-at-Home**- An arrangement that allows an employee to work from the home in a designated work space/area. Working at home is not a substitute for child and/or elder care.

**Workdays**- Days in which the agency is open for business (typically Monday through Friday, excluding holidays, furlough days, and other days where the agency is closed).

**ARTICLE 1**  
**EMPLOYEE RIGHTS/STANDARDS OF CONDUCT**

**SECTION 1.01: GENERAL.**

Employees have the right to direct and to pursue their private lives consistent with the Department's Standards of Conduct, as clarified by this Article, without interference, without fear of reprisal, coercion or discrimination by Management. Employees shall be treated fairly and equitably in the administration of this Agreement and in policies and practices concerning conditions of employment. Nothing in this Agreement infringes on employees' constitutional rights.

**SECTION 1.02: MORALE.**

Recognizing that productivity is enhanced when morale is high, everyone shall treat one another with the utmost respect and dignity, notwithstanding the type of work or grade of jobs held.

The Workplace of the Future Committee shall also examine work life flexibility issues.

The parties agree to promote a culture in which managers and employees understand the workplace flexibilities and work-life programs available to them and how these measures can improve agency productivity and employee engagement. The parties agree to identify and eliminate any arbitrary or unnecessary barriers or limitations to the use of these flexibilities and develop new strategies consistent with statute and agency mission to foster a more balanced workplace.

**SECTION 1.03: RIGHT TO PARTICIPATE IN THE LABOR ORGANIZATION.**

- A. Any employee of the Department has the right, freely and without fear of penalty or reprisal, to form, join, or assist the Union or to refrain from any such activity. As provided in the Federal Service Labor-Management Relations Statute (hereafter referred to as the Statute), an employee's right to assist a labor organization extends to participation in the management of the Union.
  
- B. Management will invite the Union 4 work days prior to the incoming employees who are on-boarding, unless not possible, to present during any new employee orientations for transferees from outside of NFFE 1450 and new hires. The union will have up to 2 hours to present during the initial employee orientation for new employees and transferees. Alternatively, where it is not possible for the Union to be present at the initial employee orientation, Management shall provide the Union with an opportunity to present within the first duty week for new hires and transferees from outside of NFFE 1450.

**SECTION 1.04: EMPLOYEE RIGHT TO GRIEVE.**

An employee may grieve any matter relating to employment consistent with the terms of Article 9 of this Agreement.

**SECTION 1.05: COMPLYING WITH ORDERS.**

Employees recognize their responsibility to comply promptly with all lawful orders and instructions from their supervisors. On the rare occasion that an employee reasonably believes that an order or instruction violates any law, rule, or regulation, or is a conflicting order, and could cause the employee significant personal and/or professional liability, the employee has the right to verbally state those beliefs to the supervisor. The employee and supervisor will engage in a discussion regarding the issue. If the instruction remains unchanged, the employee has the right to state concisely his/her beliefs promptly to the next higher level of Management available. If the order or instruction is confirmed by that higher level Management, or if the higher level Management is not readily available, then the order or instruction shall be carried out promptly by the employee. The employee can submit a written request for confirmation of the order in writing to the supervisor or higher level management official, and the supervisor or higher level management official shall respond in writing. Excessive or repeated requests for orders in writing shall not require a response, and continued refusal to carry out an order or instruction may be cause for disciplinary action. An exception would be when an employee reasonably believes he or she will be in a situation of imminent danger, death or serious bodily harm, and there is insufficient time to effectively seek corrective action. This does not absolve any personal liability for bargaining unit employees or management officials for acting outside of their official duties.

**SECTION 1.06: LAWSUIT REPRESENTATION.**

If an employee is sued in his/her individual capacity and desires Department of Justice representation, he/she must submit a written request to Regional Counsel, along with a copy of the Summons and Complaint or other legal papers. Department of Justice representation is neither automatic nor compulsory, and is subject to approval by the Attorney General or his/her designee. Management will provide an annual notice to employees with information on purchasing personal liability insurance.

**SECTION 1.07: EMPLOYEE'S PERSONNEL RECORDS.**

- A. Management will make available electronic Official Personnel Folder (eOPF) training for all employees to explain the eOPF system, access and security measures. eOPFs will be secured and confidential in accordance with OPM (Office of Personnel Management) requirements. Management agrees to make every effort to insure that eOPFs will be viewed and accessed only by the subject employee, and authorized HUD supervisory, legal and Human Resources personnel who have a need to know. On a yearly basis the Union will be

provided the names and contact information of HUD staff who have authorized access to eOPFs, upon request. In the event Management becomes aware of an unauthorized viewing or breach of security, HUD management will notify affected employees and the Union. If an employee suspects a breach, he or she may contact the designated Pay Benefits and Retirement Division (PBRD) specialist or their servicing HR specialist for assistance and resolution.

- B. Management will provide a Point of Contact for employee questions, disputes and corrections relating to eOPFs.
- C. Management agrees that eOPF contents are to be in compliance with OPM guidelines.
- D. The eOPF system allows for automatic employee notification via email when updates or revisions to the eOPF record occur.
- E. Original OPF files will be sent to the National Archives and Records Administration (NARA) in accordance with regulations, and will be maintained until quality assurance has been met.
- F. Personnel records kept by an employee's immediate supervisor shall be maintained in a secure, confidential file and shall be accessed only by officials with an administrative need to know its contents.
- G. Employees shall have the right to submit to the servicing specialist at the Pay, Benefits and Retirement Division any statements they wish to make about information contained in their Official Personnel Folder (OPF) or to request that material be removed in accordance with Office of Personnel Management guidelines.

#### **SECTION 1.08: VOLUNTARY PARTICIPATION.**

Management may provide the opportunity, but may not require employees to participate in recognized Savings Bonds programs, charitable campaigns for contributions or other community activities not related to the employee's job.

## **SECTION 1.09: STANDARDS OF CONDUCT.**

A. **General.** Employees of the Executive Branch are subject to Government-wide ethics regulations pursuant to several statutory authorities and it is incumbent upon employees to be familiar with these requirements. These regulations include 5 CFR 2634 - Executive Branch Financial Disclosure, Qualified Trust, and Certificates of Divestiture; 5 CFR 2635 - Standards of Ethical Conduct for Employees of the Executive Branch; and 5 CFR 7501 - Supplemental Standards of Ethical Conduct for Employees of the Department of Housing and Urban Development. Management and the Union recognize that the public interest requires the maintenance of high standards of conduct, equitably applied and clearly understood.

### **B. Political Activities.**

1. Employees shall not be discriminated against based on their political affiliation, consistent with 5 CFR 4.1 and 4.2. Employees may engage in policy activities, in accordance with the Hatch Act, the Hatch Reform Amendments and Government-wide regulation.
2. Questions concerning interpretation or application of the Hatch Act or restricting political activities may, at the employee's option, be directed to the Office of Special Counsel, the HUD Associate General Counsel for Ethics and Personnel, or to any HUD Regional Counsel.

### **C. Display of Personal Items.**

Employees shall have the right to wear or display personal items provided that the display of such items does not interfere with the efficient performance of official duties, create a conflict or apparent conflict of interest, or otherwise violate the Hatch Act, ethics standards or laws, Supplemental Standards of Ethical Conduct for Employees of the Department of Housing and Urban Development, 5 CFR Part 7501.

### **D. Outside Employment and Other Activities.**

1. Employees shall obtain prior written approval of an agency Ethics Official before accepting certain compensated or uncompensated employment in accordance with the Supplemental Standards of Ethical Conduct for Employees of the Department of Housing and Urban Development, 5 CFR Part 7501. Requests for prior approval will generally be approved unless inconsistent with the HUD or Executive Branch Government-wide Standards of Conduct.



2. Management will continue to provide ethics training and guidance to employees. Department Ethics Officials will continue to be available to employees for counseling and discussion of issues regarding permissible transactions and activities covered by the Standards of Conduct.

E. **Professional responsibilities.** Employees shall be courteous and considerate when dealing with the public. Employees shall act as expeditiously as conditions allow when dealing with the public. Employees must present a professional image to clients and visitors. If specific parameters are needed to define appropriate attire, they will be addressed by each Field Office through a negotiated Memorandum of Understanding with the Union.

#### **SECTION 1.10: COMPENSATION.**

Employees are entitled to timely receipt of wages provided that appropriate documentation is submitted.

#### **SECTION 1.11: USE OF RECORDING DEVICES.**

No electronic recording of any conversation between an employee and a Management official may be made without mutual consent. When a recording is made and a transcript is produced, the employee may request a copy at his or her own expense. If Management possesses a copy of the tape and/or transcript, it will be provided at no cost to the employee upon request.

#### **SECTION 1.12: WHISTLE BLOWING**

Employees shall be protected against reprisal of any nature for the disclosure of information not prohibited by law, which the employee reasonably believes evidences a violation of law, rule, or regulation, or evidences fraud, gross waste or gross mismanagement, an abuse of authority, or a substantial or specific danger to public health or safety. Employees shall receive annual notification of the Whistle Blower Protection Enhancement Act.

**ARTICLE 2**  
**PROFESSIONAL EMPLOYEES**

**SECTION 2.01: UNIQUE CIRCUMSTANCES.**

- A. The Parties recognize the special requirements and contributions of employees in the Professional Bargaining Unit.
- B. Examples of positions in the Professional unit are: Accountants, Architects, Attorneys, Economists and Engineers, as well as other similar fields as defined in 5 USC 7103.

**SECTION 2.02: MEMBERSHIP DUES.**

Where membership in a professional organization is required by Management, Management agrees to pay membership dues related to that requirement. This does not include membership in any bar associations as precluded by regulatory requirements and Comptroller General decisions. The employee must be instructed in writing by an authorized Management official to participate in an organization on behalf of the Department.

**SECTION 2.03: ATTENDANCE AT MEETINGS.**

If an employee is directed to attend a meeting of a professional society or organization, whether during normal duty hours or not, such direction must be in writing from an authorized Management official, and, therefore, shall be considered official authorization to participate and employee shall be reimbursed accordingly. This written condition must be stated to the employee in advance of any commitment of funds.

**ARTICLE 3  
RIGHTS AND OBLIGATIONS OF THE UNION**

**SECTION 3.01: RIGHTS OF UNION RECOGNITION.**

The Union is the exclusive representative of the employees in the bargaining unit and is entitled to act and contract for all employees in the unit. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to labor organization membership.

**SECTION 3.02: UNION PRESENCE AT FORMAL DISCUSSIONS.**

Management has a right under 5 USC 7106(a) of the Labor Management Relations Statute to meet with employees about working conditions. However, the Union is afforded the right to be present and represent the interests of the bargaining unit at these meetings, called "formal discussions". The Statute grants a union the right to be represented at a formal discussion in order to represent the institutional interests of the union concerning a matter pertaining to the workplace. The intent is that the union's presence and participation will enable the meeting to be successful and productive.

- A. The Union shall be informed of and be entitled to be present at "all formal discussions"/meetings between one or more representatives of Management and one or more unit employees, or their representatives, concerning any grievance, personnel policies and practices, and other general conditions of employment. The Union will be provided with a meeting agenda or in the absence of an agenda, the general subject matter of the meeting at least one workday in advance.
  
- B. In the spirit of creating a cooperative and productive form of Labor Management relations in accordance with Executive Order 13522, the parties also recognize the importance of using pre-decisional involvement to the fullest extent practical without regard to whether those matters are negotiable subjects.
  
- C. In a number of case decisions, the FLRA has noted several factors relevant to a determination of whether discussions are formal. The FLRA has stated that the following list of factors is not exhaustive, and that in determining the formality of the meeting, the FLRA will consider the totality of facts and circumstances presented. These factors are:
  - 1. Whether the individual who held the discussions is a first-level supervisor or is higher in the management hierarchy;
  - 2. Whether any other Management representatives attended;

3. Where the individual meetings took place, i.e., the supervisor's office, at each employee's desk, or elsewhere;
4. How long the meetings lasted;
5. How the meetings were called, i.e., with formal advance written notice or more spontaneously and informally;
6. Whether a formal agenda was established for the meetings;
7. Whether each employee's attendance was mandatory; and
8. The manner in which the meetings were conducted, i.e., whether the employee's identity and comments were noted or transcribed.

D. Examples of discussions which would be formal, if the above described factors are present, are meetings between bargaining unit employees and Management representatives to discuss such topics as reorganizations, space changes, reductions-in-force, employee orientation and office relocations. A discussion that begins as an informal meeting may evolve into a formal discussion if the above criteria are met. In that circumstance, the Union would be given the opportunity to be present. These examples are not intended to be exhaustive.

**SECTION 3.03: UNION PRESENCE AT GRIEVANCES.**

The Union shall have the right to be present at any stage of the negotiated grievance procedure whether or not the employee is represented by the Union.

**SECTION 3.04: BARGAINING UNIT STATUS.**

- A. **CHANGE OF BARGAINING UNIT STATUS (UNION REPRESENTATIVE):** If Management makes the decision to change the bargaining unit status (e.g., to confidential, supervisory or management positions) of a position encumbered by a Union Representative, before Management takes the action, Management shall notify the Union and provide a general statement explaining the action. The Union will notify Management with its rationale within 10 workdays if they disagree with the change. If the Parties are unable to agree on the position's Bargaining Unit status, the Union may file a Petition for Clarification of Unit with the FLRA. Management will not change the bargaining unit status of the Union Representative's position until the FLRA has approved the change.
  
- B. **CHANGE OF BARGAINING UNIT STATUS (NON UNION REPRESENTATIVE):** If Management makes the decision to change the bargaining unit status of a non-union

representative (e.g., to confidential, supervisory or management positions), before Management takes the action, Management shall notify the Union and provide a general statement explaining the action. The Union will notify Management with its rationale within 10 workdays if they disagree with the change. If the Parties are unable to agree on the position's Bargaining Unit status, the Union may file a Petition for Clarification of Unit with the FLRA. Management can change the bargaining unit status within 10 workdays from receipt of Union's rationale, or 10 workdays from management's notification if the Union does not respond.

- C. The Union will notify Management when it believes the Bargaining Unit status of a position should be changed prior to filing a petition with the FLRA. If the Parties are unable to agree, the Union may file a Petition for Clarification of Unit with the FLRA.

**ARTICLE 4**  
**UNION REPRESENTATION AND OFFICIAL TIME**

**SECTION 4.01: DEFINITION.**

Official time under this Article shall include all representational functions including statutory functions.

**SECTION 4.02: REPRESENTATIONAL FUNCTIONS.**

A. Official time is authorized in this Article for:

1. Attending formal discussions;
2. Attending investigatory interviews;
3. Meeting with Management representatives;
4. Meeting with employees to resolve complaints and grievances;
5. Attending grievance meetings with managers and employees;
6. Attending a meeting with a Federal Labor Relations Authority field agent or attorney pursuant to an unfair labor practice charge or complaint;

7. Serving as a witness at an arbitration related to this Agreement, an unfair labor practice hearing or in a proceeding to resolve an impasse arising from bargaining related to the unit;
8. Participating as the representative of the Union at an arbitration, unfair labor practice hearing or impasse proceeding related to the unit;
9. Attending authorized Labor-Management relations meetings;
10. Completing reports required by the Department of Labor;
11. Communicating with Congress in their capacity as Union representatives with respect to proposed or pending legislation regarding matters concerning bargaining unit working conditions, except when prohibited by federal statute, laws and regulations; and
12. Other representational functions permitted by law, e.g., reasonable official time for related case law research and document preparation for grievances and negotiations.

B. (1) Time spent on the following representational activities is not counted against the allocation of official time in this Agreement:

- a. Collective bargaining with the Department including mediation, impasse resolution, and reasonable preparation; and
- b. Meetings with the Union requested by Management that do not include employees.

(2) Although not covered as representational time under this Agreement, Union representatives may spend administrative time, without it counting against the allocation of official time, on the following activities, subject to Management notification or approval as necessary:

- a. Time granted under the regulations of the Equal Employment Opportunity

Commission (EEOC);

- b. Time granted to participate in Merit Systems Protection Board (MSPB) matters;
- c. Time granted in connection with an Office of Special Counsel (OSC) matters;
- d. Time granted in connection with an Office of Workers' Compensation Program (OWCP) claim;
- e. Time granted in connection with a matter before the Employee Compensation Appeals Board (ECAB); and
- f. Time granted during Occupational Safety and Health Administration (OSHA) visits.

Participation in proceedings, including reasonable preparation time as well as attendance at meetings, shall be governed by the applicable statutory provisions.

**SECTION 4.03: CERTIFICATION OF UNION REPRESENTATIVES.**

- A. Only regional and field office Union representatives certified by the Union President (or other written designated Article 4 representative) in accordance with this Article shall be recognized as employee representatives for bargaining unit employees and shall be entitled to the use of official time under the provisions of this Article. No other person shall be entitled to such use of official time except as specifically authorized in this Agreement. The Union President shall provide written certification to the designated Management Regional Labor Relations Specialist of each Union representative's name, Union title, duty station, telephone number, and supervisor's name. Any employee not certified in this manner shall not be entitled to the use of official time.
  
- B. The Union President may designate any union representative to represent any office in which NFFE Local 1450 has bargaining unit employees. A representative who goes from his or her duty station to another office during duty hours in order to represent the Union or a bargaining unit employee is on official time for representational purposes and when traveling. The official time used shall count against that individual's allocation.



- D. There shall be no travel expenses and/or per diem for Union designated representatives except where explicitly provided in this Agreement.

**SECTION 4.04: REPRESENTATIVES AND AMOUNTS OF OFFICIAL TIME.**

A. Allocation of Official Time.

1. Both parties recognize that an organization's effectiveness depends on its ability to assign work as it deems necessary and appropriate among the members of the organization. Therefore, just as the Union shall respect Management's right to assign work among its employees, Management shall not in any way control how the Union allocates duties among its representatives. Time shall be allotted on a quarterly basis. Quarters shall begin on the first day of January, April, July, and October. The Union President will make allocations of Union Representatives by full time equivalent (FTE) percentage and hours per quarter, through email to the designated Management Regional Labor Relations Specialist. The allocations will remain in effect unless and until the Union President notifies management of a change in allocation, no more than twice per quarter. If a Union position becomes vacant due to resignation, retirement, death, or termination from the Union position, the Union may designate a new Union official with the same percentage allocation at any time in the quarter. The amount of official time available to be allocated will be reviewed quarterly to match changes in bargaining unit employees (BUE) assigned in each office in which NFFE Local 1450 has bargaining-unit employees as of the beginning of each quarter.
2. With the exception of Union sponsored training as approved under Section 4.07, no more than 500 hours may be carried over from quarter to quarter. Unused allocations may not be advanced or carried forward from one calendar year to the next. The Union will be responsible for tracking these "carry over" hours and will provide the documentation to the Employee Labor Relations Division (ELRD) upon request to support the carryover.

- B. The number and types of Union representatives and the amount of official time allotted for each designated representative on a quarterly basis shall be determined by the Union President based on a total of 4 FTEs for the first year of the contract, 3.5 FTEs for the second year, and 3 FTEs for the third year and thereafter for up to 23 positions to be designated by the Union President. In addition, within a separate bank account to be used as needed for representation, will be placed 1 FTE for the first year of the contract, 1.5 FTEs

for the second year, and 2 FTEs for the third year and thereafter. When and if the Union requires usage of this separate bank, ELRD may request and receive information to support the usage, including the Union's business rationale. Therefore, just as the Union shall respect Management's right to assign work among its employees, Management shall not in any way control how the Union allocates duties among its representatives.

The positions available for official time are as follows:

1. Union President (Elected Union Official)
  2. Vice President (Elected Union Official)
  3. Regional Chief Steward
  4. Chief Steward for each office
  5. Steward (as needed)
  6. Secretary/Treasurer (Elected Union Official)
- C. Management will authorize reasonable additional official time in the case where management reissues a policy subject to bargaining as per Article 38, and Management does not identify the policy changes as per 38.02.C.1(d) because the changes are not readily obvious or unduly burdensome to do so.
- D. Subject to the provisions in Section 4.04(F), (G), and (H) at least two weeks prior to the beginning of each quarter, the Union President shall provide the designated Management Regional Labor Relations Specialist with changes to the current allocations by representative and time/percentage allocated. The Union may request one change in distribution during the quarter.
- E. With the exception of the Union President and one other Union Representative designated by the Union President, no Union representative may be allotted more than 50% official time from the main bank of hours. The Union President and one additional Union Representative designated by the Union President have the option of being designated a full 100%, or 50% or less official time taken from the main bank of hours. No Union Representative may be allotted less than 1% official time. The Union representative shall

be excused from their Departmental duties, commensurate with the amount of official time allotted.

- F. At least one (1) union representative will be designated for each regional, field office or area of representation (e.g. Albuquerque SWONAP) where there are NFFE Local 1450 employees.
  
- G. No more than three (3) non-elected union representatives will be designated in a regional or field office. If the office has more than 30 bargaining unit employees, an additional non-elected union representative may be designated.

**SECTION 4.05: ADJUSTMENTS OF WORKLOAD.**

In order to facilitate release of Union representatives on official time, individual workloads shall be adjusted to reflect time needed away from official duties. Union representatives will not be negatively impacted in any way, including in matters such as promotions and performance appraisals, by authorized official time spent on Union representational activities. Workload adjustments, up- front, may not be appropriate for Union representatives who are designated 5% official time or less, and use the time sporadically. Upon written request by the Union representative, the supervisor shall provide a written description of the duties modified or removed.

**SECTION 4.06 - PROCEDURE.**

- A. When it is necessary to use official time that exceeds 15 minutes, the Union representative shall first notify his/her immediate supervisor, or designee who has supervisory authority, with at least 2 hours notice, when practicable. The notice will be provided in writing (e.g., e-mail), and will provide the date, start and end time, and how to contact. If less than 2 hours notice is provided, the Union must provide justification for the lack of notice; however, lack of providing 2 hours of notice shall not be a basis to deny Union official time unless it would cause a critical interruption of work. (i.e. legitimate business reasons that would interfere with the mission of the agency). The supervisor and Union representative may mutually agree to an alternate procedure in writing. Supervisory approval will be granted for authorized representational purposes unless such absence would cause a critical interruption of work. If official time is denied or delayed, the supervisor will inform the Union representative in writing and provide the reason for denial, and identify when

the official time may be taken. In a case where official time is denied, filing deadlines will be tolled (extended) to the amount of time official time is delayed. Prior supervisory approval shall not be necessary for brief absences (up to 15 minutes) by Union representatives so long as the representative assures that such absences do not unduly interfere with the performance of work. When management is aware of a timeframe when official time would be denied due to critical workload issues, management may notify the Union representative prior to a request for official time in writing of that timeframe (e.g. end of fiscal year close-outs; funding deadlines; etc.)

- B. The Union representative will normally conduct representational meetings outside of the employee's and the representative's immediate work space. If no Union office is authorized, such meetings may be conducted in break rooms, available conference rooms, or other space, as appropriate. Employees who meet with a Union representative on duty time will obtain supervisory approval of such absences from their work stations. If an employee would like to meet with their Union representative for representational purposes, the Union may transmit the request on behalf of the employee.
- C. If the Union transmits the request on behalf of the employee the request to management will state that the Union is making the request on behalf of the employee.
- D. The Union will make every effort to ensure that the employee is copied on the request to management.
- E. Should the employee not be included in the original request, the responding party, i.e. management or HR/LER, may include the employee in the response.
- F. All designated Union representatives who are entitled to official time under this Article shall record and specifically annotate the use of all representational time using webTA at the end of the pay period in accordance with the following categories:
  - a. Union Contract Negotiations/Term Negotiations – All term bargaining; the Official Time used by union representatives to negotiate a successor Labor Management Agreement (LMA), including any negotiated bank of hours for preparation.
  - b. Union Mid-Term Negotiations – Official Time used to bargain over issues raised during the life of a term agreement, including mediation with the Federal Mediation Conciliation Service (FMCS), negotiability disputes with the Federal Labor Relations

Authority (FLRA) and impasse with the Federal Service Impasses Panel (FSIP), as necessary.

- c. Grievance/Appeal/Rep/Dispute Resolution – Official time used for general Union representation, including grievances up through arbitrations, Unfair Labor Practices, employee representational meetings, union participation in formal meetings, investigative interviews, general preparation time not otherwise covered under a separate official time bank, and any other Union Official Time not otherwise covered.
  
- d. Union Ongoing LMR Act/General Labor Management Relations – Official Time used for Union Labor Relations training under Section 4.07, Labor Management Forums and other Labor Management group or committee discussions where management has agreed that the hours are not deducted from the Union’s general Official Time bank.

**SECTION 4.07: OFFICIAL TIME FOR UNION-SPONSORED TRAINING.**

- A. Once per month, the President, Vice President, Regional Chief Steward, Chief Stewards and Stewards will hold up to a 4-hr long conference call meeting/training to talk about current cases and information pertinent to representation. The calls will be conducted during duty time and the time will be deducted from the bank of hours provided in 4.04. HUD will provide the Union conference calling service, phones and private space to conduct the monthly call. As appropriate, the Union shall use the Department’s telephone conference facilities in such a way as to minimize overall telephone usage and costs. The Union may use videoconference resources, if available, for bargaining, grievance meetings and training sessions.
  
- B. Forty hours per Union representative per year of official time shall be allocated for designated Union representatives to travel to and attend appropriate Union-sponsored instructions or briefings consistent with applicable decisions of the Comptroller General. This training allocation will come out of the Union Representative’s allocation of official time (see Section 4.04) designated in Section 4.04(B) on a calendar year basis. The Union President (or designee) will provide at least 7 days in advance of the training, the training notice and agenda to the Representative’s supervisor and Regional Management Labor Relations Specialist who shall respond as to whether it meets requirements for approval

and whether the representative's supervisor approves/disapproves the absence. No meeting agenda will be necessary for any classes which are conducted at the International Association of Machinists (IAM) Winpisinger Training Center. The Union President may reallocate any unused training time per calendar year; no individual Union representative may attend more than 120 hours of training per calendar year (i.e. cannot receive more than an additional 80 hours of reallocated training hours).

#### **SECTION 4.08: LEAVE OF ABSENCE FOR UNION OFFICIALS.**

- A. In the interest of promoting Labor-Management relations and consistent with its needs, Management agrees to approve a leave of absence without pay not to exceed four years for an employee for the purpose of serving in an elected national Union position. Management shall be given not less than 4 weeks advance notice.
- B. The Union agrees that all leaves of absence granted or approved in accordance with this section are subject to appropriate Government-wide regulations or other outside authority binding on Management. Management, to the extent of its authority, shall place the employee at the end of the leave of absence in the position the employee left, or one of like seniority, competitive status, grade and pay.

#### **SECTION 4.09: REGIONAL MEETING.**

A Labor-Management meeting will be held annually, if requested, with the Regional Administrator at a mutually agreed upon location, time and date. Authorized travel (if any) for the meeting shall be paid by Management for the Union President and two additional Union representatives. Management and union will work jointly on a preliminary meeting agenda.

#### **SECTION 4.10: UNION REPRESENTATIVES AT ALTERNATE WORKSITES.**

- A. Union Officials with an approved Reasonable Accommodation to work-at-home may utilize official time. Management is not required to delay pending actions based on the unavailability of a union official due to working at an alternate work-site.
- B. NFFE union officials are authorized to do Union work on official time out of any NFFE union office nationwide or alternate work-site.

#### **Section 4.11: GSA CAR.**

The Union may use the GSA car, if available, for representational functions as outlined in Section 4.02. It is understood that programmatic needs take priority.

## **SECTION 4.12: LABOR MANAGEMENT FORUM.**

**General.** The parties agree to the establishment of a Labor Management Forum (LMF) / Labor Management Relations meetings. The intent of the LMF/ LMR Meetings is to establish a cooperative and productive labor-management relationship; create a non-adversarial forum for managers, employees and employee union representatives to help identify problems and propose solutions to better serve the public and the agency mission. The Agency shall comply with Executive Order 13522 wherein the head of each Executive agency shall, to the extent permitted by law, allow employees and their union representatives to have pre-decisional involvement in all workplace matters to the fullest extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 U.S.C. 7106. The parties agree to follow the terms and conditions specified in the Labor Management Forum Charter. (See Appendix F)

- A. The forum/relations meetings participants are encouraged to share information on pre-decisional topics and make good faith attempts to resolve issues. However, the forums/relations meetings do not replace either party's rights granted by statute; the forums/relations meetings do not take the place of traditional bargaining.
- B. Time and Travel.** To recognize the importance of this cooperative effort, the time spent by Union representatives to travel to/from and participate in LMF meetings will be coded as Union Ongoing LMR Act in webTA, but will not come from their official time allocation. By mutual consent, duty time may be used by the Union to prepare for LMF/ meetings and/or LMF training. In the event the LMF meeting hours extend beyond normal duty hours, members will be compensated in accordance with applicable law and this Agreement. This shall not preclude Union representatives from utilizing official time before or after LMF meetings.
- C. The Agency will pay NFFE 1450 charter members' travel expenses when it is necessary for these individuals to travel to the annual LMF meetings.

**ARTICLE 5**  
**VOLUNTARY ALLOTMENT OF UNION DUES**

**SECTION 5.01: GENERAL.**

Management shall process Union dues allotments of bargaining unit employees in accordance with the provisions set forth herein and upon receipt of the following prescribed and completed forms:

FORMS:

- A. SF-1187 - is a Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues.
- B. SF-1188 - is a Cancellation of Voluntary Allotment of Compensation for Payment of Employee Organization Dues.

**SECTION 5.02: ELIGIBLE EMPLOYEES.**

To be eligible to make a voluntary allotment for the payment of Union dues, an employee must:

- A. Be in one of the units (professional or non-professional) covered by this Agreement;
- B. Be a member in good standing with the Union;
- C. Have a regular net salary, after other legal and required deductions, sufficient to cover the amount of the authorized allotment for dues; and
- D. Request the allotment on the prescribed form (SF-1187) which has been certified by the authorized Union official.

**SECTION 5.03: RESPONSIBILITIES OF THE EMPLOYEE.**

The employee shall be responsible for requesting the allotment on the prescribed form (SF-1187) and obtaining the appropriate certification by an authorized Union official.

**SECTION 5.04: RESPONSIBILITIES OF THE UNION.**

**A. Availability and Distribution of Voluntary Allotment.**

The Union shall:



1. Obtain for and provide to bargaining unit employees the SF-1187 form;
2. Advise employees on the appropriate procedures for completing and processing the form;
3. Promptly forward the completed SF-1187 form to the appropriate servicing Human Resources Office; and
4. Furnish written notification to the servicing Human Resources Office concerning the names and titles of Union officials authorized to certify the SF-1187 form.

**B. Certification of Forms.**

An authorized Union official shall certify all SF-1187 forms including the amount to be withheld and applied to the employee's Union membership dues.

**C. Submitting SF-1187 Form to Management.**

Immediately upon completion of the SF-1187 form by a bargaining unit employee and certification by an authorized Union representative, the Union shall transmit the completed form to the appropriate servicing Human Resources Office for processing.

**D. Notification to Management.**

1. The Union shall promptly notify the appropriate servicing Human Resources Office, in writing, when a member of the Union is expelled or ceases to be a member in good standing.
2. The Union shall notify Management of any/all changes in the Union's dues structure. Changes will be effective at the beginning of the first pay period after receipt of such notice but may not be initiated more than once in any 12-month period.
3. The amount of dues certified on the original allotment form (SF-1187) shall remain unchanged until the authorized Union official provides written certification to the servicing Human Resources Office that the amount of dues has changed. New SF-1187 forms shall not be required.
4. The Union shall immediately notify the appropriate servicing Human Resources Office in writing of any change in name and/or address of the National Treasurer of the Union.

**SECTION 5.05: MANAGEMENT RESPONSIBILITIES.**

**A. Processing of SF-1187 Forms.**

Management shall promptly process all completed SF-1187 forms and arrange to withhold the Union dues in accordance with existing pay periods (26 biweekly periods) and procedures under which employees are regularly compensated.

**B. Remittance of Union Dues to Treasurer.**

Within 2 weeks after the end of the pay period, Management shall remit, by check, the dues withheld after each pay period. Checks in payment of dues shall be made payable to and forwarded to the National Federation of Federal Employees' Treasurer Office.

**C. List of Union Members.**

The servicing Human Resources Office shall provide a listing of current members and dues amounts withheld once per month, upon request by the Union.

**D. Cost for Withholding.**

The service of withholding Union dues shall be provided by Management at no charge to the Union.

**E. Back Dues Owed to Union.**

Management agrees to reimburse NFFE Local 1450 for back dues owed with agency funds for up to four pay periods when it does not timely process SF 1187 membership forms as a make whole remedy due to agency processing errors or delay.

**SECTION 5.06: PROCEDURES.**

**A. Initiating the Withholding of Dues.**

1. The dues deduction shall be effective as soon as possible, but in no case shall it be later than 1 pay period following receipt of the SF-1187 form by the servicing Human Resources Office.
2. Employees who have a current dues withholding agreement in effect on the date this Agreement is approved, need not execute a new SF-1187 form.
3. Any SF-1187 submitted to the servicing Human Resources Office that Management does not process shall be returned to the Union with the reason why it was not accepted.
4. Any claims for untimely dues deductions will be made promptly.

**B. Termination of Dues Allotments.**

1. Automatic termination will occur in any of the following situations:
  - (a) Upon loss of exclusive recognition by the Union, effective at the beginning of the first full pay period after such loss of recognition;
  - (b) When the dues withholding agreement is by mutual agreement terminated;
  - (c) When an employee ceases to be eligible for inclusion in the bargaining unit covered by this Agreement, e.g., promotion to a supervisory position; and
  - (d) When an employee is expelled or ceases to be a member of the Union in good standing, effective with the first complete pay period after receipt by the servicing Human Resources Office of written notice from the authorized Union official.

## 2. Voluntary Revocation.

- (a) An employee may submit a written request, SF-1188, for the revocation of an allotment no more than 2 weeks before, and no later than 4 weeks after the anniversary date on the form SF-1187. Revocations shall be effective the first full pay period following a timely filing of the form SF-1188, if the request is received in the servicing Human Resources Office during the acceptance period.
- (b) The anniversary date of the authorization for dues withholding, SF-1187, shall be 1 year from the first day (Sunday) of the first pay period that dues are initially withheld.
- (c) Revocations by employees shall be submitted in duplicate, preferably on the SF-1188 form, and shall be forwarded by the employee to the servicing Human Resources Office. The Human Resources Office shall provide an email notification to the Union President or designated Union Representative/Official of employees revoking Union membership; the employee's social security number and other information subject to the Privacy Act may be sanitized.
- (d) Requests for revocation of dues allotments which are not filed in a timely manner shall be returned to the employee with an explanation of the reason for the rejection. A copy of the explanatory letter shall be furnished to the Union President or designated Union Representative/Official; the employee's social security number and other information subject to the Privacy Act may be sanitized.
- (e) Any claims for untimely termination of dues deductions must be made by the employee no later than 2 pay periods following the error.

**ARTICLE 6**  
**UNION FACILITIES AND SERVICES**

**SECTION 6.01: MEETING PLACE.**

Upon reasonable advance notice by the Union, Management will provide a meeting place, if available, for Union-sponsored labor relations training to NFFE Local 1450 bargaining unit employees, in accordance with Section 4.07, and for representational and non-representational meetings (Union elections, membership drives, etc.). Non-representational meetings shall take place during non-duty hours of the employees involved, i.e., during lunch, rest breaks, and/or before or after work. The Union agrees to abide by all housekeeping and security rules and policies in effect.

**SECTION 6.02: UNION ELECTION SPACE.**

Upon advance request by the Union, space will be provided, in a location mutually agreed to in each HUD Office, for ballot boxes for Union elections.

**SECTION 6.03: UNION OFFICE SPACE.**

The parties recognize the need for private space for union/employee representational duties.

Each union office will be set up with at least two workstations (2 computers, telephones, etc.). The Union office will be of adequate size to accommodate the furniture and people working therein.

Union officials shall be able to access Union offices 24 hours a day, 7 days a week.

Management shall continue to provide the Union a private office at each field/regional office that currently provides private office space for local Union representatives. If the Union President is duty stationed in an office without a dedicated private Union office, one will be provided.

After a Union Official is designated 100% for more than 2 consecutive quarters, the Union Official is subject to having their separate workstation in their program office reassigned, based on space need. In such cases where a 100% Union Official returns to doing program work, the parties will negotiate seating for the employee comparable to other team members.

Union officials may reserve conference room space through the office's online system. The Las Vegas Union representative shall receive priority consideration to utilize a conference/interview room to conduct confidential Union business.

**SECTION 6.04: OFFICE EQUIPMENT AND FURNITURE.**

- A. In those HUD Offices authorized a private Union office, Management shall provide three lockable file cabinets, access to a multi-function photocopier/color printer, a phone line for each workstation, wi-fi if and when available, a fax line, a fax machine, large mounted whiteboard, a personal computer for each of the workstations with HUD hardware and software consistent with that allocated to other employees in that HUD Office, a printer, a speaker phone with headset, voice mail (if available in the HUD Office), two guest chairs per desk and a desk for each workstation, and any equipment approved by the Department under a reasonable accommodation. The Union President may have an additional lockable file cabinet. Any additional furniture or equipment would be subject to local HUD Office negotiations based on office capacity and availability of furniture or equipment. Up to four keys shall be provided for each Union office, upon request.
  
- B. In those HUD Offices without a private Union office, upon request, Management shall provide the Union a lockable file cabinet, a personal computer or access to a personal computer with compatible word processing software in general use within the bargaining unit, a printer or access to a printer, and access to a speaker phone. The above equipment shall be available for Union use when it is not being used for Government work.
  
- C. Photocopying equipment shall be made available at no cost to the Union only for representational functions as described in Article 4, Section 4.02. For non-representational functions, the Union shall reimburse Management on an actual cost basis. Facsimile machines shall be made available to the Union only for representational functions.
  
- D. When replacement furniture or equipment is part of an office-wide relocation, renovation, or upgrade, the Union office shall also receive replacement furniture or equipment consistent with the office standard.

**SECTION 6.05: MAIL SERVICES/DISTRIBUTION OF UNION MATERIAL.**

- A. Union mail, excluding non-representational materials such as campaign and election materials, which is addressed to individual employees by name and mail code, will be delivered through intra/inter-office mail systems. Mail addressed to the Union will be delivered to the designated Union representative(s) or secured Union mailbox (if any) at each HUD Office through Management's inter/intra-office mail system, or by other delivery procedure negotiated at the local level.
  
- B. Union representatives may distribute Union-sponsored information that constitutes internal Union business on the Department's premises in work areas to individual employees before and after scheduled working hours and/or in non-work areas during breaks and lunch periods.
  
- C. Electronic mail/LAN may be used by the Union only for representational functions as described in Article 4, Section 4.02, and for matters concerning union board and membership meetings on non-duty time, e.g. communicating minutes and agendas. The Union will make every effort to identify in the signature line the representative's Union title.
  
- D. Electronic mail may be used for labor relations correspondence such as Grievances, designations of representative, invoking arbitration, and requests for information under 5 U.S.C 7114(b)(4). Requests for information must be filed with the designated Management Labor-Relations representative, with a copy to an additional designated human resources representative.
  
- E. HUD will make every reasonable attempt to deliver mail unopened to Union officials if the addressee/name/title, or return address indicates in any way that the contents relate to NFFE. For example, mail originating from the FLRA, FSIP, or EEOC will be delivered unopened.

**SECTION 6.06: TELEPHONE USAGE.**

- A. The Union may use HUD's telephone service for local, long-distance, and conference-calling services while performing representational functions. If the telephone's calling capacity will accommodate the number of Union members on the call, the telephone will be used rather than conference-calling services. The Union shall use the Department's telephone services in such a way as to minimize overall telephone usage and costs.
  
- B. Commercial toll calls by the Union shall be made at the Union's expense, except for conference-calling services available to management. Commercial toll calls are defined as long distance calls which require special billing and/or procedures, such as 411 operator assistance, 900 numbers, etc. in order to make the call.
  
- C. All telephone usage shall be in compliance with applicable laws and regulations.
  
- D. Should Management believe that the telephone services provided in this Article are not being utilized in accordance with the intent and procedures of this Article, the appropriate Union representative shall be notified and corrective action on the part of the Union shall be requested. If the matter cannot be resolved appropriately between Management and the Union, it shall be referred to the grievance of the parties' procedure for resolution, as noted in Article 9 of the Agreement.

**SECTION 6.07: BULLETIN BOARDS.**

- A. Management shall provide 4x4 locking glass enclosed bulletin boards on each floor of each HUD field office with space on the designated bulletin boards for Union purposes in each building having bargaining unit employees. Bulletin boards shall be so located as to be accessible to employees. Bulletin boards for Union material shall be one-quarter of the space of all official bulletin boards. The Union and Management shall maintain its bulletin boards in a proper and orderly manner at all times.



- B. Materials placed on bulletin boards or distributed by the Union shall be clearly identified as having been prepared by the Union and are not Departmental issuances. Material prepared and posted by the Union shall not indicate the Department has sponsored or endorsed a position unless such action has been agreed to by an appropriate Management official. The Parties agree that posted material will not be obscene, libelous, or in violation of the Hatch Act.
  
- C. The Union shall refrain from posting notices in hallways, bathrooms, elevators, and other public places.

**SECTION 6.08: VIDEOCONFERENCING.**

The parties may mutually agree to use videoconference resources, if available, for bargaining, grievance meetings and training sessions.

**SECTION 6.09: ACCESS TO FEDERAL PERSONNEL GUIDANCE.**

Management agrees to pay for and provide the Union one user account for cyberFeds or the successor personnel case law research service subscribed to by HUD. One extra cyberFeds user account will also be provided to the Union as long as it is not needed by management for business purposes. If HUD increases its CyberFeds contract by at least 10 subscriptions, then the Union will be provided one (1) additional user account. The Union and Management recognize that the use of or access to this service is of mutual benefit. As long as management has access to this or a successor service, a user account will be provided to the Union.

**SECTION 6.10: FILE ENCRYPTION.**

Each Union representative will be provided with an unencrypted thumb drive upon request to the HITS national help desk.

## ARTICLE 7 TELEWORK PROGRAM

### **SECTION 7.01: GENERAL.**

Providing telework opportunities has become a recognized tool that an organization may use to strengthen itself and improve morale and its productivity. Telework can address the challenge of reducing energy consumption and improving air quality. Telework can also be used to ensure that the work of HUD continues in an emergency such as a natural disaster or pandemic flu. However, telework should not sacrifice the efficiency of the service or the accomplishment of the agency's mission. Telework is an important facet of the HUD work culture, and consistent with OPM guidance, may be available for employees with supervisory approval. A telework day is equivalent to being in the office; the agency should experience the same if not increased productivity and accessibility from the employee as when the employee is working from the official office site.  
<http://www.opm.gov/faqs/topic/telework/>

### **SECTION 7.02: DEFINITIONS.**

- A. **Telework** - A supervisor-approved work option that allows an employee an opportunity to perform duties during the established regular/flexible work hours at an alternative work site during an agreed upon portion of the workweek.
- B. **Alternative Work Site** – An approved work site other than the official worksite, for which the employee performs his/her official duties. Alternative worksites may include the employee's residence, GSA telework center/facility, HUD office, and/or another location where there is connectivity to the primary office site, and there is an office setting conducive to accomplishing work requirements.
- C. **Work-at-Home** - An arrangement that allows an employee to work from the home in a designated work space/area. Working at home is not a substitute for dependent care responsibilities.
- D. **Teleworker** - an employee who performs work at an alternative work site, under a formal telework agreement.
- E. **Situational Telework** - Project-oriented, non-recurring, and/or irregular telework. Situational telework may be ideal for employees who encounter infrequent periods of time when projects/assignments have short turnaround times and/or require intense concentration. This includes but is not limited to, the following: non-recurring work away from the conventional office based on an emergency situation or need such as inclement weather (including heavy fog, flooding, snow, mudslides, etc.), natural disasters, or other needs such as office closure due to office and/or building repairs, an emergency event that affects office operations such as major transportation strikes and protests, riots, etc. (which

may or may not be associated with a COOP event Emergency Situation). A supervisor or employee may initiate a request for situational telework.

- F. **Routine Telework-** Telework occurs as a part of an ongoing, regular schedule for an agreed upon portion of a pay period. In order to be considered routine telework, an employee must work off-site a minimum of one day per pay period.

### **SECTION 7.03: PREREQUISITE TRAINING.**

The interested employee(s) and supervisor must have completed telework training/orientation, prior to initiating/considering an application to participate in the Telework Program.

### **SECTION 7.04: SUPERVISORY APPROVAL TO PARTICIPATE.**

- A. Participation in the Telework Program is voluntary. However, the supervisor is responsible for determining if a position is appropriate for telework and approving the employee's participation (or continued participation) and telework schedule. Management agrees that each request to participate in the telework program will be fairly and reasonably considered. After receipt of a complete application, a response on the request will be provided to the employee within 10 workdays.
  - 1. If an application is denied, the supervisor will provide a written explanation as to why the telework application was denied. The explanation will provide legitimate business reasons, outline the adverse impact, and explain how it would interfere with the mission of the agency.
  - 2. If a position in Region 9 may be eligible for telework, management will state in the job announcement that the position may be eligible for telework, subject to supervisory approval.
  
- B. Management will determine the appropriateness of an employee's participation in the Telework Program based on the determination that the position is one that is suitable for off-site work and the employees' readiness for telework. Factors to be considered by management will include:
  - 1. if the employee has the skill and knowledge of the job to work at the alternate site;
  - 2. if the employee needs work-related input or support that is only available at the main office;
  - 3. the equipment and related cost necessary to support an alternate work site;
  - 4. how the employee can meet the requirements of any face-to-face or other type of internal contact that the job requires;
  - 5. the policies and procedures necessary to ensure the integrity and security of information;

6. adverse impact on other staff members in the office/equitable workload distribution; and
  7. the overall interest and needs of the office.
- C. If there is a change in supervisor, the new supervisor has the option to review an employee's continuation in the Program based on the eligibility outlined in Section 7.05(C) and the criteria outlined in Sections 7.04(B) and 7.07(A) and 7.08 (A) and(C). The review for continuation in the telework program shall not include a suspension or termination of the employee's telework prior to a factual determination of actual adverse impact on work operations while the employee was still teleworking for at least a 60 day period during the review consistent with the standards of Article 7, Sections 7.07A and 7.08A of the Agreement for modifying or terminating a telework arrangement.

#### **SECTION 7.05: EMPLOYEE REQUEST/APPLICATION TO TELEWORK.**

- A. An employee must submit the official Telework Request application provided on the HUD@work website, or its successor. The request must indicate that the prerequisite training has been completed; the type of telework arrangement desired; the nature of work to be performed; and any related requests (e.g., for equipment, furniture, or anticipated reimbursement for long distance telephone calls, etc.)
- B. The employee must attach a copy of the completed telework Self-Certification Safety Checklist.
- C. A copy of the employee's last Performance Appraisal must also be attached. To be eligible for telework, an employee must be currently performing at the Fully Successful level, be rated at least Fully Successful on the last Performance Appraisal, and not be on Leave Restriction. After an employee is no longer on leave restriction, the employee may be returned to Telework, provided that the employee still meets all other eligibility criteria. Employees will not be removed from telework based solely on receiving disciplinary action below a suspension. Any employees removed from telework for receiving a suspension will be eligible for telework after one year from the date of the suspension decision.
- D. Decisions by supervisors not to approve telework requests may be grieved under the negotiated grievance procedure.

#### **SECTION 7.06: VOLUNTARY TELEWORK AGREEMENT.**

- A. The Telework Agreement is required for all participants and constitutes an agreement by the employee to adhere to applicable guidelines, policies, and procedures. The supervisor and employee understand that the type of work done as a teleworker is the same type of work to be performed in the office, unless otherwise noted in the Telework Agreement.
- B. The Telework Agreement must be used to document an approved telework arrangement and it must identify the type of work schedule and the specific days the employee will work in each work setting.

- C. The Telework Agreement shall also include: the designated work area or telework center address (i.e., employee's home or alternative site); any equipment to be provided and requested expenses that are not authorized for reimbursement; and the days the teleworker will work in each setting.
- D. The new Telework Case Management system may require reevaluation and recertification on an annual basis. In the event that reevaluation and recertification does not take place, the current Telework Agreement will remain in place.

**SECTION 7.07: MODIFICATION OF A TELEWORK AGREEMENT.**

- A. Each manager/supervisor is responsible for evaluating the impact of the Telework Program. If at any time it is determined that a telework arrangement is having an adverse impact on work operations, or that factors exist as outlined in Section 7.04B, the arrangement may be modified by the supervisor with 10 workdays notice to the employee.
- B. Supervisors reserve the right to require a teleworker to report to duty at the official or other designated worksite on his/her scheduled telework day(s), based on operational requirements. The supervisor will notify employees at least 3 workdays in advance of an unscheduled day in the office unless there is an extraordinary or urgent circumstance. The supervisor shall provide the explanation of the extraordinary or urgent circumstance to the employee in writing. Employees who are required to report to work on what would normally be a scheduled telework day may request to switch to another telework day within that week, unless the employee's services are needed in the office on the requested day. The employee will notify the supervisor in advance of the alternate telework day for approval.
- C. An employee may request to change the schedule of days they will work in the office with notice to the supervisor at least three (3) workdays prior to when the change would be effective. Employees who elect to report to work on a scheduled telework day should notify management.
- D. Telework may not be cancelled solely due to backlog of work caused by a government shutdown or furlough, except where the backlog can only be performed while in the office.

**SECTION 7.08: TERMINATION OF TELEWORK AGREEMENT.**

- A. Each manager/supervisor is responsible for evaluating the impact of the Telework Program. If at any time it is determined that a telework arrangement is having an adverse impact on work operations, or that factors exist as outlined in Section 7.04B, the arrangement may be terminated by the supervisor with 10 workdays notice to the employee. Management shall provide a concise business reason for terminating the agreement.

- B. A teleworker may terminate the telework arrangement at any time, except in situations that involve national security, natural disasters, pandemic influenza, etc.
- C. Management may also cancel an employee's telework agreement for any substantive violation of the terms of the telework agreement, or for lack of eligibility as outlined in Section 7.05C.

**SECTION 7.09: SUPERVISORY APPROVAL OF THE WORK SCHEDULE.**

- A. Supervisors must approve telework schedules in advance to ensure that the employee's time and attendance can be properly certified and to preclude any liability for premium or overtime pay.
- B. The work schedule choices/changes for a teleworker must be in accordance with the governing policies and procedures in Article 20 on tours of duty and work schedules.
- C. To ensure that the employee is available in the office during the week for face-to-face meetings and access to facilities, each Telework Agreement must identify the number of days spent in the office and the number of days at the alternative work site. Employees may be granted telework agreements that range from 1 day per pay period to 3 days per week at the alternate work site, subject to supervisory approval based on the work needs of the operation.
- D. Time and attendance procedures will remain the same for employees who telework as those employees who work in the office. Supervisors must employ fair and reasonable methods which provide assurances that teleworkers are working when scheduled, are paid for work performed, are being productive, and are properly accounting for absences from their scheduled tours of duty (e.g., through e-mail and/or telephone communication, by determining the reasonableness of the work output for the time spent, etc.). With supervisory approval, employees can switch a telework day that falls on a holiday to another day within the pay period.
- E. Teleworking employees shall be required to submit the same documentation of work accomplishments as employees in the office. A supervisor may require an employee working a flexible schedule, to notify the supervisor by e-mail or telephone when he/she is starting work on a telework day.

**SECTION 7.10: ABSENCES FROM THE ALTERNATIVE WORK SITE.**

During regular duty hours, absences from the alternative work site (e.g., use of annual or sick leave, etc.) must be requested by the employee and approved by the supervisor at the earliest time practicable in accordance with the procedures in Article 21. If the employee will be leaving the alternative work site for a visit on official business to attend meetings, the employee will inform

the supervisor and get necessary approval. When an employee knows in advance of a situation that would preclude working at the alternative work site, either time in the office or leave must be scheduled.

**SECTION 7.11: PREMIUM PAY.**

- A. There are no provisions for self-approved overtime. Therefore, eligible teleworkers must ensure that overtime is properly approved prior to working beyond their scheduled hours of work.

**SECTION 7.12: EMERGENCY ARISES AT THE OFFICE OR AT THE ALTERNATIVE WORK SITE.**

- A. If an employee is working at an alternative work site, and the office closes due to an emergency situation, such as severe weather conditions, power outage, BART and/or transportation strike, etc., the teleworker will continue to work until the end of the scheduled work day, unless the emergency condition also impacts the employee's alternative work site.
- B. When an emergency affects the area of the alternative work site for a major portion of the workday, the supervisor may require the employee to report to the office; approve annual leave, leave without pay, accumulated compensatory time/credit hours, or grant up to 1 hour of excused absence, if appropriate.

**SECTION 7.13: TELEWORKER'S OFFICE SPACE.**

- A. Prospective teleworkers must have a designated work space for performance of their telework duties. Work space requirements will vary depending on the nature of the work and the equipment needed to perform the work.
- B. At a minimum, the employee would be able to communicate by telephone with the supervisor during the telework day.
- C. Home utility costs, heating, electricity, water, space usage and other costs associated with working at home are not paid by HUD.

**SECTION 7.14: TELEWORKER SAFETY CHECKLIST.**

- A. Each prospective teleworker must provide the Self-Certification Checklist that certifies that the home is safe, prior to beginning work under the Agreement.
- B. Employees are responsible for ensuring that their home space complies with health and safety requirements; is clean and free from obstructions; complies with all building codes; and is free of hazardous materials.

**SECTION 7.15: WORKERS' COMPENSATION AT THE ALTERNATE WORKSITE.**

If an employee suffers a work-related injury at the alternative worksite, workers' compensation coverage shall be in accordance with applicable laws. See Article 29.

**SECTION 7.16: COMMUNICATION.**

Employees are expected to acknowledge emails, phone calls, and/or other technology as promptly as possible. An employee's response time should be commensurate to the response time expected while working in the office. Developing fixed times during the work day for supervisor/employee telephone conversations may be helpful to ensure ongoing communication.

**SECTION 7.17: EQUIPMENT/SECURITY.**

- A. Government-owned equipment can be used for official purposes only. Eligible teleworkers shall be authorized to use an agency issued phone card for official business long-distance telephone calls or be reimbursed for long distance telephone calls approved on the SF-1164. Management agrees to provide computers, subject to availability.
- B. Employees are responsible for maintaining their own equipment.
- C. Teleworkers must adhere to all rules, regulations, and procedures relating to security and confidentiality of work-related information and data.
- D. Equipment and materials used while on telework.
  - 1. The teleworker is responsible for ensuring that he or she has the necessary materials and appropriate technology to fulfill assigned job duties. Employees who do not have the necessary materials or who experience technology issues preventing them from performing assigned work will be responsible for reporting to the office or requesting leave. However, if an employee participating in telework has a brief, temporary loss or damage to equipment and does not have personal equipment available, the employee may be able to continue to work at home once the supervisor is notified and the supervisor determines that work can be done without the use of a computer or internet access. For HUD issued equipment, HUD will make all reasonable efforts to provide replacement equipment as soon as possible, and will not purposely avoid replacing equipment to limit telework for any employee with an approved agreement.
  - 2. Employees will not be required to purchase or obtain any equipment that is not required by the policy to telework (e.g. fax machine, copier, scanner).
  - 3. Employees may request a Department laptop computer (if available).
  - 4. Management agrees that the Department will provide to teleworkers a reasonable amount of supplies necessary to do HUD work that are routinely provided to employees in the office.



5. Employees may use HUD equipment and software programs while teleworking subject to the HUD Policy/Guidance on “Limited Personal Use” of government office equipment including information technology.
6. Training. A telework frequently asked questions document will be established and updated on the HUD website, which complies with this Article and the departmental policy. Management agrees to provide ongoing training to new and current employees on Telework Policy.

#### **SECTION 7.18: SITUATIONAL TELEWORK.**

- A. NFFE Local 1450 bargaining unit employees with a routine or situational telework agreement in place are eligible for unscheduled situational telework, as defined below:
- B. Situational telework is project-oriented, non-recurring, and/or irregular telework. Situational telework may be ideal for employees who encounter infrequent periods of time when projects/assignments have short turnaround times and/or require intense concentration. This includes non-recurring work away from the conventional office based on an emergency situation or need such as inclement weather (including heavy fog, flooding, snow, mudslides, etc.), natural disasters, or other needs such as office closure due to office and/or building repairs, an emergency event that affects office operations, etc. (which may or may not be associated with a COOP event Emergency Situation).
- C. In the event of an infrequent, temporary emergency situation of an employee, if a business need exists and the employee is willing and able to perform their duties, the supervisor may approve situational telework at a location other than the approved location in the telework agreement.
- D. Telework must be part of all agency emergency planning. The Telework Enhancement Act of 2010 (Public Law 111-292) requires that all executive agencies incorporate telework into their Continuity of Operations (COOP) plans. Management must be committed to implementing remote work arrangements as broadly as possible to take full advantage of the potential of telework for this purpose and ensure that:
  1. Equipment, technology, and technical support have been tested
  2. Employees are comfortable with technology and communications methods
  3. Managers are comfortable managing a distributed workgroup
- E. Teleworker Responsibilities:
  1. Maintain a current telework agreement detailing any emergency telework responsibilities specified for a continuity and/or pandemic event, as appropriate.

2. Be familiar with the agency's emergency plans (continuity plan, pandemic plan, etc.) and your manager's expectations for how you will telework during such events.
3. When the emergency is at the duty station location the employee is to call the HUD hotline (866-INFO-HUD or 866-463-6483) for instructions regarding emergency telework status. When the emergency or closure is at the duty station, all employees with an approved telework agreement in place will be required to telework or take unscheduled leave and are not subject to administrative leave.
4. When the emergency is at the employee's home or in route to his/her duty station, the employee can request emergency telework from his/her supervisor and may take unscheduled leave until such time as his/her supervisor, or chain of command, approves the telework request.
5. Employees requesting unscheduled leave must inform their supervisors as soon as practicable. In lieu of leave the employee may request that the supervisor modify his/her start/end of duty time for the day in question in accordance with the core hours noted in Article 20 of the HUD-NFFE 1450 Labor Management Agreement.
6. The supervisor and the employee will discuss the specific days the employee may work from the alternative worksite. Other requirements as outlined in Article 7 apply.
7. All employees are encouraged to submit and have emergency/situational telework agreements approved and in place. Management agrees that Remote Access will need to be granted for all employees approved for situational telework. Employees should submit the Telework Application & Agreement and check the appropriate box for "situational" telework. Employees who already have a telework application on file can send a condensed version of the situational telework request via email to their supervisors. Employees who do not have a standard telework agreement in place will need to complete the Telework Application, Self-Certification Checklist and Rules of Behavior.
8. Employees shall submit through WebTA the number of hours that they Telework under the "Telework Routine" or "Telework Situational" codes, as appropriate. This information will be used by the Agency for Office of Personnel Management (OPM) reports regarding hours on telework status.
9. Union representatives will be permitted to perform union duties while under situational telework, subject to the provisions in Article 4.

**ARTICLE 8  
MANAGEMENT RIGHTS**

**SECTION 8.01: GENERAL.**

1. The following Management’s rights are identified in Title 5, United States Code (U.S.C.), Chapter 71:

“Management Rights (5 USC 7106)

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws—

(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(C) with respect to filling positions, to make selections for appointments from—

- (i) among properly ranked and certified candidates for promotion; or
- (ii) any other appropriate source; and

(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

- 4. 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;
- 5. procedures which management officials of the agency will observe in exercising any authority under this section; or,

6. appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.”

**ARTICLE 9**  
**GRIEVANCE PROCEDURES**

**SECTION 9.01: DEFINITION AND SCOPE.**

The purpose of this Article is to provide a mutually acceptable procedure for the expeditious, fair and impartial resolution of Grievances submitted by employees and the Parties. This procedure shall be the sole and exclusive procedure available to employees for the resolution of Grievances coming within the scope of this Article, except where the employee has a statutory right of choice, in which case, the employee may choose the Negotiated Grievance Procedure or the statutory appeal procedure, as described in Section 9.03 below, but not both.

A Grievance means any complaint by:

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

## **SECTION 9.02: EXCLUSIONS.**

Excluded from this Negotiated Grievance Procedure are the following:

- A. Any claimed violation of Subchapter III of Chapter 73 of Title 5 (relating to prohibited political activities);
- B. Retirement, life insurance, or health insurance;
- C. A suspension or removal under Section 7532 of Title 5 (relating to national security matters);
- D. Any examination, certification, or appointment;
- E. The classification of any position which does not result in the reduction in grade or pay of an employee;
- F. Matters already filed under a statutory appeals process, (Equal Employment Opportunity Commission, Merit Systems Protection Board, Federal Labor Relations Authority, etc.) which are, therefore, statutorily precluded from duplicate filing under this Grievance Procedure;
- G. A furlough for more than 30 days, separation, or demotion caused by a reduction-in-force action. An employee affected by a reduction-in-force may appeal the action to the Merit Systems Protection Board pursuant to 5 CFR 351.901;
- H. The separation of a probationary employee;
- I. Complaints by employees with temporary appointments not to exceed 6 months;
- J. A termination for cause of any temporary employee officially designated "temporary";
- K. The filling of any position outside the bargaining unit, as governed by case law;
- L. Non-selection for a promotion from a group of properly ranked and certified candidates where there is no allegation of a violation of this Agreement, or of law or regulation;

- M. The termination of a temporary promotion where there is no allegation of a violation of this Agreement, or of law or regulation;
- N. The termination of a temporary appointment based on a lack of work or lack of funds;
- O. Oral admonishments which were not recorded;
- P. Progress review meetings;
- Q. Performance Improvement Plans; Opportunity to Improve Notices (the due process rights and management's compliance with the procedural requirements of the Opportunity to Improve notice may be grieved);
- R. The removal, suspension of more than 14 days, reduction in grade or furlough of a non-preference eligible employee in the excepted service, who has not completed 2 years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to 2 years or less;
- S. The filing of a parties' grievance which involves the same individual and factual situation as contained in an individual grievance;
- T. Financial disclosure (on Confidential Financial Disclosure Report, OGE 450 and OGE 450A.) This exclusion does not prohibit the grieving of any disciplinary action based on the employee's filing of the OGE 450 and OGE 450A, in accordance with Article 9;
- U. Within grade increase denials. See Article 15, Section 15.09;
- V. The mere granting of, or failure to grant a Spot Award, or the award amount; and
- W. Workers Compensation claims and filings.

**SECTION 9.03: STATUTORY APPEALS.**

Actions involving A or B below may, in the discretion of the aggrieved employee, be raised under either the appropriate statutory appeals procedures or the negotiated grievance procedure, but not both:

- A. Any reduction in grade or removal for Unacceptable (Unsatisfactory) performance in accordance with 5 USC 4303 and 5 CFR 432;
- B. Adverse actions in accordance with 5 USC 7512 and 5 CFR 752:

1. Removals;
2. Suspensions for more than 14 days;
3. Furloughs for 30 days or less; and
4. Demotions.

#### **SECTION 9.04: DISCRIMINATORY PRACTICES.**

Discriminatory practices include but are not limited to the discrimination for or against any employee on the basis of:

1. Race;
2. Color;
3. Religion;
4. Sex;
5. National origin;
6. Age (40 years and above);
7. Disability(non-disqualifying);
8. Marital status;
9. Lawful political affiliation
10. Sexual Orientation
11. Genetic Information

In accordance with 5 USC 7121(d), an aggrieved employee affected by a discriminatory practice may raise the matter under a statutory appeals procedure or the Grievance procedure, but not both.

#### **SECTION 9.05: CHOOSING AN APPEAL PROCEDURE.**

- A. Nothing in this Grievance procedure shall prejudice the right of the employee to appeal to the Merit Systems Protection Board or the Equal Employment Opportunity Commission pursuant to Section 7121 of the Statute.
- B. An Employee shall have exercised his/her option to raise the matter under an applicable statutory procedure or the Negotiated Grievance Procedure at such time as the employee:



1. Timely files an MSPB appeal under the applicable statutory procedure or files a formal written complaint under the statutory Equal Employment Opportunity Compliant procedure; or
2. Timely files a grievance, in writing, pursuant to this Article, whichever occurs first. Grievances may be filed with the appropriate Grievance Official electronically, with a copy to the designated Labor Relations Specialist, using the NFFE Local 1450 Employee Grievance Form (Appendix C). Delivery (date sent) to the email addresses of the Grievance Official and the designated Labor Relations Specialist shall constitute date of receipt. If the Union receives an out of office email from either the Grievance Official or the Labor Relations Specialist, the Union will forward the grievance to the designee indicated in the out of office notification.

**SECTION 9.06: TIME LIMITS.**

- A. Any stated time limits under this procedure shall begin to run from the next workday after the Grievant became aware or should have become aware of the matter being grieved.
- B. The date of expiration of the time limit shall be close of business on the last day of the stated period, unless that day falls on a Saturday, Sunday, or non-workday, in which case the following workday shall be considered the last day. Close of business shall be defined as 7:30 p.m. Pacific Time (PT).
- C. All time limits in this Section may be extended by mutual written consent.
- D. Unless extended by mutual consent, where a Grievant fails to meet a time limit, the matter will be considered resolved according to the last Management response.
- E. Unless extended by mutual consent, where Management fails to meet a time limit, the Grievance may be advanced to the next step of the Grievance procedure.
- F. If a grievance is timely but inappropriately filed with the wrong Supervisor or Management Official at Step 1, the grievance will be returned to the employee with the name and location of the appropriate supervisor/management official. The time limit to appropriately re-file the grievance will be determined by subtracting from 45 the number of days taken for submission of the erroneously filed grievance.

**9:07: AUTOMATIC EXTENSION OF TIME LIMITS.**

Where an employee attempts to submit an appeal which he/she believes to be appropriate under the statutory appeals procedure, i.e., Merit Systems Protection Board (MSPB) appeals, Equal Employment Opportunity Commission (EEOC) appeals, or Unfair Labor Practice (ULP) charges, and the appeal or charge is subsequently dismissed on the grounds that it was not appropriate for that procedure, the time limits for filing a Grievance shall begin to run from the date of the notice to the employee rejecting his/her statutory appeal or other charge.

**SECTION 9.08: RIGHT TO REPRESENTATION.**

- A. The Union shall have the right to represent and/or be present at any stage of the Grievance procedure.
- B. Once written designation of a Union representative has been received by Management or a Grievance has been filed, no further discussions with or questioning of the Grievant regarding the Grievance shall take place until the Union representative is given an opportunity to be present. The written designation may be done electronically. Designation of union representation may be made via email by copying the union representative.
- C. If an employee presents a Grievance directly to Management for resolution, Management shall provide the Union an opportunity to be present at any formal discussion with the employee concerning the Grievance.
- D. Only the Union or its written designee may represent an employee under this Negotiated Grievance Procedure, except for self-represented cases under Paragraph E below.
- E. Self-Representation: Nothing shall preclude an employee from presenting a Grievance to Management without representation by the Union; however, such an employee may not receive any better or worse treatment than other employees who elect Union representation, and any resolution must be consistent with the terms of this Agreement. Employees who elect to represent themselves shall receive a reasonable amount of official time to prepare and present their Grievances.
- F. Employees may not invoke arbitration. Only the Union can invoke arbitration on an employee's behalf.

**SECTION 9.09: PROTECTION OF GRIEVANTS.**

- A. In exercising the right to prepare and present a Grievance, both employees and Union representatives shall be unimpeded and free from restraint, coercion, discrimination, or reprisal. Further, they shall be assured a reasonable amount of official time (upon advance written request by the employee (or union) and advance written approval of the supervisor) (written requests may be made via email) in which to prepare and present their Grievance at any step of the grievance process, including arbitration.
- B. The filing of a Grievance shall not be construed as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to Management.

**SECTION 9.10: INFORMAL RESOLUTION.**

Many Grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. Any informal attempts at resolution shall not toll the deadline for filing grievances set forth in Section 9.11A, unless agreed to in writing. Employees are encouraged to discuss issues of concern to them, informally, with their supervisors at any time. These discussions may include a Union representative at the employee's option. An employee does not have to provide a supervisor, management official, or Human Resources Specialist a written designation of a Union representative in order for management to communicate with the Union on an informal-resolution matter.

Every appropriate effort shall be made by the Parties to settle the Grievances at the lowest possible level.

**SECTION 9.11: GRIEVANCE PROCEDURE.**

The following procedure is established for the resolution of employee Grievances:

Step 1

- A. Not later than 45 calendar days from the date when the employee became aware or should have become aware of the matter being grieved, the employee shall advise the Program Director (such as Regional FPM Administrator, HUB Director, HOC Director, CPD Director, OHC Director, OGC Regional Counsel, Public Housing Director, Regional FHEO Director, ONAP Administrator, etc., or equivalent/successor position). The Program Director or

designee shall serve as the step 1 Deciding Official. In the event the grievance is filed against the Program Director (or equivalent), then that person's Supervisor shall be the Step 1 Deciding Official. The matter being grieved and the remedy sought shall be presented to the appropriate deciding official in writing, on the Employee Grievance form (Appendix C) and may be filed electronically in accordance with Section 9.05(B)(2). The grievance may also include the LMA article, law, rule or regulation alleged to have been violated. The remedy may be amended or changed at any of the 2 steps of the grievance procedure. Additionally, new information unknown at the time of the filing of the grievance may result in additional remedy changes. Grievances concerning Merit Promotion procedures that do not directly involve the Selecting Official shall be forwarded to the appropriate supervisor in Human Resources Staffing.

- B. The Grievant may request, on the Grievance Form, that a meeting be held on the matter. This meeting shall be scheduled within 2 workdays of receipt of the request. If the Step 1 Deciding Official is outside of the area where the Grievant is located, the Deciding Official may conduct the meeting by telephone or video conferencing.
- C. The foregoing meeting will take place between the Grievant and the Deciding Official. The Grievant and the Deciding Official may each bring up to two technical representatives/advisors to the meeting (for example, Union stewards, NFFE national staff, Human Resources, Administrative Officer, etc.) If the grievant and the Union representative are not co-located, teleconferencing or video conferencing may be used.
- D. The deciding official shall respond in writing to the Grievant within 10 workdays after the Step 1 meeting, if one was held, or 10 workdays after receipt of the grievance if no meeting was held. A copy of this written response will be provided to the Union.

## Step 2

- E. An employee dissatisfied with the response provided in Step 1 may, within 10 workdays from receipt of the Step 1 decision, forward the grievance to the Regional Administrator. The Regional Administrator, Deputy Regional Administrator, or a manager from the appropriate program office at a level higher than the Step 1 Deciding Official, as determined by the Regional Administrator, shall serve as the Step 2 Deciding Official. The grievance may be filed electronically in accordance with Section 9.05(B)(2).

- F. The Grievant may request, on the Grievance Form, that a meeting be held to discuss the matter. If the Grievant elects a meeting, it must take place within 7 workdays from the date the Grievance is received at Step 2. If the Step 2 Deciding Official is outside of the area where the Grievant is located, the Deciding Official may conduct the meeting by telephone or video conferencing, whichever is practical. If such a meeting is requested by the Grievant, it shall be attended by the Deciding Official, and the Grievant. The Grievant and the Deciding Official may each bring up to two technical representatives/advisors to the meeting (for example, Union stewards, NFFE national staff, Human Resources, Administrative Officer, etc.) If the grievant and the Union representative are not co-located, teleconferencing or video conferencing may be used.
- G. The Grievant will be provided a written response, signed by the Deciding Official within 10 workdays after the close of the Step 2 meeting, if one was held, or within 10 workdays after receipt of the Step 2 Grievance if no meeting was held. The written reply shall specifically address each allegation raised in the Grievance, and, as to any allegations which the Deciding Official has not sustained in full, the Grievant will be given specific reasons for such decision. Such response will also address factual disputes, if any, and state the reasons why each was rejected. A copy of this response shall be given to the Union.

#### **SECTION 9.12: GRIEVANCE OF THE PARTIES.**

- A. If the Union or Management has a Grievance over any matter covered by this Agreement, and the Union or Management is serving as the sole filer representing their party's interests, it shall be considered a Grievance of the Parties. The filing party shall inform the Union President or Regional Administrator (or equivalent successor position) or the designated representative of the other Party of the specific nature of the complaint, in writing, within 45 days of the date when the Party became aware or should have become aware of the matter being grieved.
- B. Either Party may grieve a continuing violation at any time.

- C. Upon request of either Party, a meeting shall be held within 10 workdays of receipt of the Grievance to discuss informal resolution of the Grievance. The meeting may be held by teleconference or video conference.
- D. Within 20 workdays after receipt of the written Grievance if no meeting is requested, or within 10 workdays of the meeting if a meeting is requested, the receiving Party shall send a written response stating its position regarding the Grievance. If the response is not satisfactory, the grieving Party may refer the matter to Arbitration, in accordance with the provisions of this Agreement.

### **9.13: GROUP GRIEVANCES.**

Either party may propose to the other party the combining of grievances which are before the same deciding official and which concern issues so similar that they can be efficiently and effectively treated as a group grievance. If the representatives handling the grievances do not agree as to whether the grievances should be combined, the grievances shall be treated individually through the grievance procedure to arbitration. If arbitration is invoked and either party seeks to combine the grievances, the arbitrator shall be asked to determine, as a threshold issue, whether they can be efficiently and effectively treated as a group grievance.

### **9.14: ALTERNATIVE PROCEDURE PRIOR TO ARBITRATION.**

Prior to invoking arbitration and up to the arbitration hearing(s) date(s), the Parties may mutually agree to request the services of the Federal Mediation and Conciliation Service (FMCS) to resolve the matter being grieved.

### **9.15: OFFICIAL TIME FOR EMPLOYEE TO PREPARE GRIEVANCE.**

The parties understand that with advance supervisory approval, reasonable official time will be granted to grievants to prepare with or without a union representative present for a grievance and/or arbitration and to testify at an arbitration. "Reasonable" is defined as whatever is appropriate, under the particular circumstances of the grievance, in order to allow a complete presentation of the relevant information associated with the grievance. The actual number of hours to which the grievant and his/her representative are entitled will vary, depending on the nature and complexity of the grievance.

## **ARTICLE 10 ARBITRATION**

### **SECTION 10.01: GENERAL.**

- A. If a decision on a grievance processed under the negotiated grievance procedure is not satisfactory, arbitration may be invoked by the Union or Management.
- B. An adverse action or Unacceptable (Unsatisfactory) performance action may be appealed to the Merit Systems Protection Board or other statutory appeal procedure, or referred directly to arbitration. However, if an election of the grievance procedure is made, all steps of the grievance procedure must be completed prior to the matter being referred to arbitration.
- C. The date of expiration of any time limits shall be close of business on the last day of the stated period, unless that day falls on a Saturday, Sunday, or non-workday, in which case the following workday shall be considered the last day. Close of business shall be defined as 7:30 p.m. Pacific Time (PT).

### **SECTION 10.02: ALTERNATIVE DISPUTE RESOLUTION.**

The Parties may engage in Alternative Dispute Resolution procedures upon mutual agreement for individual cases. Normally, the Parties will utilize the Department's Alternative Dispute Resolution staff, or the Federal Mediation and Conciliation Service. Alternative Dispute Resolution may not preclude the Union's right to invoke arbitration. However, all deadlines set forth in this Article shall govern, unless mutually agreed to by the Parties. (See Article 58.)

### **SECTION 10.03: NOTICE.**

- A. Either the Union or Management shall notify the other Party of its submission of a matter to arbitration by giving written electronic notice emailed by the Union President or the Regional Administrator (or equivalent successor position) or designee. The Union shall email notice of arbitration to the Regional Administrator or designee, and Management shall email notice to the Union President, or designee. This notice of invocation of arbitration must be provided within 25 workdays of the Union's receipt of a final rejection at the last step of the grievance procedure, or the Union's receipt of Management's notice regarding a decision in an adverse action or performance based action. Such notice of

arbitration shall identify the specific grievance or adverse action involved and the designated representative who shall handle the case.

- B. In addition to providing the notice of invocation of arbitration, the requesting Party shall provide a written request for arbitrators, FMCS Request for Arbitration Panel (FMCS Form R-43), to the other Party. The request for arbitrators must be submitted to FMCS within 5 workdays of the notice and include a request for seven impartial persons with Federal-sector experience who are registered or willing to register with the System for Award Management (SAM) (or successor system). This request for arbitrators shall be co-signed by the receiving Party's representative, and the requesting party shall forward within 5 workdays of receipt.

#### **SECTION 10.04: SELECTION.**

- A. The Parties shall select an arbitrator within 10 workdays from receipt of the list of arbitrators. If the list does not contain at least seven impartial persons with Federal Sector experience, the Parties may mutually agree to request a new list.
- B. If the Parties cannot mutually agree upon one of the listed arbitrators, Management and the Union shall each strike one arbitrator's name from the list, and then repeat this procedure until one person remains who shall be the duly selected arbitrator. The Party making the first strike shall be determined by the flip of a coin.

#### **SECTION 10.05: ARBITRATION FEES AND EXPENSES.**

- A. The losing party shall pay the arbitrator's fees and expenses and any fees paid to FMCS for the arbitrator list. The arbitrator shall indicate which party is the losing party. If, in the arbitrator's judgment, neither party is the clear losing party on all issues, fees and expenses shall be assessed proportional to the number and significance of the issues lost. Failure to grant one or more of the requested remedies shall not be a basis for the arbitrator's determination of cost. If the arbitrator denies a grievance in its entirety, the party that filed the grievance is the losing party.
- B. If the filing party cancels or does not pursue the arbitration (i.e., does not attend or agree to schedule a hearing within 120 days from the date arbitration is invoked), after the arbitrator has been engaged, that Party will pay all attendant expenses, if any; unless a settlement agreement is reached specifically providing otherwise.



- C. Management will pay Union travel and per diem costs for one Union representative when the Union representative (HUD employee) is duty stationed at a different location from the hearing. On a matter affecting one or more NFFE Local 1450 bargaining unit employees, if Management has one or more technical advisor(s) present for the hearing, the Union shall be entitled to travel and per diem for a like number of HUD NFFE Local 1450 bargaining unit employees to serve as technical advisor(s).

**SECTION 10.06: ARRANGEMENTS AND HEARING DATES.**

- A. Upon selection of an arbitrator in a particular case, the respective representatives shall communicate with the arbitrator and each other in order to finalize arrangements. No ex parte communications shall be permitted with the arbitrator. Any disputes on procedures shall be settled by the arbitrator consistent with this Agreement.
- B. After a hearing date has been scheduled, if a party cancels or postpones a hearing, the party cancelling or postponing the hearing shall be solely responsible for payment of any applicable fees associated with the cancellation or postponement. Where the parties mutually agree to postpone or cancel an arbitration hearing, the parties will equally share the cost of any fees associated with the postponement or cancellation, unless stipulated otherwise in a settlement agreement. The fact that one party has no objection to the other party's request for postponement or cancellation of the hearing does not negate the requesting party's obligation to pay the necessary fees.

**SECTION 10.07: LOCATION.**

- A. For grievant specific Arbitrations, hearings shall normally be held at HUD's premises at the grievant's duty station.
- B. For Arbitrations that are region-wide in scope, the hearing shall be held at a mutually agreed upon site. If the site cannot be mutually agreed upon, then the location will rotate between the HUD San Francisco Regional Office and the HUD Los Angeles Field Office, starting with the Los Angeles Field Office.

**SECTION 10.08: STIPULATIONS.**

- A. If the Parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate statement and the arbitrator shall determine the issue to be heard.
- B. The Parties shall endeavor, whenever possible, to stipulate the facts involved in a case prior to the opening of the arbitration hearing. A party may submit to the other party proposed factual stipulations at least 20 workdays prior to the scheduled hearing date. The party receiving the proposed stipulations shall respond in writing to the proposed stipulations within 10 workdays of receiving the proposed stipulations.

**SECTION 10.09: WITNESSES AND TRANSCRIPTS.**

- A. The Parties shall exchange written witness lists, which include a statement as to the relevance of the expected testimony of each witness, 10 workdays in advance of the scheduled hearing unless changed by mutual agreement.
- B. If either Party objects to any witness requested by the other Party, the issue will be submitted to the arbitrator for resolution within 3 workdays of receipt of the witness list. The arbitrator will provide a determination at least 3 workdays prior to the scheduled hearing, or the arbitrator may, by mutual agreement, be cancelled and another arbitrator selected. Management will authorize official time, travel and per diem, subject to limitations below, for designated witnesses for whom an objection has not been sustained by the arbitrator.
- C. The grievant(s) and each employee who is designated as a witness in accordance with the procedures above shall be released and receive a reasonable amount of official time (upon request by the employee and approval of the supervisor), to prepare and participate in the arbitration hearing. For region-wide or multi-field office grievances, Management shall pay travel and per diem for up to three designated witnesses who are Region 9 HUD employees, if the location of the hearing is different than where the witnesses are located.
- D. Either Party may request that the arbitrator order the sequestration of any witness or witnesses during the testimony of other witnesses. Witnesses that are part of either party's representational team shall not be sequestered; however, they must provide testimony before any other witnesses are called.
- E. Either Party may purchase a transcript at their own expense. If such transcript is agreed by the Parties to be, or in appropriate cases determined by the arbitrator to be, the official record of the proceeding, it must be made available to the arbitrator. If either Party

purchases a transcript, an electronic copy of the transcript shall be provided to the other Party at no cost.

**SECTION 10.10: AUTHORITY OF THE ARBITRATOR.**

- A. The Parties agree that the jurisdiction and authority of the arbitrator shall be confined to the issue(s) presented in the grievance. Arbitrability and grievability determinations shall be made by the arbitrator prior to addressing the merits of the grievance, i.e., a threshold determination of the issues to be heard based on the stipulations submitted by the Parties. If a party files a motion based on the jurisdiction and authority of the arbitrator, or otherwise concerning arbitrability or grievability, a response to the motion may be filed. The arbitrator may or may not issue a ruling on the merits of any such motion prior to the scheduled hearing. Should the arbitrator decide the arbitrability issue, the losing party on the arbitrability issue will be responsible for all arbitrator's costs and expenses pertaining to the arbitrability issue.
- B. The arbitrator shall not have authority to add to, subtract from, or modify any of the terms of this Agreement or any supplement thereto. In the case of a back pay award based on an employee having been affected by an unjustified or unwarranted personnel action, the arbitrator may authorize reasonable attorney's fees in accordance with standards contained in the Back Pay Act, as amended by the Civil Service Reform Act of 1978, and as interpreted by the Merit Systems Protection Board (MSPB), or other applicable statute or regulation.
- C. The arbitrator shall resolve any arbitrability or witness disputes consistent with this Agreement.
- D. The arbitrator's decision shall be final and binding on the Parties, and the Arbitrator shall possess the authority to make an aggrieved employee whole, to the extent such remedy is not limited by law, rule or regulation, including the authority to award back pay and order reinstatement, retroactive where appropriate, and to issue an order to expunge the record of all references to a disciplinary, adverse, or Unacceptable (Unsatisfactory) Performance action.
- E. If interpretation of a law or Government-wide rule or regulation is required to resolve the issues presented, the arbitrator shall consider the interpretation, if any, of such rule or regulation published by the agency responsible for its issuance.

**SECTION 10.11: EXTENSION OF TIME LIMITS.**

- A. The parties will make every effort to mutually agree to schedule an arbitration hearing date within 45 days of selecting an arbitrator. The arbitrator will render his/her decision within 30 days of the closing of the record. When post hearing briefs are submitted, the record will not be closed until briefs are timely submitted.
- B. Where, due to circumstances beyond the control of the Parties and the arbitrator, the arbitrator cannot hear the case within 120 days of selecting an arbitrator, the Parties will select another arbitrator, unless they mutually agree to extend this 120 day time limit.
- C. **Refusal to Participate.** Should either party refuse to participate in an arbitration, the arbitrator shall continue to hear the case and base their decision solely on the record. Once arbitration has begun, the non-participating party shall be limited to evidence in the record that it put forward prior to the arbitration hearing.
- D. Time limits in this Article may be modified by mutual written consent of the Parties.

**SECTION 10:12: OFFICIAL TIME TO PREPARE**

The parties understand that with advance supervisory approval, reasonable official time will be granted to grievants to prepare with or without a union representative present for a grievance and/or arbitration and to testify at an arbitration.

**ARTICLE 11**  
**MERIT PROMOTION AND INTERNAL PLACEMENT**

**SECTION 11.01: GENERAL.**

This Article sets forth the merit promotion and internal placement policy and procedures to be followed in staffing positions within the bargaining unit. The Parties agree that the provisions of this Article shall be administered to ensure that employees are evaluated and selected solely on the basis of merit in accordance with valid job-related criteria.

Management shall agree to consider filling positions from within the Department and developing bridge and/or upward mobility positions to help promote the internal advancement of employees. Employees will be treated in a fair and equitable way for promotions, hiring and training.

**Notification to Union of Staff Vacancies.** Upon request, but no more than quarterly, the Department shall provide the Union with a list of approved (funded) positions by program office and a bargaining unit report with employee names, job titles and their locations. It is understood by the parties that the positions listed may not be filled. The parties also acknowledge the separation list does not constitute vacancies in the Department. As vacancy announcements open, are modified, or are canceled, the Department will notify the NFFE Local 1450 President via e-mail.

**SECTION 11.02: EQUAL EMPLOYMENT OPPORTUNITY.**

The Parties agree that the staffing of all positions within the bargaining unit shall be without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, non-disqualifying handicap, age, sexual orientation, or familial status.

**SECTION 11.03: DEFINITIONS.**

The following words and phrases shall have the meanings indicated for the purposes of the application of this Article:

- (1) **Applicant Notification Touch Points.** A Hiring Reform initiative designed to increase applicant satisfaction with the Federal government hiring process, by initiating and maintaining contact with applicants at specific times during the recruitment process. Human Resources must correspond with the applicant at the following points of the recruitment process:
  - (a) Acknowledgement of receipt of application submission;
  - (b) Applicant rating determination;
  - (c) Issuance of referral list; and, if qualified
  - (d) Final disposition of vacancy, if referred.

- (2) **Area of Consideration.** The geographic area, organization, or group of organizations in which a search of eligible applicants is conducted to fill vacancies.
- (3) **Assessment Tool.** A method created to measure an applicant's qualifications, both minimum and quality rating, and/or eligibility for employment, such as: occupational questionnaires (OQs), structured interviews, and work product samples.
- (4) **Best Qualified Candidates.** Those applicants who possess and can demonstrate a higher level of knowledge, skills, and abilities, or competencies in relation to the other applicants for an individual vacancy.
- (5) **Candidate Evaluation Panel.** Upon a demonstrated business need for an alternative method for rating and ranking candidates, the Department may convene a Candidate Evaluation Panel. The Panel will consist of 3-5 members, including the servicing HR Specialist and members at the same or higher grade familiar with the duties of the position who shall independently evaluate, in detail, the candidate's approach, experience, technical competency, and commitment. The Panel shall determine the Referral Certificates.
- (6) **Career Ladder.** The range of grades for an advertised position in an occupational series or specialization, starting with the lowest level at which an employee can be hired, up to and including the full performance level of the position.
- (7) **Career Transition Assistance Plan (CTAP).** An agency's Career Transition Assistance Plan (CTAP) provides intra-agency selection priority for the agency's eligible surplus and displaced employees. Subpart F of 5 CFR 330 sets forth minimum requirements for agency plans and requirements for CTAP selection priority.
- (8) **Competitive Placement Procedures.** The procedures for merit promotion and internal placement as set forth in this Article.
- (9) **Change to Lower Grade.** The change of an employee, while serving continuously within the Department:
  - (a) To a lower grade when both the old and the new positions are under the General Schedule or under the Wage Grade Schedules; or
  - (b) To a position with a lower rate of pay when both the old and the new positions are under the same type wage schedules, or in different pay method categories.
- (10) **Delegated Examining Candidate.** A person applying for a vacancy that is announced under authority that the Office of Personnel Management (OPM) has delegated to the Department to examine applications from applicants who are outside the Federal government or are non-status Federal employees. However, status candidates may also apply for these positions and should refer to OPM's definition of Delegated Examining Vacancy.

- (11) **Detail.** A detail is the temporary assignment of an employee to a different position or to a different set of duties for a specified period, with the employee returning to their regular duties at the end of the detail, as the employee continues to be the incumbent of the position from which detailed.
- (12) **Evaluation Criteria.** The knowledge, skills, and abilities or competencies (KSACs), derived from the job analysis, which are needed for successful performance in the position to be filled and are used to determine the best qualified applicants for the position.
- (13) **Full Performance Level (FPL).** The highest grade or known promotion potential of a given position. In the recruitment process, FPL indicates the highest targeted grade level without further competition.
- (14) **Interagency Career Transition Assistance Plan (ICTAP).** The Interagency Career Transition Assistance Plan (ICTAP) provides eligible displaced bargaining unit employees with interagency selection priority for vacancies in agencies that are filling positions from outside their respective permanent competitive service workforces.
- (15) **Job Analysis.** The systematic procedure for gathering, documenting, and analyzing information about the content, context, and requirements of a job. The process identifies the basic duties and responsibilities, KSACs, and selective placement factors essential to perform the duties of the position, and provides the foundation for the development of all assessment tools.
- (16) **Known Promotion Potential.** The projected full-performance level of a position to which an employee may be non-competitively promoted based on a prior selection through competitive procedures.
- (17) **Merit Promotion Certificate.** A list of the best qualified candidates, identified through competitive placement procedures, for use by a selecting official in filling a vacancy.
- (18) **Non-Competitive Promotion.** A promotion without current competition when:
1. The employee was previously appointed or competitively selected for an assignment intended to prepare the employee for the position currently being filled.
  2. The employee's position is reclassified to a higher grade because of additional duties and responsibilities.
  3. The employee's position is upgraded without significant change in its duties and responsibilities due to issuance of a new classification standard or the correction of a prior classification error.

(Additional criteria for which competitive actions do not apply are found within 5 CFR 335.)

- (19) **Occupational Assessment Questionnaire** – an online tool that allows applicants to self-certify their experience levels against technical and general competencies, developed from the Job Analysis and identified as important or critical to success in the position advertised.
- (20) **Position Change.** A promotion, change to lower grade, or reassignment made during an employee's continuous service within the Department.
- (21) **Promotion.** The change of an employee, while serving continuously within the Department:
1. To a higher grade when both the old and new positions are under the General Schedule or under the Wage Grade Schedule; or
  2. To a position with a higher rate of pay when both the old and the new positions are under the same type wage schedule, or in different pay method categories.
- (22) **Qualified Candidates.** Those candidates who meet the minimum qualifications standards in the Office of Personnel Management (OPM) Qualification Standards Handbook or approved by OPM and any appropriate selective placement factors for the position.
- (23) **Reassignment.** The change of an employee from one position to another, within the Department, without promotion or demotion.
- (24) **Selective Placement Factor.** Selective factors are knowledge, skills, abilities, or special qualifications that are in addition to the minimum requirements in a qualification standard, but are determined to be essential to perform the duties and responsibilities of a particular position. Applicants who do not meet a selective factor are ineligible for further consideration. An example of an appropriate selective factor could include the ability to speak, read, and/or write a language other than English.
- (25) **Subject Matter Expert (SME).** An individual who is a bona fide expert with comprehensive knowledge of the duties and responsibilities necessary to perform a specific job. The role and responsibility of the SME is to provide a recommendation based upon their expertise in regards to relevant information needed during the recruitment process. The SME must be a neutral party and does not anticipate applying for consideration for the position being advertised. A SME may serve individually or with other experts on an ad-hoc basis. At no time should the SME be the selecting official.

**SECTION 11.04: SIMULTANEOUS CONSIDERATION IN FILLING UNIT VACANCIES.**

- A. Management agrees to provide simultaneous selection consideration of:



1. Properly ranked and certified candidates for either immediate or potential promotion, identified through the competitive procedures of this Article; and
  2. Qualified candidates eligible for appointment from an OPM or Delegated Examining Unit (DEU) register, by reinstatement or by transfer.
- B. Simultaneous consideration shall not apply to the filling of positions with no greater promotion potential than GS-4, as well as critical shortage or hard to fill positions identified by the Office of Personnel Management.

**SECTION 11.05: ACTIONS COVERED BY COMPETITIVE PROCEDURES.**

Competitive placement procedures shall apply to the following types of personnel actions concerning bargaining unit positions, unless excluded by Section 11.06:

1. Permanent promotions unless covered by Section 11.06;
2. Temporary promotions over 120 days and temporary promotions of less than 120 days if, by the end of the promotion period, an employee will have served more than 120 days of the preceding 12 months in higher graded positions or in positions with known promotion potential;
3. Details over 120 days to higher graded positions or to positions with known promotion potential and details of less than 120 days if, by the end of the detail period, an employee will have served more than 120 days of the preceding 12 months in higher graded positions or in positions with known promotion potential (See Article 52);
4. Selection for training which is part of an authorized agreement, part of a promotion program, or given primarily to prepare an employee for advancement and is required before an employee may be considered for a promotion;
5. Reassignment or demotion to a position with more promotion potential than a position previously held on a permanent basis in the competitive service or an action due to reclassification based on new OPM Standards being issued or an accretion of duties promotion;
6. Transfer from another Federal agency to a higher graded position or to a position with more promotion potential than previously held in the competitive service;
7. Reinstatement to a permanent or temporary position at a higher grade or with more promotion potential than the last grade previously held on a permanent basis in the competitive service.
8. Promotion to a grade or position from which an employee was demoted at his/her request provided the employee was awarded Highest Previous Rate upon being demoted.

## **SECTION 11.06: ACTIONS NOT COVERED BY COMPETITIVE PROCEDURES.**

Nothing in this Agreement shall preclude the selection or placement of a person entitled to a higher order of consideration by Federal law or Government-wide rule or regulation. In addition, the following actions are specifically excluded from coverage of the competitive placement procedures of this Agreement:

- A. Appointments at GS-5 and below to positions for which the agency has been granted direct hire authority by OPM;
- B. Career or career-conditional appointments from a civil service certificate of eligibles issued by OPM or the Delegated Examining Unit (DEU);
- C. Reassignments between positions having the same promotion potential;
- D. Promotions when earlier competition occurred, e.g., career ladder promotions;
- E. Promotion to the full performance level in the career ladder of a position when an employee has been placed in that position as a result of RIF or reclassification;
- F. Promotion to the grade level of the position under career or career-conditional appointment, from which the incumbent was not demoted or separated from that grade because of deficiencies in performance or "for cause" reasons;
- G. Promotions when an employee's position has been reclassified at a higher grade because of additional duties and responsibilities. Such a promotion may occur whether or not the assumption of higher-level duties and responsibilities resulted from planned management action; however, the supervisor must submit a statement explaining how the additional duties evolved into the new position;
- H. The promotion of an incumbent of a position which has been upgraded, without significant change in duties and responsibilities, on the basis of either the issuance of a new classification standard or the correction of a classification error;
- I. Selection of a candidate from the Reemployment Priority List, for a position at the same or lower grade than that last held in the competitive service;
- J. Selection of a candidate from the Priority Consideration Program for a position at the same grade level and the same promotion potential as the one for which proper consideration was not given;
- K. Selection of a candidate from the Special Reassignment Plan for movement to a position at the same or lower grade from which demoted;

- L. Promotions directed by special authorities, such as court decisions, EEO consent decrees, OPM decisions, or other appropriate authorities;
- M. Non-competitive conversions, appointments, and promotions of employees in certain excepted positions
  - 1. A non-competitive conversion to career or career-conditional appointment, if authorized by OPM policies, is excluded from coverage. This exclusion applies to an employee who, while serving on an excepted appointment, has successfully satisfied the specific requirements of a special employment program. Examples of such programs include: Student Educational Employment Program, Veteran’s Readjustment, Selective Placement, Career Intern and Presidential Management Intern;
  - 2. Appointments and promotions in excepted positions, such as Attorney, Schedule C, Student Educational Employment Program, Selective Placement, Career Intern and Presidential Management Intern;
  - 3. Promotions to competitive positions following the conversion of employees from certain excepted appointments, such as Student Educational Employment Program and Presidential Management Intern; and
  - 4. Appointment of candidates under special appointment authorities, such as Peace Corps returnees, Vietnam-Era veterans, or persons with handicapping conditions.
- N. Transfers
  - 1. Transfers from another agency to a position at the same grade level with no known promotion potential;
  - 2. Lateral transfers from another agency below the full performance level if the promotion potential of the position being vacated is the same as or higher than the position being filled at HUD; and
  - 3. Transfers under special appointment authorities from other branches of government, such as the legislative branch, Postal Service, and the D.C. Government.
- O. Reinstatement up to the highest grade previously held on a permanent basis under career or career-conditional appointment, provided the employee was not demoted or separated from that grade because of deficiencies in performance or “for cause” reasons.
- P. Assignment of Higher Level Duties. When there is more than one qualified employee, higher level duties and responsibilities above the grade level will not be assigned to employees on a continuing basis when such assignment is not in accordance with the provisions and intent of this Article.

## **SECTION 11.07: LOCATING CANDIDATES AND PUBLICIZING VACANCIES.**

It is agreed that the employer will utilize, to the maximum extent possible, the skills and talents of its employees.

Vacancies in the bargaining unit which are to be filled by competitive placement procedures shall be announced and posted electronically on OPM websites accessible through the HUD website.

### **A. Posting Periods.**

1. The number of calendar days that a vacancy announcement is open shall be determined by the level of difficulty in recruiting qualified candidates. The opening and closing dates shall be specified on the vacancy announcement. Vacancy announcements shall normally be open a minimum of 14 calendar days.
2. When solicitation for the normal posting period and area would be clearly impractical because of unique circumstances (e.g., budgetary limitations, FTE limitations), the posting period may be shortened to a minimum of 7 calendar days. The merit staffing record must contain complete documentation explaining the circumstances.
3. Open continuous vacancy announcements, without specific closing dates, may be used to advertise recurring vacancies.

### **B. Reposting, Extension or Cancellation.**

1. If a vacancy announcement has been posted and any significant information is later found to have been omitted or in error, or the procedure used is found to be inconsistent with this Article, an amended announcement shall be reposted citing the change(s) and whether the original applicants must refile in order to be considered. Posting periods shall be adjusted, if necessary.
2. Extension of the closing date of an announcement shall be done by an amendment to the original announcement for a minimum of 7 calendar days, if the volume of applications is low and management requests to continue advertising before the closing date.
3. Cancellation of an announcement shall be done by an amendment to the original announcement.

### **C. Posting Vacancy Announcements.**

Management agrees to electronically post the vacancy announcements for both unit and non-unit positions. Vacancy announcements will be posted electronically on the OPM website, [www.usajobs.opm.gov](http://www.usajobs.opm.gov), which is accessible on the HUD intranet. These provisions also apply to vacancy announcements that are reposted, extended or cancelled.

#### **D. Cancelling Vacancy Announcements.**

Management may cancel vacancy announcements only for good cause (legitimate business reason). When vacancy announcements are cancelled for legitimate business reasons, Management will notify applicants through Career Connector or successor system within 5 workdays of cancellation. Upon request by the Union, Management will provide an explanation as to why a vacancy announcement cancellation was made.

### **SECTION 11.08: EMPLOYEE APPLICATIONS.**

- A. **Filing an Application.** To be considered for a vacancy, an employee must file an appropriate application and any other documentation required by the vacancy announcement using the instructions outlined in the vacancy announcement. Employees away from their duty station may contact the servicing Human Resources provider to obtain information and copies of vacancy announcements.
- B. **Full and Complete Information.** Employees are responsible for providing full and complete information on their applications for a posted vacancy. Employees must also provide any other information or documents required by the announcement.
- C. **Failure to Provide Information.** Failure to provide any necessary and relevant information such as an appropriate application, Supplemental Narrative Statements (Selective Placement Factors (SPF)/Quality Ranking Factors (QRF)), and latest Performance Appraisal, etc., required by the vacancy announcement, shall be disqualifying. All applicants for a given vacancy shall be treated uniformly.
- D. **Time Limits.** For those announcements that are limited to acceptance of applications only online, all required documents must be submitted or faxed into the Department's electronic recruitment system, according to instructions, by 11:59 p.m. Eastern Time, on the closing date of the announcement.

### **Section 11.09: EVALUATION OF CANDIDATES.**

- A. **Determining Basic Eligibility.** The minimum qualification standards prescribed by the Office of Personnel Management, time-in-grade requirements, and selective placement factors, if any, identified as essential to satisfactory job performance, shall be used to determine basic eligibility of candidates for competitive placement consideration.
  - 1. The minimum qualification standards and selective placement factors, for a position to be filled by competitive placement procedures, shall be stated on the vacancy announcement.
  - 2. Candidates who shall meet all requirements within 30 calendar days after the closing date of the vacancy announcement shall be considered qualified and eligible for further consideration.

3. Ineligible applicants shall be promptly notified in writing of the reasons for their ineligibility.

**B. Criteria for Evaluation of Qualified Candidates.** As required in the vacancy announcement, candidates must list each Selective Placement and Quality Ranking Factor, and underneath each factor, write a statement which describes how their background, training, and performance awards satisfy the factor. Candidates who do not submit this additional information will not be considered for the vacancy.

1. Job-related criteria developed in Quality Ranking Factors are based upon a thorough analysis of the duties and responsibilities of the position to be filled and shall be expressed in terms of the specific knowledges, skills, abilities, and other characteristics (KSAOs) that shall be used to distinguish BEST QUALIFIED candidates from a group of QUALIFIED applicants.
2. An Occupational Assessment Questionnaire shall be developed for the position to be filled. It shall specify how each knowledge, skill, ability (KSAs) and task statement is to be measured and the credit levels for each. The questionnaire must equate the quality of candidates' possession/experience of essential KSAs/tasks to specific credit levels.

**C. Rating and Ranking of Candidates and Certificates.**

1. Rating is the process of evaluating the qualifications of qualified candidates by use of an Occupational Assessment Questionnaire.
2. Ranking is another step in the candidate evaluation process involving the comparison of qualified candidates based on rating with each other to determine who are best qualified.
3. All qualified candidates shall be rated and ranked against the criteria in the vacancy announcement by a Human Resources Specialist or merit staffing panel, or evaluated using the Occupational Assessment Questionnaire. When an Occupational Assessment Questionnaire has not been used and there are ten or fewer qualified candidates at any one grade level, a Human Resources Specialist, merit staffing panel or a subject-matter expert may rate the candidates against the quality ranking factor that has been identified in the vacancy announcement as the critical factor for successful job performance. This will be considered as an abbreviated method of rating to determine the applicants' Best Qualified status.
4. Candidates eligible for non-competitive reassignment, repromotion, transfer, or reinstatement are referred to the selecting official simultaneously on a separate Merit Promotion Certificate, without rating and ranking.

## 5. Merit Staffing Panel

- (a) Panels are optional for all positions. If a merit staffing panel is used, the selecting official shall not be a member of the panel. The panel will consist of two to four members. Panel members must meet the following criteria (A) Hold the same or higher grade level as the position, and (B) Must be familiar with the position's subject matter, i.e. types of duties to be performed for the occupational series.

An HR Specialist will provide technical and procedural guidance to panel members. Role of the HR Specialist will include:

- (1) Explaining the evaluation procedures for the panel and emphasize the confidentiality that must be maintained in executing their role.
  - (2) Compute total points received by each candidate as a result of the panel rating process; and,
  - (3) Ensure that all necessary documentation is complete and filled.
- (b) Members of the panel must evaluate candidates in accordance with the procedures in C 1-4 above.
  - (c) The panel will decide which of the following rating methods will be used. Under either method, both interim and final scores will be recorded on the Rating Worksheet, HUD Form 833.
    - (1) Consensus - each panel member will independently review and rate each candidate's application against every quality ranking factor, then discuss and arrive at a consensus as to the group's ratings for each candidate. The panel members and the HR Specialist will sign the final rating worksheet, which will remain a permanent part of the merit staffing file.
    - (2) Averaging - each panel member independently reviews and rates each candidate's application against every quality ranking factor. Total scores for each candidate are added together and divided by the number of voting panel members to derive the final score. The final score will be transcribed to the final rating worksheet and will be signed by the HR Specialist. Panel members will sign their individual worksheets. All worksheets will remain a permanent part of the merit staffing file.

### **D. Number of candidates to be referred to selecting official.**

- 1. Determination of the number of BEST QUALIFIED candidates referred shall be based on a natural break between the relative ranking of QUALIFIED candidates, not to exceed five (5) names. The location of the Selecting Official determines the prevailing bargaining unit agreement for the certificates. The lowest ranking candidate above the

break should be able to perform the job with substantially equal success as all candidates with higher scores.

2. In case of ties, candidates with the same numerical ranking shall be considered as one referral and all such candidates shall be referred.
  3. When there is more than one vacancy to fill, two additional names may be added for each vacancy.
  4. Names of best qualified candidates will be listed on the Merit Promotion Certificate, HUD Form 154, in alphabetical order. For positions announced at multiple grade levels, candidates will be grouped by the grade level for which qualified and listed alphabetically on separate Merit Promotion Certificates.
- E. **Additions to the Merit Promotion Certificate.** In the event of declinations after referral, additional candidates may be added to the Merit Promotion Certificate in accordance with the general rule above, not to exceed a maximum of five Best Qualified Referrals per vacancy.
- F. **Validity of Merit Promotion Certificate.** Merit Promotion Certificates are valid for 30 days after issuance unless an extension is granted by the servicing Human Resources Office. The extension request and approval should be documented in the Merit Staffing file. Rosters are invalid after 90 days.
- G. **Reuse of Merit Promotion Certificate.** Merit Promotion Certificates may be reused within 90 days from the date of selection or of cancellation for additional identical positions or when a selectee declines the position or vacates the position within 90 days.

#### **SECTION 11.10: SELECTION CONSIDERATION.**

Management shall ensure that the evaluation of candidates complies with this Agreement and shall forward the Merit Promotion Certificate to the selecting official.

- A. **Action by Selecting Official.** The selecting official is entitled to select, or not select, any of the candidates on the Merit Promotion Certificate. The selecting official is expected to make a selection within 30 days following receipt of the certificate. Any documentation prepared by management of the rationale for selections, non-selections, and interviews of the referred candidates must be maintained by the Selecting Official and/or provided to the Administrative Officer for the Program Office.
- B. **Interviewing Candidates.**
1. The selecting official, designee, or selection panel may conduct optional interviews of BEST QUALIFIED candidates referred based on grade level as advertised. If there are five (5) or fewer candidates on a certificate, the selecting official or designee must either interview all or none of the candidates.



2. If a face-to-face interview cannot be arranged, a telephone interview will be held. In this case, the candidate should be given reasonable notice, normally one to two days.
3. Supervisors shall release employees for such interviews for the necessary length of time.
4. Interview questions, answers, notes and ranking documents shall be retained for 2 years after selection date, in accordance with OPM regulations.

**C. Notification to Candidates.**

1. A selection is not final until the selected candidate(s) receive official notification from the servicing HR Division. When a selection is made, the employee shall be notified in writing and a release date arranged by Management. Candidates who were certified but not selected shall be advised promptly in writing of their nonselection, but no later than fourteen (14) days after a final offer is accepted by the successful applicant. Management shall also provide the name of the selectee upon request.
2. Upon request of any bargaining unit employee who was rated Best Qualified, but not selected, Management will provide a written explanation for the selection of the successful applicant.

**D. Merit Promotion Plan**

Upon request, the Employer will give the Union a copy of the Merit Promotion Plan. In addition, the Employer will ensure that this process is consistent with and follows the guidelines outlined in EEOC Section 60-3, Uniform Guidelines on Employee Selection Procedures.

**E. Effective Dates of Actions.**

1. An employee selected for a position shall be released from the former position at the earliest practicable date after approval of the action, but normally not later than 30 days from the date of selection.
2. When an employee is competitively promoted, the effective date of the promotion shall normally be no later than the beginning of the second complete pay period following the date of selection.

**SECTION 11.11: PRIORITY CONSIDERATION.**

- A. Definition.** Priority consideration is special placement consideration for an appropriate vacancy given to an employee who did not receive proper consideration in a prior merit staffing action due to a documented procedural, regulatory, administrative, or program

violation provided the employee would have otherwise been placed on the Merit Promotion Certificate had the error not occurred.

- B. **Appropriate Vacancy.** An appropriate vacancy is the next available position for which the employee is interested and fully qualified, including identical Selective Placement Factors, and which is at the same grade level and has the same or less promotion potential as the one for which proper consideration was not given. The position is within the area of consideration as that of the vacancy originally applied for.
- C. **Entitlement.** An employee is entitled to only one priority consideration for noncompetitive placement for each instance in which he/she was previously denied proper consideration. An employee shall exercise his/her entitlement to priority consideration for a specific, advertised vacancy by written request to the servicing Human Resources Office staffing the vacancy. If not exercised within 2 years from official notification, an employee's entitlement to priority consideration shall expire.
- D. **Processing.** The procedures for processing priority consideration(s) shall be:
  - 1. Before referring a Merit Promotion Certificate to the selecting official, Management shall provide the selecting official with a list of employees (in alphabetical order) interested and eligible for priority consideration.
  - 2. The selecting official shall give bona fide consideration to those employees on the priority consideration list.
  - 3. Management shall notify the employee in writing of nonselection under priority consideration.
  - 4. Nonselection under this Section shall not preclude an employee from subsequent selection from a Merit Promotion Certificate for the same position provided that the employee has submitted all the required application documents.

#### **SECTION 11.12: CAREER LADDER PROMOTION.**

- A. Employees in career ladder positions shall be promoted upon:
  - 1. Having a current rating of record that is Fully Successful or higher. No employee may receive a career ladder promotion who has a rating below Fully Successful on a critical element that is also critical to performance at the next higher grade of the career ladder; and
  - 2. Meeting the minimum qualification and other regulatory requirements, i.e., time in grade.

- B. Throughout the time in grade eligibility period, managers are encouraged to provide feedback to their employees on their performance toward their career ladder promotion. The Department has until ninety (90) days prior to the anniversary date to notify the employee if a promotion shall or shall not be recommended, and if not, provide a written explanation. For situations that are beyond the Department's control, e.g. government shutdown or furlough, the 90 days shall be tolled. This notice shall contain an explanation of those aspects of the employee's performance which failed to meet the Fully Successful level of current performance or performance below Fully Successful on a critical element that is also critical to performance at the next higher grade of the career ladder. The notice will include a statement that if the employee demonstrates Fully Successful or higher performance within the next ninety (90) days, unless there is a problem beyond the agency's control, the career ladder promotion shall be granted at that time.
- C. In the event that Management determines that the employee met the promotion criteria, but the appropriate Management official did not initiate the promotion timely, the agency will initiate the promotion retroactive to the date it was due and will provide the affected employee with retroactive back-pay. A settlement agreement may be drafted to rectify the situation and make the employee whole to the beginning of the first pay period after the requirements were met.

#### **SECTION 11.13: RECRUITMENT, RELOCATION AND RETENTION INCENTIVES.**

- A. **General:** The parties agree to comply with the Department's policy on Recruitment, Relocation and Retention Incentives.
- B. **Vacancy Announcements:** Management agrees to include this statement on vacancy announcements "If it is determined that any position is hard to fill an incentive may be offered."
- C. **Employee Termination of Service Agreement:** Should it become necessary for an employee to terminate the service agreement, the employee may request a waiver from the Principal Organizational Head. The Secretary (or designee) may waive the debt for an employee termination of the service agreement in accordance with 5 U.S.C. 5584.
- D. **Termination of Service Agreement:** The Department must terminate a Service Agreement if an employee is demoted or separated for cause (i.e., for unacceptable (unsatisfactory) performance or conduct), if the employee receives a rating of record of less than satisfactory or if the employee otherwise fails to fulfill the terms of the service agreement. The employee must notify their Human Resources Representative if he/she has filed an appeal. Repayment will not be due until all appeal processes have been exhausted.
- E. **Relocation Allowance Policy:** Nothing in this section supersedes the Department's Relocation Allowance Policy regarding the Department's adoption of the Federal Travel Regulation (FTR) for eligible expenses and

payment of travel and transportation expenses relating to involuntary or voluntary reassignments.

- F. **Increase in Incentive:** If the Department requests a waiver from OPM regarding the limitation on the maximum amount of an incentive, the Union President will receive a copy of the request within 60 days.
- G. **Recruitment, Relocation and Retention Incentives Report:** Management agrees to provide the Union President a copy of the Recruitment, Relocation, and Retention Incentives Annual Report to OPM within 60 days of submission.
- H. **Consistent Application:** Management agrees that the recruitment, relocation and retention incentives shall be applied fairly and equitably regardless of positions and/or employees.
- I. **Internal and External Vacancies:** In accordance with the Department's policy, if an external vacancy is eligible for a recruitment incentive, the internal vacancy will be eligible for a relocation incentive.
- J. **Impact of Implementation:** The impact and implementation of the Recruitment, Relocation and Retention Incentives Handbook will not have an adverse impact on bargaining unit employees.

**SECTION 11.14: EMPLOYEE INFORMATION.**

The servicing Human Resources Office shall provide a listing of bargaining unit employees duty stationed in each office once per month, upon request by the Union.

**ARTICLE 12  
POSITION DESCRIPTION AND CLASSIFICATION**

**SECTION 12.01: GENERAL.**

Each position covered by this Agreement that is established or changed must be accurately described, in writing, and classified as to the proper title, series, and grade and so certified by an appropriate Management official. Position descriptions will be classified based on OPM's classification standards. A position description does not list every duty an employee may be assigned but reflects those duties which are series and grade controlling.

**SECTION 12.02: UNIFORM POSITION DESCRIPTIONS.**

Normally, position descriptions of the same title, series and grade under the same supervisor shall be uniform. Management shall provide every employee with an accurate copy of his/her position description upon initial assignment to a position, and whenever a change is effected to the position description. Management agrees that the position description for each position will accurately reflect the actual duties, responsibilities, and the supervisory relationships pertaining to the position.

The phrase "other duties as assigned" or other phrases having similar meaning if used in position descriptions means duties related to the major duties of the position. "Other duties as assigned" are not intended to become grade controlling".

Management shall provide employees copies of revised position descriptions in advance of their implementation.

**SECTION 12.03: RESOLUTION OF DISCREPANCIES.**

Employees shall be encouraged to discuss any position description change or inaccuracy with the supervisor, who shall also maintain a continuing review of duties. Disputes involving the qualitative or quantitative value of tasks performed by the employees which affect the grading of a job may be appealed to the Department and/or to the Office of Personnel Management. This does not preclude the filing of a grievance where the loss of a grade is involved.

**SECTION 12.04: NOTIFICATION TO EMPLOYEES.**

Where classification audits are to be performed, advance notice of 3 workdays shall be provided to employees who are to be interviewed.

**SECTION 12.05: REPRESENTATION DURING CLASSIFICATION APPEAL DESK AUDIT.**

An employee who has filed a formal classification appeal is entitled to Union representation to assist in the preparation and presentation of the appeal or meeting with Management concerning the appeal. Classification appeals will be pursuant to 5 CFR Part 511.

Employees preparing for a desk audit will be granted a reasonable amount of preparation time, not to exceed eight (8) hours.

**SECTION 12.06: GENERAL NOTIFICATION AND INVOLVEMENT OF THE UNION.**

Management agrees to consider the Union's oral or written views concerning the classification standards and notify the Union of any action taken.

**ARTICLE 13**  
**PERFORMANCE APPRAISAL**

**SECTION 13.01: GENERAL.**

- A. This Article describes the current employee performance appraisal procedures for the Employee Planning and Evaluation System (EPPES). The performance appraisal procedures shall conform to Chapter 43 of Title 5, United States Code, Part 430 of the Code of Federal Regulations, and the Departmental Performance Management Plan for ePerformance in the Department's Performance Management System. Where the negotiated procedures in this Article differ from the Department's Performance Management System, this Article shall take precedence.
  
- B. **Union Notice of Performance Planning Meetings:** Management shall notify the Union in accordance with the procedures for formal discussions as outlined in Section 3.02 and required under Section 13.06B of the parties' Labor Management Agreement. To the maximum extent possible, management and union officials will coordinate and plan their meetings in advance to maximize union participation in Performance Planning Meetings. Notice shall be specific with regard to time, place and participants. These meetings will be held between Bargaining Unit employees, their supervisor and their union representatives, to clearly understand and develop and/or revise critical elements and standards. When the Department directs a substantive change in the performance appraisal elements and standards, it will provide additional official time to local union representatives who do not have sufficient official time to attend the performance planning meetings. Union will copy Branch Chief of Labor and Employee Relations on acknowledgement of attending meetings as soon as practicable. Management will provide with the notice to the union an advance copy of the proposed performance planning document(s) to be discussed.
  
- C. **Training:** Management shall notify the Local Union of any training for bargaining unit employees relating to Specific, Measurable, Attainable, Relevant, and Time-bound (S.M.A.R.T.) standards, the Desk Guide for all HUD Employees ("Guide Book") and the Performance Management Plan Policy and Procedures (PMP).
  
- D. **Local Bargaining:** The Local Union shall receive notification in accordance with Article 38 of the parties Labor Management Agreement regarding any changes to the PMP and/or Desk Guide.
  
- E. The Parties acknowledge that this system is, to the maximum extent feasible, designed to permit the accurate evaluation of job performance on the basis of fair and objective standards; recognize and reward employees as set forth in Article 14; provide assistance to employees in improving Minimally Satisfactory and Unsatisfactory performance; and serve as a basis for making decisions on promoting, rewarding, training, reassigning, retaining, reducing in grade, and removing employees.

- F. Critical elements and performance standards must be based on the requirements of employees' positions. Performance shall be evaluated on the basis of fair and objective standards.
- G. Employees with no prior background, experience and training in newly assigned complex work duties shall be given sufficient time to train so as to satisfactorily perform the duties.
- H. In applying performance element(s) and standards, employees' performance appraisals shall take into account all of the job functions they are expected to perform and the actual amount of time available (or not available) to perform those functions. In the application of standards to individual employees, Management shall take into account mitigating factors such as extended leave, training, and other factors. Factors beyond an employee's control to be considered may include, but are not limited to, unusual or extenuating circumstances such as availability of resources, delays attributable to others, unanticipated additional work assignments, changing priorities or high volume workloads.

### **SECTION 13.02: FUNCTION OF THE APPRAISAL SYSTEM.**

The appraisal system will (1) provide for periodic appraisals of job performance of employees to achieve accountability at all levels; (2) encourage and/or involve employee participation in establishing performance standards including the performance planning process that develops critical elements and standards tailored to the individual employee's role in accomplishing actual job performance which addresses the Department's annual goals; and, (3) strengthen communication between employees and supervisors.

### **SECTION 13.03: DEFINITIONS.**

- A. **Critical Element:** "Critical element" means a work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable. Such elements shall be used to measure performance only at the individual level.
- B. **Performance Standard:** "Performance standard" means the management-approved expression of the performance threshold(s), requirement(s), or expectation(s) that must be met to be appraised at a particular level of performance. A performance standard may include, but is not limited to, quality, quantity, timeliness, and manner of performance. Performance Review means communicating with the employee about performance compared to the performance standards of critical and non-critical elements. Performance standards shall be attainable, measurable, in writing and related to the employee's officially assigned position.



- C. **Performance Plan:** All of the written or otherwise recorded, performance elements that set forth expected performance. A plan must include all critical and non-critical elements and their performance standards.
- D. **Appraisal:** The process under which performance is reviewed and evaluated.
- E. **Rating Official:** The Rating Official is usually the immediate supervisor.
- F. **Reviewing Official:** The Reviewing Official is normally one level above the Rating Official.

#### **SECTION 13.04: COMPONENTS OF THE APPRAISAL SYSTEM.**

The performance appraisal system shall consist of:

- A. **Critical Elements:** To the maximum extent practicable, the Department will have (3) to seven (7) critical elements.
- B. **Performance Plans:** To the maximum extent feasible, performance plans shall permit the accurate evaluation of job performance on the basis of objective criteria (which may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system (5 USC § 4302(B)(1)). Performance element(s) and standards shall be applied to employees based upon objective criteria and job relatedness. In the application of elements and standards, the qualitative and quantitative goals and objectives and deadlines must have been achievable in the determination of the employee's final performance rating.
- C. **Communication of Plans:** Performance plans will be communicated to each employee at the beginning of the appraisal period. Barring exceptional circumstances, performance plans will be finalized within thirty (30) days of each appraisal period.
- D. **Continual Feedback:** In order to achieve optimum performance, the Department recognizes that continual feedback is necessary. Supervisors are encouraged to provide informal feedback at any time during the performance period. The Department agrees feedback should occur more often than the mid-year and final performance ratings.
- E. **Recognition and Reward:** The performance system will provide for recognition and rewarding employees whose performance so warrants.

### **SECTION 13.05: SMART STANDARDS AND ELEMENTS:**

- A. **SMART Standards Methodology:** Critical elements and standards in ePerformance shall be applied in a fair and equitable manner. Supervisors shall comply with the SMART Standards methodology when developing employee performance plans.
- a) **Specific:** The elements in the employee's performance plan need to clearly identify what needs to be accomplished - that is, the results that the employee is aiming towards should be the central focus of each critical element (i.e., if the goal is to complete reports, the standard should specify what milestones need to be achieved to count the report as complete).
  - b) **Measurable:** Elements should have clearly defined measures (quality, quantity, timeliness or cost-effectiveness), which will allow both the employee and the supervisor to know that the requirement has been achieved. The supervisor will communicate to the employee how the results will be determined. To maximize the value of performance measures, they must reflect accomplishments that are meaningful and important.
  - c) **Attainable:** All elements and standards must be achievable. The employee and the supervisor will discuss the work relating to the critical elements to establish a clear expectation of what must be done to achieve the results expected. In the discussion, consideration will be given to the time, tools, training, support or other resources and control factors that are necessary for the employee to perform at the required level.
  - d) **Relevant:** Critical elements and performance standards are to be aligned with the goals of the Department and the mission of the employee's organization. Critical elements must be related to a particular position, the employee's organization's Management Plan or the organization's Annual Performance Plan. Supervisors will communicate to employees how their role contributes to the success of the organization and how their critical elements support that contribution.
  - e) **Time-bound:** The employee will be made aware when the expected result is to be achieved. Critical elements should include milestones, or a schedule, and all dates should be clearly communicated so that the employee will have an understanding of what is expected and by when it is expected.
- B. **Prohibition of Absolute Standards:** Performance standards should avoid the appearance of requiring perfection rather than excellence. Standards should not be absolute, allowing no room for error.

### **SECTION 13.06: APPRAISAL CYCLE.**

- A. The appraisal period is October 1 through September 30. Management will provide the Union notice of and an opportunity to bargain any change in the appraisal cycle dates.

- B. Written critical elements and performance standards will be provided to each employee prior to holding employees accountable for the standards (normally within 30 days of the beginning of the rating period). Management agrees not to adversely impact those employees in their performance rating for the period they were working without critical elements and standards in place.
- C. When employees are detailed or temporarily promoted and the detail or temporary promotion is expected to last at least 90 days, Management shall provide written critical elements and performance standards to employees as soon as possible but no later than 30 calendar days after the beginning of the detail or temporary promotion.
- D. All employees must work under critical elements and performance standards for at least 90 days before they may be rated against such elements and standards. This applies to both permanent assignments and temporary assignments such as details or temporary promotions.
- E. Employees who have no opportunity to perform under a critical element will not be rated on that critical element.
- F. 100% Union officials who have not performed work under the performance elements will not receive a performance rating. For the purposes of RIFs where a rating of record is necessary the last rating of record will be used.

The employee has not worked under elements and standards for at least 90 days.

- G. Performance ratings must be delayed for the following reasons:
  1. The employee has not worked under elements and standards for at least 90 days.
  2. Sufficient performance information does not exist for a new supervisor who has not supervised an employee for at least 90 days or for a Reviewing Official to make a rating. In this case, the rating is delayed for 90 days.
  3. The employee has an Unsatisfactory performance action pending. The rating is given after a decision is made on the Unsatisfactory performance action. However, the rating is not necessary if the employee is removed.
  4. The employee has been demoted for Unsatisfactory performance. If the employee's rating for the year would be Unsatisfactory because he/she cannot be rated in the position to which demoted, he/she shall receive a delayed rating in the position to which demoted. This delayed rating shall be combined with the rating from the previous position(s) to arrive at the annual rating of record.

5. The employee has been performing at the Minimally Satisfactory or Unsatisfactory level and has been reassigned to another position. If the employee's performance rating for the year would be Minimally Satisfactory or Unsatisfactory because the only performance that can be rated is in the previous position(s), then he/she shall receive a delayed rating in his/her current position. This delayed rating shall be combined with the rating from the previous position(s) to arrive at the annual rating of record.
  6. The employee's overall performance is temporarily Unsatisfactory because of illness, alcoholism, or other similar reason when the supervisor, based on documentation provided by the employee, expects the employee's performance to become Fully Successful in the near future. Such documentation must be provided prior to the end of the rating period. The reason for the delay is that the supervisor expects the employee to recover or the employee has entered a rehabilitation program or given other indications of resolving the problem which led to the Unsatisfactory performance.
- H. Employees who do not receive a rating within 60 calendar days after the appraisal period ends may bring the matter to the attention of the supervisor and may follow the procedures in Article 9.
- I. An interim rating is a rating given when an employee has a permanent position change in HUD. The interim rating is not a rating of record. However, if an interim rating is the only rating given during the appraisal period, it shall become the rating of record at rating time. Interim ratings shall be communicated in writing to the employee within 30 workdays from the effective date of the permanent position change (promotion, demotion, reassignment, etc.) Such ratings shall be clearly identified as interim ratings. Interim ratings are grievable. However, interim ratings which have become the rating of record or which are part of the rating of record cannot be grieved if (1) they were grieved when they were given earlier in the appraisal period, or (2) the time limits for grieving them when they were given earlier in the appraisal period have expired.

### **SECTION 13.07: COMMUNICATIONS.**

A performance appraisal system works best when senior management, supervisors, and employees contribute to standards, communicate regularly on the status and quality of actual performance against the standards, and collaborate on the means to improve and achieve excellences in performance.

- A. The appraisal system will provide for the periodic appraisals of job performance of employees to achieve accountability at all levels;
- B. Encourage and/or invite employee participation in establishing performance standards including the performance planning process that develops critical elements and standards tailored to the individual employee's role in accomplishing the Department's annual goals; and
- C. Strengthen communication between employees and supervisors.

- D. Under limited circumstances, HR may be present at performance evaluation meetings by mutual consent of the supervisor and the employee.

**SECTION 13.08: THREE TYPES OF MEETINGS.**

Three types of meetings will normally be held during each appraisal cycle. These are (1) performance planning meetings, (2) progress review meetings, and (3) performance evaluation meetings.

**A. Performance Planning Meetings:**

Prior to the communication of performance plans, supervisors/managers shall:

- (1) Hold performance planning meetings with employees either in groups of similarly situated employees, or individually. (Participation is voluntary but highly recommended);
- (2) Provide information necessary to determine performance parameters and necessary to enable the Union to engage in full and proper discussions.

Performance planning meetings will be held at the beginning of an appraisal cycle, when there are substantive changes in critical elements or performance standards, or when employees enter a new position. The purpose of the planning meeting will be to communicate and discuss critical elements and performance standards with the employee. An electronic copy of the written critical elements and performance standards will be provided to each employee via the Department's Performance Management System at least 2 workdays in advance of the performance planning meeting. Management shall encourage and facilitate employee participation in establishing performance standards. Employees are encouraged to provide written comments to the elements and standards via the Department's Performance Management System or e-mail. If employees indicate disagreement, the supervisor shall discuss those disagreements with employees in an attempt to resolve them consistent with the principles of objective and job-related performance standards. Management, however, retains the final decision on the number and content of critical elements and performance standards. If the performance standards remain substantively unchanged from one previous appraisal cycle to the next, the performance planning meeting may be waived by written mutual consent between the employee and management.

**B. Progress Review Meetings:** The progress review meetings shall be interactive between supervisors and employees. The supervisor will provide at least three (3) workdays' notice for scheduling the meeting and will schedule the time necessary for such meetings.

- 1. Employees shall have one progress review meeting near the middle of the appraisal period if the employee has been working under a performance plan for ninety (90) days, except where 13.06.G applies. Progress review means a review of the employee's progress toward achieving the performance standards and is not in itself a rating. There is no requirement for written documentation of progress review feedback, unless the employee's

performance is determined to be below Fully Successful in any critical element. The Department's Performance Management System shall be annotated by the rating official and the employee to indicate that the meeting was held. Upon request, any notes or documentation of the discussion during the progress review meeting will be provided to the employee.

2. Upon request, employees may receive informal feedback on their performance at other times during the performance period. Supervisors are to provide continuous informal feedback throughout the performance period. The continuous feedback is an opportunity to discuss an employee's progress and any issues that may have an impact on an employee's ability to perform at an acceptable level, including, for example, attainable workload issues.

**Final Ratings:** Supervisors will request a voluntary self-assessment at least 5 workdays before the final ratings meeting.

### **C. Evaluation Meetings:**

1. The purpose of the performance evaluation meeting is to communicate the official performance rating to the employee. The Department will communicate the rating to the employee within 45 days following the end of the rating period, barring exceptional circumstances.
2. At the end of the appraisal period, the rating official makes the initial rating and sends it to the reviewing official for final approval.
3. The rating official communicates the final rating to the employee. The employee shall have 3 workdays to comment on his/her performance rating. The employee may request that his or her written comments be permanently included in the original Performance Appraisal which is maintained in the Department's Performance Management System.
4. Employees will be given written justification of all elements rated other than Fully Successful on the annual rating of record.

## **SECTION 13.09: APPRAISAL PROCESS:**

- A. The Department agrees not to adversely affect employees in their performance-appraisal ratings for the period when they were working without finalized, written elements and standards. The rating period for new or modified elements will begin at the time they are issued. Any modified or additional elements shall not be applied retroactively. Should elements and standards be revised and the newly finalized elements and standards not be available until after the rating period has commenced on October 1, the standards shall be prorated for the remaining rating period whenever practicable. Per Article 13.01(H), in the

application of standards to individual employees, Management shall take into account mitigating factors.

- B. Performance on each critical element shall be appraised according to performance standards.
- C. Provided the employee has been working under a performance plan for ninety (90) days, they shall have one (1) progress review meeting at around the midpoint in their performance appraisal period, barring exceptional circumstances (such as a program office change, employee unavailability due to extended leave, natural disasters, furloughs). Any performance appraisal of less than fully successful must be accompanied by written feedback from the employee's rating and/or reviewing officials. The meeting shall be face to face if the employee and supervisor are located in the same office, otherwise the meeting will be conducted telephonically.
- D. The employee may submit self-assessments to the supervisor at any time during the performance period (e.g. monthly, quarterly, mid-year, etc.). The employee's self-assessment shall be voluntary. The Department shall provide guidance to the employee on preparing self-assessments and using the system. The Department shall not alter an employee's self-assessment. The Department shall provide employees no less than five (5) work days to insert their self-assessment for mid-year and final approvals. Employees who submit a self-assessment should expect that it will be seriously considered. For the annual summary rating, employees can request a pre-rating one-on-one meeting with their supervisor prior to proposing the initial rating. The self- assessment does not relieve the rating official of the responsibility for preparing a fair and thorough performance assessment. The rating official should be aware of the accomplishments of the employee throughout the performance period.
- E. Critical elements shall be used to measure performance only at the individual level. Critical elements that assess team performance shall evaluate individual performance of team-members; however, critical elements that assess overall team performance are not appropriate for individual performance appraisals of bargaining unit employees. Team is defined as a part of a group of people (which may include management, bargaining unit and/or non-bargaining unit) engaged in a common mission collaborating on projects for a common goal.
- F. If the performance appraisal is not furnished to the employee within thirty (30) days following the end of the rating period, the rating may not be used in a manner that adversely affects the employee until the rating has been shared with the employee. Any material that may have an adverse effect on an employee's appraisal or rating that is not shared with the employee will be removed from any official records and destroyed.
- G. Critical elements will be based on major duties in an employee's position description.

### **SECTION 13.10: RATING LEVELS.**

- A. Critical Elements Rating:** Each critical element shall be evaluated according to one of the following five Performance levels: “Level 5”, “Level 4”, “Level 3”, “Level 2” & “Level 1”. This new numerical system replaces, respectively, the former ratings of “Outstanding”, “Excellent”, “Fully Successful”, “Minimally Successful” and “Unsatisfactory”.
- B. Critical Element Rating Definition for Rating “Level 5” (Outstanding):** Rating “Level 5” means that the Job performance meets the performance standards established for the “Level 5” level.
- C. Critical Element Rating Definition for Rating “Level 4” (Excellent/Highly Successful):** Rating “Level 4” means that the Job performance exceeds the performance standards established for the “Level 3” level but does not meet the performance standards for the Level 5 (Outstanding).
- D. Critical Element Rating Definition for Rating “Level 3” (Fully Successful):** Rating “Level 3” means that the Job performance meets the performance standards established for the “Level 3” level.
- E. Critical Element Rating Definition for Rating “Level 2” (Minimally Successful):** Rating “Level 2” means that the Job performance exceeds the performance standards established for the “Level 1” level (Unacceptable) level, but does not meet the performance standards for Level 3 (Fully Successful).
- F. Critical Element Rating Definition for Rating “Level 1” (Unacceptable):** Rating “Level 1” means that the Job performance meets the performance standards established for the “Level 1” level.

### **SECTION 13.11: FINAL PERFORMANCE RATING SCORES AND CALCULATION.**

Summary Rating is determined by five Levels:

- Level 5 = formerly “Outstanding”
- Level 4 = formerly “Excellent”
- Level 3 = formerly “Fully Successful”
- Level 2 = formerly “Minimally Satisfactory”
- Level 1 = formerly “Unsatisfactory”



<b>Element Ratings Summary Ratings (for Handbook 430)</b>	
One or more elements rated Level 1	Level 1
No elements rated Level 1 and two or more elements rated Level 2.	Level 2
One element rated Level 2 and all remaining elements are rated Level 3 or above.	Level 3
No element rated Level 1 or Level 2, i.e., all elements rated Level 3 or higher.	per Rating Calculation Table below

Points are assigned as follows:

- a. Level 5 = 3 points
- b. Level 4 = 2 points
- c. Level 3 = 1 points

Convert averages to summary rating:

<b>RATING CALCULATION</b>	<b>low range</b>	<b>high range</b>
Level 5	2.75	3.00
Level 4	1.80	2.74
Level 3	Less	1.79

**SECTION 13.12: SPECIAL RATINGS.**

A. Special ratings are ratings given in the following situations:

- 1. The decision to approve or deny a within-grade increase is inconsistent with the last rating of record;
- 2. The last rating of record is too old to support a within-grade increase determination; and
- 3. A within-grade increase determination must be made after an employee is demoted or reassigned for Unsatisfactory performance, but before the time to give the next annual rating of record has arrived.

B. Special ratings are recorded on Form HUD 8054.3, Special Rating.

C. In addition to being used for within-grade increase determinations, special ratings can also be used for career-ladder promotion determinations if they are the most recent rating of record. Special ratings are not used for reduction-in-force purposes or for award determinations.

- D. When a special rating of record is given to support a within-grade increase determination, the critical elements and performance standards that were in effect prior to the special rating remain in effect until the end of the appraisal period. The annual rating of record at the end of the appraisal period includes both:
  - 1. The period of time from the original communication of the critical elements and performance standards to the date of the special rating; and
  - 2. The period of time from the date of the special rating to the end of the appraisal period.

**SECTION 13.13: PERFORMANCE IMPROVEMENT PLANS.**

- A. Performance Improvement Plan (PIP) refers to feedback which is informal and is not part of the formal process that can result in removal, demotion, or reassignment. Performance Improvement Plans are given to employees whose performance is at the Minimally Satisfactory level. Performance Improvement Plans are not disciplinary actions and shall be used only to assist employees in improving their performance. While under the Performance Improvement Plan, the employee may request in writing (at the midpoint – approximately at 45 days) a current written determination of his or her performance level and whether the Performance Improvement Plan is still in effect. The supervisor will then provide a written response.
- B. A Performance Improvement Plan shall identify the critical elements that are Minimally Satisfactory, the performance deficiencies, and ways the employee may improve performance. Supervisors shall provide appropriate verbal and/or written feedback, technical assistance or training, as needed, to assist the employee in improving performance, and have regular meetings throughout the PIP.
- C. If, at any time during the rating period, performance is determined to be Unsatisfactory in any critical element, the procedures in Article 18 will be followed.
- D. A Performance Improvement Plan (PIP) shall clearly define the start and end dates. A PIP may not be automatically extended. Management will provide a written legitimate business explanation for any extensions. The supervisor shall issue a new PIP for the subsequent rating cycle if performance is still Minimally Satisfactory.
- E. In an event that an employee is put on an Opportunity to Improve Plan (OIP), Management agrees to strongly consider placing the employee first on a PIP with an opportunity to cure any deficiencies.
- F. At the employee's discretion, the union will be invited to attend the meeting where the employee is given the OIP.

**SECTION 13.14: MATTERS EXCLUDED FROM THE GRIEVANCE PROCEDURE.**

- A. Employees cannot grieve progress review meetings.
- B. Although employees may grieve their performance ratings, they cannot grieve the substance of their critical elements and performance standards.
- C. Employees cannot grieve a Performance Improvement Plan.

## ARTICLE 14

### INCENTIVE AWARDS PROGRAM

#### **SECTION 14.01: GENERAL.**

The Parties agree that substantial benefits and enhanced productivity accrue to the Department when an Incentive Awards Program is developed and maintained to recognize the achievements of employees. Management, therefore, shall conduct an Incentive Awards Program for the purpose of recognizing those employees whose performance or contribution exceeds normal expectations for the positions that they occupy.

#### **SECTION 14.02: PERFORMANCE AWARDS.**

- A. All employees who have received an Outstanding (Level 5) or Excellent (Level 4) performance rating (or equivalent ratings under the performance rating system in use at the time of rating) for the year shall be eligible for:
  - 1. A quality step increase (applies only to Outstanding (Level 5) ratings); or
  - 2. A cash award of up to 3 percent of the entrance level salary of the employee's grade for the period which the award covers rounded to the nearest \$5.
- B. Each year Management shall determine, based upon the funds provided to the Department, whether said awards shall be granted and the amount thereof.
- C. The type of award given will be determined by Management.
- D. Management shall process the award granted so that employees will have the bonus payment no later than December 25<sup>th</sup> or within 3 pay periods following the allocation of performance award funds.
- E. Management shall provide the Union with the performance awards amounts for Outstanding (Level 5) and Excellent (Level 4) ratings by grade level that it normally maintains for each rating period, upon request.

**SECTION 14.03: AWARDS FOR SPECIAL ACTS OF SERVICE.**

Employees who achieve superior accomplishments on a special project, assignment, act or task may be considered by Management for an award for special acts of service. Special acts of service mean a contribution or accomplishment in the public interest which is (1) a non-recurring contribution either within or outside of job responsibilities; (2) a scientific achievement; or (3) an act of heroism. An award based on these criteria may be given to an individual or to a group of individuals.

**SECTION 14.04: MONETARY SPOT AWARDS.**

- A. Monetary Spot Awards provide immediate feedback and special recognition of employees who make an extra effort to perform their duties in an exemplary manner. Monetary Spot Awards are not a substitute for Performance Awards.
- B. Examples of employee achievement include: (a) producing exceptionally high quality work under tight deadlines; (b) performing added assignments in addition to regular duties; (c) improving customer service to the public or his/her colleagues; (d) exercising extraordinary initiative or creativity in addressing a critical need or difficult problem; (e) achievement on a standing or ad hoc committee such as Combined Federal Campaign, Special Emphasis Program, Health and Safety Committee, etc.
- C. Individual employees at GS-15 and below, or Wage Grade equivalent, and groups of no more than ten employees are eligible for a Spot Award.
- D. An employee may not receive more than three spot awards in the same fiscal year.
- E. The mere granting or failure to grant a Spot Award, or the award amount, are not grievable.

**SECTION 14.05: AWARDS OF AN HONORARY NATURE.**

Employees may also be considered by Management for the Department's Honorary Awards Program as well as outside awards.

**SECTION 14.06: CRITERIA FOR GRANTING AWARDS.**

The methodology used by Management to establish and give awards under this Article shall be developed and applied in a fair and equitable manner. Use of annual or sick leave will not be a consideration in assessing employee qualifications for an award.

**SECTION 14.07: PROMPT PRESENTATION OF AWARDS.**

Recognizing that awards are most effective when presented as promptly as possible after the performance or act that is being recognized, Management agrees to make awards presentations as promptly as possible after the decision is made by Management to grant an award.

**SECTION 14.08: INFORMATION.**

Upon request, the Union will be provided with statistical data and budget information concerning the awards program that Management normally maintains, which is reasonably available, and the disclosure of which is not prohibited.

**ARTICLE 15**  
**WITHIN-GRADE INCREASES**

**SECTION 15.01: GENERAL.**

Within-grade increases will be granted in accordance with applicable law and regulations upon meeting the following requirements:

- A. The employee's performance must be at an acceptable level of competence (i.e., the most recent rating of record must be at least Fully Successful);
- B. The employee must have completed the required waiting period; and
- C. The employee must not have received an equivalent increase during the waiting period.

**SECTION 15.02: APPRAISAL.**

If the decision to grant, deny, or delay a within-grade increase (WGI) is not supported by the most recent rating of record, the employee shall receive a new rating. In order to receive a rating of record, the employee must have worked under the performance plan for at least 90 days. Performance ratings which are not the annual rating of record and which are given solely to support WGI determinations are called special ratings. Special ratings are documented on Form HUD-8054.3 (4/90) or revision.

**SECTION 15.03: DELAY OF WITHIN-GRADE INCREASES.**

- A. A within-grade increase determination must be delayed when:
  - 1. An employee has not worked under a performance plan (elements and standards) for 90 days in his or her current position and the employee has not been given a performance rating in any position within 90 days before the end of the waiting period; or
  - 2. An employee is reduced in grade because of Unacceptable (Unsatisfactory) performance to a position in which he or she is eligible or will become eligible for a within-grade increase within 90 days.
- B. When a within-grade increase determination is delayed, the employee must be informed in writing of:
  - 1. The decision that his/her within-grade increase is being postponed and the rating period will be extended;
  - 2. The reason for the postponement;

3. The specific requirements for performance at an acceptable level of competence. (If the employee does not have a performance plan, he/she shall be given a plan); and
4. That if a subsequent determination is made that the employee's performance is at an acceptable level of competence, the within-grade increase shall be granted retroactively to the beginning of the pay period following completion of the applicable waiting period.

**SECTION 15.04: NOTIFICATION OF INTENT TO DENY.**

- A. At least 60 days prior to the date that an employee is eligible to receive a within-grade increase, if the employee's performance is not at an acceptable level of competence and the employee is not currently covered by an Opportunity to Improve Notice or Performance Improvement Plan (PIP), the employee's supervisor shall notify the employee in writing as to the following:
  1. Those critical elements and performance standards of the employee's performance in which the employee is deficient and the measurable and demonstrable extent of the deficiency;
  2. Any instances, specifically described, which support the alleged deficiencies;
  3. Assistance which shall be offered to enable the employee to improve his/her performance so as to meet the requirements specified for the position; and
  4. That the employee's within-grade increase may be denied unless sustained improvement to an acceptable level of competence is shown within 60 days.
- B. If Management does not give 60 days advance notice and the within-grade increase is denied, the agency shall make a redetermination of the employee's acceptable level of competence not later than 30 days after the date on which the employee completed the required waiting period. If the redetermination indicates that the employee's performance is at an acceptable level of competence, the within-grade is granted effective the first day of the first pay period beginning on or after the redetermination. In the event that a supervisor failed to make the negative determination in the personnel records before the anniversary date to deny a Within Grade Increase, the Within Grade Increase shall be effected.

**SECTION 15.05: DENIAL OF WITHIN-GRADE INCREASE (NEGATIVE DETERMINATION).**

As soon as possible after the completion of the waiting period, when Management determines that an employee's performance is not at an acceptable level of competence, a negative determination shall be communicated to the employee in writing and shall contain the following:

- A. Statement of denial of within-grade increase;



- B. Reasons for the negative determination and the respects in which the employee must improve his or her performance in order to be granted a within-grade increase;
- C. Employee's right to request reconsideration of the negative determination by filing, not more than 15 days after receipt of the negative determination, a written response setting forth the reasons that Management should reconsider the determination. An extension of time to request reconsideration may be granted upon receipt of a written request from the employee or his/her representative in accordance with 5 CFR 531;
- D. Name of reconsideration official to whom the request should be sent;
- E. Employee's right to contest the basis for the negative determination in person and in writing;
- F. Employee's right to a representative in presenting the request to the reconsideration official, including the right to Union representation; and
- G. Statement that the employee in a duty status has the right to a reasonable amount of official time (normally up to 8 hours) to review the material and prepare the request for reconsideration.

**SECTION 15.06: RECONSIDERATION OF NEGATIVE DETERMINATION.**

- A. When an employee files a written request for reconsideration within 15 days after receiving notice of the negative determination, Management shall respond within 15 days, unless the parties mutually agree to an extension, and establish a reconsideration file to include copies of:
  - 1. Written negative determination and supporting documents;
  - 2. Employee's written request for reconsideration;
  - 3. Report of investigation if one was made;
  - 4. Written summary or transcript of any personal presentation; and
  - 5. Decision (including the basis for the decision) of the reconsideration official.
- B. The file shall be retained and made available to the employee and his/her designated representative.

**SECTION 15.07: WAIVER OF REQUIREMENT FOR DETERMINATION.**

An acceptable level of competence determination shall be waived and a within-grade increase granted when an employee has not served in any position for 90 days during the final 52 calendar weeks of the waiting period for one of the following reasons:

- A. Because of absences that are creditable service in the computation of the waiting period under 5 CFR §531.406;
- B. Because of paid leave;
- C. Because the employee received service credit under the back pay provisions of 5 CFR part 550;
- D. Because of details to another agency or employer for which no rating has been prepared;
- E. Because the employee has had insufficient time to demonstrate an acceptable level of competence due to authorized activities of official interest to the agency not subject to appraisal under 5 CFR part 430; or
- F. Because of long-term training.

**SECTION 15.08: EFFECTIVE DATES.**

- A. When a within-grade increase has been withheld, Management may, at any time thereafter, prepare a new rating of record for the employee and grant the within-grade increase when it determines that the employee has demonstrated sustained performance at an acceptable level of competence. However, Management shall determine whether the employee's performance is at an acceptable level of competence after no more than 52 calendar weeks following the original eligibility date for the within-grade increase. For as long as the within-grade increase continues to be denied, determinations will be made at least every 6 months.
- B. A within-grade increase shall be effective on the first day of the first pay period following completion of the required waiting period and in compliance with the conditions of eligibility.
- C. When an acceptable level of competence is achieved at some time after a negative determination, the effective date is the first day of the first pay period after the acceptable determination has been made.
- D. In the event that management determines that the employee met the Within Grade Increase criteria, but management failed to process a within grade increase in a timely manner, the agency will initiate the step increase retroactive to the date it was due and will provide the affected employee with retroactive back-pay.

**SECTION 15.09: APPLICATION OF ARTICLES 9 AND 18.**

If Management's negative determination is sustained after reconsideration, the employee or designated representative may file an appeal to the Merits System Protection Board in accordance with 5 CFR 531.410; 5 U.S.C. 5335(c).

## **ARTICLE 16 DISCIPLINE**

### **SECTION 16.01: GENERAL.**

- A. The purpose of discipline is to correct and improve employee behavior so as to promote the efficiency of the Federal service. Employees shall be subject to disciplinary action only for just and sufficient cause. Investigations and disciplinary actions shall be timely. Timeliness shall be based upon the circumstances and complexity of each case.
- B. Management agrees to apply a policy of progressive discipline in a fair and equitable manner. In determining appropriate disciplinary action, Management shall consider all relevant factors, including testimony or evidence which is favorable to the employee. Management will analyze written reprimands and suspensions in the context of the Douglas Factors to determine which factors apply, and management will document the Douglas Factor analysis for suspensions covered under this Article.
- C. Management may engage in an oral admonishment before applying progressive discipline to informally persuade the employee to correct or to improve behavior. An oral admonishment is part of the continuous communication interaction between the employee and the supervisor. An oral admonishment is not considered disciplinary action. It cannot be grieved by the employee nor relied upon as a disciplinary offense by Management in any disciplinary action, but it can be referenced in the Douglas Factors.
- D. In no instance will any supervisor or management official coerce, intimidate, or otherwise discourage employees from exercising any rights under this Article.

### **SECTION 16.02: DEFINITIONS.**

For purposes of this Article, definitions are as follows:

- A. **Oral Admonishments.** Verbal admonition of an employee by a supervisor, in private, of which no written record is issued to the employee.
- B. **Written Admonishment.** Admonitions which are recorded and issued to an employee to call misconduct to the attention of the employee. Such admonishments are not filed in the employee's Official Personnel Folder.

- C. **Reprimand.** A written notice to an employee which sets forth specific actions of misconduct by the employee which are of such a serious nature that lesser corrective action would not be effective. Reprimands are filed in the Official Personnel Folder.
- D. **Suspension of 14 calendar days or less.** The placement of an employee for disciplinary reasons for 14 calendar days or less without duties and pay.

### **SECTION 16.03: REPRESENTATION.**

- A. At any point in the disciplinary process, including meetings, an employee may be represented by an attorney, Union, or other representative. The employee will designate the representative in writing. The written designation may be done electronically. Designation of union representation may be made via email by copying the union representative.
- B. If an employee reasonably believes that an investigatory meeting with a Management official may result in disciplinary action against the employee, he/she shall have the right to be represented by the Union. When management schedules an investigatory (Weingarten) meeting, the supervisor will notify the employee of his/her right to have union representation. If the employee requests such representation, Management shall suspend the meeting for a reasonable period of time and the employee shall immediately inform the Union and request representation, or if the meeting is not suspended, Management may cancel the meeting or the employee may choose to proceed with the meeting without a representative.
- C. Notices of proposed suspension shall advise the employee that if he/she desires assistance in preparing a response to the proposed suspension, he/she may contact a Union representative. Reprimands shall advise employees that they may contact a Union representative to assist them in preparing a grievance.
- D. Management shall provide annual notice to employees of their right to union representation (Weingarten Rights) and will post such notice on official bulletin boards.

### **SECTION 16.04: UNION NOTIFICATION.**

The Union will be provided notices that a suspension of 14 calendar days or less has been proposed, with identification of the employee, a general statement of the charges, proposed action and subsequent decision. Upon request, the Union will be provided an unsanitized copy of the proposal letter and an unsanitized copy of the decision letter for suspensions covered under this

article upon designation of representation, and Management shall provide the additional supporting documentation upon request from the Union.

**SECTION 16.05: ADMONISHMENTS.**

Oral admonishments and written admonishments are not considered disciplinary actions and cannot be relied upon as a disciplinary offense by Management in any subsequent disciplinary or adverse action, but it can be referenced in the Douglas Factors. The purpose of oral admonishments and written admonishments are to warn an employee of misconduct and violation of Agency regulations, policies, rules or procedures and to meet the first step of progressive discipline. Therefore, these actions may not be grieved.

**SECTION 16.06: REPRIMANDS.**

- A. Reprimands shall be in writing and shall advise the employee that he/she has a right to file a grievance on the matter.
- B. A copy of the reprimand will be placed in the employee's Official Personnel Folder (OPF) for a period specified in the reprimand of 1 to 2 years. The reprimand may be removed from the OPF in less than the stated time period if Management determines that it has had the desired effect on the employee.

**SECTION 16.07: SUSPENSIONS OF 14 DAYS OR FEWER.**

If Management proposes to suspend an employee for 14 calendar days or fewer, the following procedures shall apply:

- A. An employee may be suspended for such cause as will promote the efficiency of the service, including, but not limited to discourteous conduct to the public confirmed by an immediate supervisor's report of four such instances within any one year period or any other pattern of discourteous conduct (5 USC 7503a).
- B. Management shall provide the employee with at least 21 calendar days advance written notice prior to the effective date of the suspension, stating the specific reasons for the proposed action so as to enable the employee to prepare a response.

- C. In addition to the notice provided in Subsection B above, Management shall provide the employee with a complete copy of all documentation relied upon to support the proposed action, which includes the names of all witnesses involved in supporting the charges. Upon request, the Union shall be provided an unsanitized copy of the proposal letter and an unsanitized copy of the decision letter for suspensions covered under this article upon designation of representation, and the Agency shall provide the additional supporting documentation upon request from the Union.
- D. Upon receipt of the official notice of proposed suspension, the employee shall have 21 calendar days to respond to the proposed suspension. The notice shall advise the employee that the response may be oral or in writing or both. The 21 calendar day time limit shall be extended by the Deciding Official upon receipt of a written justification of need and determination by the Deciding Official that such justification is reasonable. Any request for an extension must be made within the initial 21 calendar day period.
- E. If the employee makes an oral response, the response must be received by the Deciding Official within the 21 calendar days. The oral response may be presented at a private meeting between the employee, his/her representative if any, and the Deciding Official, if the Deciding Official is co-located. If the Deciding Official is outside the employee's Field Office, the oral response may be presented by telephone or video conference. Other parties may attend the oral response presentation only by mutual consent.
- F. The notice of proposed suspension shall also advise that the employee is entitled to a reasonable amount of official time. "Reasonable" is defined as whatever is appropriate under the circumstances in order to allow a complete presentation of the relevant information. The actual number of hours to which the employee and his/her representative are entitled will vary, depending on the nature and complexity of the disciplinary action.
- G. Management shall provide the employee with a final written decision on the proposed suspension, which shall address the relevant evidence provided by the employee. The final, written decision shall include specific reasons for the decision and be rendered within 21 days of receiving the employee's response, if any, and shall include a statement of appeal rights. If Management determines that further investigation is necessary, the time limit for issuance of the decision shall be extended. The employee shall be notified of such an extension and shall continue to be notified at thirty (30) day intervals thereafter. The decision shall be made by a management official at or above the level of the official who proposed the action.

- H. Management may hold in abeyance suspensions of fourteen (14) days or less. Such a hold shall last no longer than sixty (60) days from the date of issuance. The suspension, the hold, or both may be withdrawn at any time. Disciplinary actions which have been held may be considered in any subsequent disciplinary action or proceeding. A proposed suspension shall not be implemented until after a final decision has been provided to the employee and the Union.
- I. Suspensions of 14 days or less that are more than two (2) years old shall not be considered as a prior disciplinary offense for determining the penalty of a subsequent disciplinary action, unless the offense was egregious.
- J. Management agrees not to discuss suspensions with a prospective employer for an employment reference check.
- K. Indefinite suspensions have different timeframes and are covered under OPM regulations at 5 CFR 752.404(d))

**SECTION 16.08 APPEAL RIGHTS.**

- A. After the date of receipt of the decision notice or reprimand by the employee, the employee may file a grievance with the Deciding Official in accordance with Article 9, Grievance Procedures.
- B. As the initial steps of the negotiated grievance procedure may be duplicative, the Union may elect to take the matter to the final step of the negotiated grievance procedure, Arbitration.



**ARTICLE 17  
ADVERSE ACTIONS**

**SECTION 17.01: GENERAL.**

- A. An adverse action for the purpose of this Article is defined as a removal, a suspension for more than 14 calendar days, a reduction in grade, a reduction in pay, or a furlough of 30 calendar days or less.
- B. An adverse action will be taken only for such cause as will promote the efficiency of the service. Employees shall be subject to adverse actions only for just and sufficient cause. Investigations and adverse actions shall be timely. Timeliness shall be based upon the circumstances and complexity of each case.
- C. The adverse action process will be fair and equitable. In determining appropriate adverse actions, Management shall consider only relevant factors, including testimony or evidence which is favorable to the employee. Management will analyze employee misconduct in the context of the Douglas Factors to determine which factors apply. Management agrees to apply a policy of progressive discipline in a fair and equitable manner designed to correct and improve employee behavior.
- D. In no instance will any supervisor or Management official coerce, intimidate, or otherwise discourage employees from exercising any rights under this Article.

**SECTION 17.02: DEFINITIONS.**

Adverse action definitions are as follows:

- A. **Suspension.** The placement of an employee for disciplinary reasons in a temporary status without duties and pay for 15 calendar days or more.
- B. **Reduction in Grade or Pay.** The involuntary assignment of an employee to a position at a lower classification or job grading level.
- C. **Furlough of 30 Calendar Days or Less.** The placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons (see Article 34 for Furloughs of 30 days or less).
- D. **Removal.** The involuntary separation of an employee from employment with the Department for misconduct reasons.

**SECTION 17.03: EXCLUSION.**

This Article does not apply to a reduction in grade or removal based upon Unacceptable (Unsatisfactory) performance as defined in 5 USC 4303. Unacceptable (Unsatisfactory) performance actions are contained in Article 18.

**SECTION 17.04 REPRESENTATION.**

- A. At any point in the disciplinary/adverse action process, including meetings, the employee may be represented by an attorney, the Union or another representative. The employee will designate the representative in writing.
- B. If an employee reasonably believes that an investigatory meeting with a Management official may result in an adverse action against the employee, he/she shall have the right to be represented by the Union. The employee may request Union representation at any time during the meeting. In such case, the employee shall immediately inform the Union and request representation. If a Union representative is unavailable: 1) the employee may proceed without representation, or 2) the meeting will be canceled, or 3) the meeting will be delayed for a reasonable period of time until the Union representative is available.
- C. Notices of proposed adverse actions shall advise the employee that if he/she desires assistance in preparing a response to the proposed adverse action, he/she may contact a Union or other representative.

**SECTION 17.05: UNION NOTIFICATION.**

The Union will be provided (1) notice that an adverse action has been proposed, with identification of the affected employee, a general statement of the charge(s), and proposed action and (2) notice of subsequent decision. Upon request, the Union will be provided an unsanitized copy of the proposal letter and an unsanitized copy of the decision letter for adverse actions covered under this article upon designation of representation, and Management shall provide the additional supporting documentation upon request from the Union.

**SECTION 17.06: PROCEDURES.**

- A. Management will provide at least 30 calendar days advance written notice of the proposed action before the effective date of the adverse action, including the basis for the proposed action with sufficient specificity so as to enable the employee to prepare a response.

- B. Included with the advance notice, Management shall provide the employee and, if designated, the Union or other representative with all documentation relied upon to support the proposed action. Management shall provide the names of witnesses relied upon to support the charge(s), upon request. Addresses and telephone numbers of non-HUD witnesses relied upon to support the charge(s) will be provided if available.
- C. Upon receipt of the official notice of proposed adverse action, an employee shall have 21 calendar days to respond to the proposed action. The notice shall advise the employee that the response may be oral or in writing, or both. The employee's response may include any statement or material the employee believes is relevant to defending against the proposed action. The 21 calendar day time limit may be extended by the Deciding Official upon receipt of a written reasonable justification of need. This request for additional time must be made within the 21 day period.
- D. If the employee makes an oral response, the response must be received by the Deciding Official or designee within the 21 calendar day response period. The oral response may be presented to the Deciding Official, or designee, in person. The oral response presentation may be attended by the Deciding Official or designee, the employee, the Union and a technical advisor (Union steward or NFFE National staff) or other representative, and a person appointed by the Deciding Official to prepare a written summary of the oral presentation, as the Deciding Official determines necessary. A copy of the written summary will be provided to the employee. Other parties may attend the oral response presentation only by mutual consent. If the designee is not the Deciding Official, the recommendation of the designee will be provided in writing to the Deciding Official and the employee will be provided a copy.
- E. The notice of proposed adverse action shall advise the employee that he or she is entitled to a reasonable amount of official time. "Reasonable" is defined as whatever is appropriate under the circumstances in order to allow a complete presentation of the relevant information. The actual number of hours to which the employee and his/her representative are entitled will vary, depending on the nature and complexity of the disciplinary action. The supervisor of the employee authorizes when the official time may be used.
- F. Management shall provide the employee with a written decision on the proposed adverse action, which shall include the specific reasons for the decision, within twenty-one (21) days of the receipt of the employee's response, or after the expiration of the twenty-one (21) day response period if the employee does not respond. The decision shall be made by a management official at or above the level of the official who proposed the action. If Management determines that further investigation is necessary, the time limit for issuance

of the decision shall be extended. The employee shall be notified of such an extension and shall continue to be notified at thirty (30) day intervals thereafter. The decision notice shall include a statement of appeal rights.

- G. Indefinite suspensions have different timeframes and are covered under OPM regulations at 5 CFR 752.404(d)).

#### **SECTION 17.07: SUSPENSION RECORD.**

- A. Normally, adverse action suspensions that are more than three (3) years old shall not be considered as a prior offense for determining the penalty of a subsequent adverse action, unless the offense was egregious.
- B. Management agrees not to discuss suspensions with a prospective employer for an employment reference check.

#### **SECTION 17.08: LAST CHANCE AGREEMENT.**

If proposed, a Last Chance Agreement (LCA) is an offer by management to create a contract between an employee and the Department in which the Department agrees to hold an adverse action decision in abeyance, in exchange for:

- A. an employee's commitment to a certain set of behaviors or conditions for a set period of time
- B. an employee's waiver of their appeal rights.
- C. If the employee fails to fulfill the terms of the agreement, the penalty is effectuated.
- D. Upon satisfaction of the terms and conditions of the LCA, the adverse action decision shall be revoked and no record of the decision shall remain in any system of records.

The effective period of a LCA will not exceed two (2) years, but at management's discretion may be for a shorter period of time. The Union will be notified when an employee is offered a LCA.

#### **SECTION 17.09: APPEAL RIGHTS.**

- A. The employee may appeal an adverse action to the Merit Systems Protection Board (MSPB) or file a grievance under Article 9, but not both. Within 30 calendar days of the effective date of the action, the employee may appeal the adverse action to MSPB or, within 45

calendar days of receipt of the decision notice, the employee may file a grievance under the negotiated grievance procedure in Article 9.

- B. If the employee elects not to appeal the matter to MSPB or file a grievance, the Union may invoke arbitration within 20 workdays of receipt of the notice of decision or receipt of a final rejection at the last step of the grievance procedure.
- C. If an employee believes the adverse action to be based in whole or in part on discrimination on the basis of race, age, sex, national origin, color, religion, or handicap, he/she may:
  - 1. File a grievance under the negotiated procedures contained in Article 9 of this Agreement;
  - 2. Initiate an EEO complaint through the Department's discrimination complaint process;  
or
  - 3. File a mixed case appeal with MSPB.

**ARTICLE 18**  
**UNACCEPTABLE (UNSATISFACTORY/LEVEL 1) PERFORMANCE ACTIONS**

**SECTION 18.01: GENERAL.**

- A. This Article applies to reduction in grade and removal of employees based solely on performance at the Unacceptable (Unsatisfactory) Level 1, in accordance with 5 CFR 432 and 5 USC 4303 and 4305.
  
- B. This Article does not apply to an action based in whole or in part on misconduct; a reduction in grade or removal of an employee who is serving a probationary period or trial period under an initial appointment; or discharge of employees serving on temporary appointments; and other actions as specified in 5 CFR 432.

**SECTION 18.02: DEFINITIONS.**

- A. **Critical Element.** A work assignment or responsibility of such importance that Unacceptable (Unsatisfactory/Level 1) performance on the element would result in a determination that an employee's overall performance is Unacceptable (Unsatisfactory).
  
- B. **Opportunity to Demonstrate Acceptable Performance.** A reasonable chance (opportunity) for the employee whose performance has been determined to be Unacceptable (Unsatisfactory/Level 1) in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue.
  
- C. **Acceptable Performance.** Performance that meets an employee's performance requirement(s) or standard(s) at a level of performance above Unacceptable (Unsatisfactory/Level 1) in the critical element(s) at issue.
  
- D. **Reasonable Time to Demonstrate Acceptable Performance.** An amount of time commensurate with the duties and responsibilities of the employee's job which is sufficient to allow the employee to show whether he/she can meet minimum performance standards.
  
- E. **Reduction in Grade.** The involuntary assignment of an employee to a position at a lower classification or grade level.

- E **Removal.** The involuntary separation of an employee from employment with the agency except when taken as a reduction-in-force action. The required standard to find that an unacceptable performance action is merited is “substantial evidence.”
- F **Unacceptable (Unsatisfactory/Level 1) Performance.** Performance of an employee that fails to meet established performance standards in one (1) or more critical elements of such employee's position.

### **SECTION 18.03: PROCEDURES.**

**Prior to Determining Acceptable Performance.** The Department and the employee have the interest in maintaining or improving performance in the employee's current position through on-going performance communication. This is encouraged throughout the performance cycle prior to a PIP/OIP being issued. Serious declines in performance should be addressed at the earliest detection.

- A. At any time during the performance appraisal cycle that an employee's performance is determined to be Unacceptable (Unsatisfactory/Level 1) in one or more critical elements, Management shall provide an Opportunity to Improve Notice to the employee. Supervisors who are contemplating issuing an Opportunity to Improve Notice for Unacceptable (Unsatisfactory/Level 1) performance are encouraged to informally advise the affected employee of perceived problems so that he or she may take immediate steps to improve performance. The Opportunity to Improve Notice shall incorporate the following:
  - 1. Notification of the critical element(s) for which performance is Unacceptable (Unsatisfactory/Level 1);
  - 2. Examples of how the employee's performance was Unacceptable (Unsatisfactory/Level 1) in the critical element(s) at issue;
  - 3. The performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance in his or her position;
  - 4. Notification that unless his or her performance in the critical element(s) at issue improves to and is sustained at an acceptable level, the employee may be reduced in grade or removed;
  - 5. A specified reasonable period of time (to include a specific start and end date, but not less than 30 days) for the employee to demonstrate acceptable performance in the critical element at issue, commensurate with the duties and responsibilities of the employee's position;

6. Assistance offered to the employee in improving Unacceptable (Unsatisfactory/Level 1) performance, such as, training, close supervision, frequent meetings with the employee and counseling; and
  7. An opportunity for the employee to provide suggestions for assistance in improving his/her performance. If the employee provides suggestions for additional assistance to be provided during the opportunity period, the employee shall promptly provide specific and relevant suggestions in writing to the supervisor, normally within 1 week of receipt of the Opportunity to Improve Notice.
- B. At the employee's discretion, the union will be invited to attend the meeting where the employee is given the OIP.
  - C. The supervisor shall assist the employee to the maximum extent feasible to improve the performance to an acceptable level.
  - D. Training may be an integral component of the supervisor's responsibility to improving employee's performance. If there are multiple employees in the same or similar position that resulted in minimal performance, a determination needs to be made if there was a training deficiency.
  - E. If, after being given the opportunity to demonstrate acceptable performance and provided assistance to improve, the employee's performance continues to be Unacceptable (Unsatisfactory/Level 1) on one or more critical elements, Management may initiate reduction in grade or removal, subject to the provisions of 5 CFR 432 and 5 USC 4303 and 4305. Management may consider reassignment in lieu of initiating action under 5 CFR 432 and 5 USC 4303 and 4305. Management will provide written notice to the employee if performance has improved to an acceptable level.
  - F. **Notice of Proposed Reduction in Grade or Removal.** An employee for whom reduction in grade or removal for Unacceptable (Unsatisfactory/Level 1) performance is proposed is entitled to:
    1. Thirty days advance written notice of the proposed action that identifies both the specific instances of Unacceptable (Unsatisfactory/Level 1) performance on which the proposed action is based and the critical element(s) of the employee's position involved. Management shall provide to the employee all documentation relied upon to support the proposed action. Management shall also provide to the Union a written notice with a summary of the proposed action. Only instances of Unacceptable (Unsatisfactory/Level 1) performance which occurred during the one year period ending on the date of the proposal notice may be used as the basis for an action.



2. The right to reply to the proposal orally and/or in writing within 21 calendar days after receipt of the proposal notice. Any factual disputes must be clearly stated in writing by the employee. The 21 days may be extended by the deciding official upon receipt of written justification of need and determination that such justification is reasonable.
  3. A reasonable amount of official time, normally 24 hours, to review the material relied on to support the proposal and to prepare an answer and to secure affidavits. Upon receipt of the request for official time, the supervisor will promptly provide the employee with a response. A reasonable extension for official time may be requested by the employee and granted by the supervisor. No official time will be authorized for utilization off the work site.
  4. Be represented by an attorney or other representative, which includes the right to Union representation, upon providing a written designation to Management. Designation of union representation may be made via email by copying the union representative.
- G. **Decision.** The Deciding Official shall issue a final written decision within 30 days after expiration of the advance notice period. If an action is taken, the decision notice shall specify the instances of Unacceptable (Unsatisfactory/Level 1) performance by the employee on which the action is based and the employee's appeal rights.
- H. If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for one year from the date of the advance written notice, any entry or other notation of the Unacceptable (Unsatisfactory/Level 1) performance for which the action was proposed shall be removed from any agency record relating to the employee.
- I. **Appeals/Grievance Procedure.** If the final decision is to effect a reduction in grade or removal, one of the following may be elected:
1. **Applicable Grievance Procedure.** The grievance procedure for eligible employees who have been reduced in grade or removed for Unacceptable (Unsatisfactory/Level 1) performance under Chapter 43 of Title 5, United States Code, is set forth in this Article and is in lieu of the procedures identified in Article 9 (Grievance Procedure);
  2. **Merit Systems Protection Board (MSPB).** An eligible employee may appeal the matter to MSPB within 30 calendar days of the effective date of the action, in accordance with 5 CFR 1201;

3. **Arbitration.** If the employee elects not to appeal the matter to the Merit Systems Protection Board, then the Union may invoke arbitration in accordance with Article 10. Neither Party will raise issues which were not raised in the notice of proposed reduction in grade or removal or the employee's response; or
4. **Equal Employment Opportunity (EEO).** If an employee believes the action to be based in whole or in part on prohibited discrimination (race, age, sex, national origin, etc.), he/she may file an EEO complaint in accordance with the statutory appeals process at 29 CFR 1614.

#### **SECTION 18.04: UNION NOTIFICATION.**

When Management issues a notice of proposal and/or a decision to reduce in grade or remove an employee in the unit for Unacceptable (Unsatisfactory/Level 1) performance, Management shall provide to the Union general statements of the proposed action and subsequent decision shortly after receipt by the employee.

**ARTICLE 19**  
**EMPLOYEE ASSISTANCE PROGRAM AND DRUG FREE WORKPLACE**

**SECTION 19.01: EMPLOYEE ASSISTANCE PROGRAM.**

- A. **General.** Management agrees to continue the Department's Employee Assistance Program (EAP) and will at least annually make employees aware of the program aimed at providing assistance to persons who are experiencing personal, medical or behavioral problems.
- B. **Relationship to Disciplinary Action.** The Parties recognize that the program is designed to be carried out as a nondisciplinary procedure aimed at rehabilitation of persons who suffer from a personal, medical or behavioral problem. If an employee requests assistance under the program and participates in the program, his or her participation will not be used in any way that would negatively impact any disciplinary or adverse action based upon the employee's performance or conduct on the job.
- C. **Training.** Upon request, Management shall include Union representatives in employee briefing sessions or training and orientation programs so that there shall be mutual understanding of policy, referral procedures, and other elements of the program.
- D. **Annual Reminder.** Management shall advertise the program at least once a year. The notification shall include a statement of the purpose of the program and telephone number of the program coordinator and EAP provider. Although the existence and functions of counseling and referral programs shall be publicized to employees, no employee shall be required to participate or be penalized for merely declining referral to an available counseling service.
- E. **Leave.** Should a counseling appointment or treatment require an absence from duty, the employee must obtain the appropriate leave approval in writing or make other appropriate arrangements with the supervisor.
- F. **Confidentiality.** In every case when an employee is either referred to the program by a supervisor or when the employee voluntarily participates in the program, the employee's problem shall be treated as confidential by the program staff and Management officials involved.
- G. **EAP Counselors.**
  - 1. EAP counselors must meet the education and experience requirements in HUD Handbook 792.2 REV 2, Employee Assistance Program (EAP).
  - 2. Employees or groups of employees may submit a request to management for group EAP counseling in addressing issues to improve employee interactions and minimize conflict in the workplace. Management and/or the Union may request group counseling from

EAP counselors. If the Union requests the group counseling, the Union shall coordinate with management to mutually agree on the availability of sessions, course selection, logistics and facilities, scheduling, releasing employees for participation, etc.

**SECTION 19.02: DRUG FREE WORKPLACE.**

- A. The Department is committed to maintaining a drug free federal workplace. Management agrees that the establishment and administration of its Drug Free Workplace program will be done in accordance with Executive Order 12564, the Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs, and Government-wide regulations.
- B. Drug testing will be conducted in accordance with law, rules, and regulation, under the circumstances outlined in Executive Order 12564.
- C. Management shall designate “sensitive positions” which are subject to testing, in accordance with law, rules, regulations, and Executive Order 12564.
- D. Reasonable suspicion testing will be conducted in accordance with applicable law, rules, regulations, and Executive Order 12564.
- E. Employees involved in accidents while operating HUD vehicles, or who engage in unsafe practices that are job related and pose a danger to the staff, the public, or the overall operation of the organization may be subject to drug testing under the provisions of Executive Order 12564.
- F. Notification and testing procedures will comply with the procedures outlined in the Department of Health and Human Services’ Mandatory guidelines for Federal Workplace Drug Testing Programs, and all applicable law, rules, regulations, and Executive Order 12564.
- G. Management agrees to maintain confidentiality regarding all testing procedures and results.
- H. Employees whose tests have been confirmed positive will be referred to an Employee Assistance Program Counselor for counseling and/or referral assistance for appropriate treatment and rehabilitation.
- I. To the extent feasible and to the extent of available Management resources, counseling and rehabilitation services will be offered to employees and their family members with substance abuse problems.
- J. Participation in an outpatient rehabilitation program does not preclude an employee from continuing to work. A medical or mental health provider’s release for work may be required.

**ARTICLE 20**  
**HOURS OF WORK (CREDIT HOURS, FLEXITOUR, COMPRESSED WORK SCHEDULE (CWS),**  
**MAXIFLEX) AND ATTENDANCE PROCEDURES**

**SECTION 20.01: DEFINITIONS.**

- A. **Official Business Hours.** The period each day when a HUD Field Office is officially open for business. Management has determined that the current official business hours are 8:15 a.m. to 4:45 p.m. for the San Francisco Regional Office and 8:00 a.m. to 4:30 p.m. for other Region IX Field Offices. If management changes these official business hours, Management will issue notice to the Union in accordance with Article 38.
- B. **Core Hours.** The designated hours that a full-time employee must be present for work. Core hours are 9:30 a.m. to 2:30 p.m.
- C. **Flexible Hours (flexible time bands).** The hours in which an employee covered by a flexible work schedule may choose to vary his/her arrival/ departure times on a daily basis. The established flexible hours are 6:00 a.m. to 9:30 a.m. and 2:30 p.m. to 6:00 p.m. for flexitour schedule and 6:00 a.m. to 9:30 a.m. and 2:30 p.m. to 7:30 p.m. for Credit Hours.
- D. **Flexitour.** A flexible work schedule program that allows employees to select an arrival time between 6:00 a.m. and 9:30 a.m. and have a one-hour window of flexibility. This flexible work schedule includes core hours and flexible hours. An employee must be at work during core hours and must account for the total number of hours he or she is scheduled to work.
- E. **Credit Hours.** The time worked within a flexitour schedule which is in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of the work week or work day. Work performed for credit hours is differentiated from overtime work which must be ordered or directed by management. Employees on a compressed work schedule may not earn credit hours. Employees on a flexitour schedule may earn credit hours. The flexible hours for credit hours are 6:00 to 9:30 a.m. and 2:30 p.m. to 7:30 p.m.
- F. **Compressed Work Schedule (CWS).** A method of establishing individual work schedules that allows full-time employees to work 80 hours in a bi-weekly pay period in fewer than 10 workdays, typically by working eight 9 hour days and one 8 hour day, and having one scheduled day off each pay period (5/4-9), or by working 10 hour days and having one scheduled day off every week (4-10). For the 5/4-9 schedule, an employee may exercise the option of working their 8 hour day and having their scheduled day off within the same week. Employees must be on a fixed tour of duty as required by applicable statute and regulation. This means that employees on CWS may not vary their arrival and departure

times on a daily basis. Employees on a CWS may not begin before 6:00 a.m. or depart later than 7:30 p.m.

- G. **Maxiflex.** A flexible work schedule program that allows employees to designate a fixed work schedule involving 10 or fewer than 10 workdays in the biweekly pay period, and in which a full-time employee has a basic work requirement of 80 hours biweekly, but can vary the number of hours worked on a given workday between 5 and 11 hours. The work schedule must be pre-designated and approved by management, and employees on maxiflex must work the core hours and may not schedule an absence (non-leave) for more than 2 days per pay period.

### **SECTION 20.02: EMPLOYEE RESPONSIBILITIES.**

- A. Employees shall be responsible for ensuring that their work schedule does not interfere with fulfilling their assigned duties and responsibilities.
- B. Employees shall be responsible for compliance with the rules governing their designated work schedule. Although employees do not have to sign in or out, they are responsible for proper, timely completion and validation of all applicable data/records associated with time and attendance including entries in the webTA time and attendance system. Any employee who willfully falsifies time and attendance information or fails to comply fully with the rules governing his/her designated work schedule program may, at Management's discretion, be prohibited from varying his/her daily work hours from the official business hours of his/her office.
- C. Employees may request changes to their work schedule, subject to the following limitations:
1. No change shall be made in the middle of a pay period unless approved by the supervisor.
  2. An employee may request a change to the work schedule no more than 4 times per year, unless approved by the supervisor.
  3. An employee shall make changes on form HUD-25017 as necessary. An employee must submit notification in writing one pay period prior to the start of the effective day of the change, unless less notice is approved by the supervisor. For changes in a compressed work schedule, maxiflex, or from a five-day-per-week flexitour work schedule to a compressed work schedule or maxiflex, the supervisor shall give the employee a written determination regarding the scheduled day off prior to beginning work under the new work schedule.

### **SECTION 20.03: MANAGEMENT RESPONSIBILITIES.**

Management is responsible for ensuring that the mission of the Department is carried out effectively and efficiently and for determining the operational requirements of the Department. Accordingly, Management shall have the following specific responsibilities with respect to administering each work schedule program:

- A. Management shall be responsible for ensuring that offices are adequately covered and for determining office coverage requirements, in terms of both the numbers and types of employees needed and skills required, during all official business hours. Management has determined that the current official business hours are 8:15 a.m. to 4:45 p.m. for the San Francisco Office and 8:00 a.m. to 4:30 p.m. for other Region IX Field Offices. Office coverage as defined for purposes of this article may not necessarily be limited to the physical location. Work that can be completed at an alternative work site may constitute office coverage.

"Office coverage" includes but is not limited to:

- 1. Answering phones;
- 2. Expeditious handling of inquiries from the public;
- 3. Maintaining clerical, technical, and professional support of the office functions;
- 4. Providing official representation at essential meetings;
- 5. Handling occasional or recurring peak workload periods; and
- 6. Meeting deadlines.

- B. Management may designate and advise the Union of those positions (i.e. classifications) for which flexitour work schedules, maxiflex, credit hours, and/or compressed work schedules are not permitted, because of office coverage requirements or specific, job-related requirements of those positions or organizations.
- C. Upon demonstrated need, Management may override the work schedule choices, including work to earn credit hours, of individual employees in order to maintain adequate office coverage and to meet other operational needs of the Department. To the extent possible, however, personal scheduling preferences shall be considered in making such decisions. When an employee's work schedule is changed by other than an employee's request, Management shall, when practicable, give the employee notice of such change at least 5 days in advance of its effective date. If Management's decision to override a schedule causes an employee to work more than 80 hours in any pay period, the affected employee will be compensated with overtime pay or compensatory time off as appropriate, in accordance with law and regulation.

### **SECTION 20.04: FLEXITOUR.**

- A. **General.** This method of establishing individual work schedules allows employees some discretion with respect to their arrival/departure times outside the core hours. The

flexible work schedule provided under this Agreement allows employees to vary their arrival and departure times each day, so long as they are on duty during the established core hours (9:30 a.m. - 2:30 p.m.).

- B. Full-time employees, except those working compressed work schedules or maxiflex, shall be permitted to vary their daily work hours, subject to the following limitations:
  - 1. The standard work week is Monday through Friday.
  - 2. Flexible time is designated as 6:00 a.m. to 9:30 a.m. and 2:30 p.m. to 6:00 p.m. (local time). Full time employees, except those working a compressed work schedule or maxiflex, may vary their arrival and departure times within these time bands as long as they are present for duty during the core hours and account for 8 hours of duty time, plus the 30-minute lunch period.
  - 3. Employees who wish to work a flexitour schedule will pre-select an arrival time within the flexible band of 6:00 a.m. to 9:30 a.m. by submitting form HUD-25017, Work Schedule Request, to their immediate supervisor at least one pay period in advance of the pay period in which the flexitour schedule is proposed to begin. Employees on an approved flexitour schedule may vary their arrival up to one hour prior to or after the pre-scheduled arrival time, but no earlier than 6:00 a.m. or later than 9:30 a.m.
  - 4. The supervisor may approve an occasional variance of more than one hour from the pre-selected arrival time so long as the employee arrives before 9:30 a.m.
  - 5. Requests for a change in the flexitour schedule must be submitted at least one pay period in advance of when the change is proposed to begin, unless less notice is approved by the supervisor. Supervisors shall approve or disapprove within 3 business days. If the supervisor is unavailable or out of the office, the designated supervisor will have the authority to approve a temporary work schedule, which may be revisited by the official supervisor upon return.
  - 6. Full-time employees shall account for 40 work hours during each workweek, consisting of five 8-hour workdays, plus the office's established 30 minute lunch period each day. The hours worked each day shall be consecutive, except for the lunch period.
- C. **Part-Time Employees.** The work schedules of part-time employees shall be within the discretion of Management. Part-time employees may participate in the flexitour provisions of this Section, with the approval of Management.
- D. Employees working a Flexitour work schedule are eligible to earn credit hours and may be eligible to participate in telework.

#### **SECTION 20.05: CREDIT HOURS.**



A. **General.** Fulltime employees working flexitour schedules may elect to earn credit hours. Credit hours are any hours worked by an employee on a flexitour schedule which are in excess of an employee's established 8½-hour tour of duty and which the employee elects to work to vary the length of a work week or work day. Such work is compensated by an equal amount of time off (i.e., one (1) hour of work in excess of the employee's regularly scheduled eight hour tour of duty is compensated by one (1) hour off on a subsequent workday). Work performed for credit hours is differentiated from overtime work, which is ordered or directed by Management.

**B. Credit Hour Schedule.**

1. Full-time employees may elect at their option to work credit hours subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled. Supervisors cannot order employees to earn credit hours in lieu of overtime or comp time.
2. Full-time employees on flexitour shall be permitted to earn credit hours, subject to the following limitations:
  - (a) Employees may earn up to 3 credit hours on any work day in quarter hour increments. Credit hours may not be earned on a non-work day.
  - (b) Employees may accrue more than 24 hours at any time during a pay period. Accrued credit hours in excess of 24 credit hours at the end of the pay period shall be forfeited. The supervisor may approve the excess credit hours in those instances where there is a reasonable likelihood that the employee will be able to use the excess hours before the end of the pay period. However, the supervisor retains the right to deny the use of credit hours at any time in the same manner and basis as annual leave.
  - (c) Employees may carry over a maximum of 24 credit hours from one bi-weekly pay period to the next bi-weekly pay period.
  - (d) Work performed in order to earn credit hours shall not begin prior to 6:00 a.m. (local time) nor extend past 7:30 p.m. (local time).
  - (e) An employee with prior acknowledgement of his or her supervisor may earn credit hours while in training and/or travel status, but not for time spent in actual travel or in the training class, or on assignment arising from training such as homework. This does not eliminate compensatory time for travel.
  - (f) When an employee is performing additional work on a given workday in order to earn credit hours, overtime work on that day shall be defined as work that has been ordered or approved by Management in excess of the employee's basic eight-hour work requirement plus the additional work time approved in order to permit the employee to earn credit hours (i.e., if an employee works 1 additional hour beyond

his/her scheduled 8-hour tour of duty in order to earn 1 credit hour, overtime work is work ordered or approved by Management in excess of 9 work hours on that workday). Time worked to earn credit hours shall not be subsequently converted to or compensated as overtime work.

(g) Credit hours earned by employees are not a category of leave and may be carried forward indefinitely up to the 24 hour limitation.

3. Part-time employees may earn credit hours on any 8 hour work day. Accumulated credit hours may not at any time exceed one-fourth of the employee's bi-weekly work requirement (i.e., if an employee's bi-weekly work schedule is 48 hours, no more than 12 credit hours can be accumulated for carryover to the next pay period).
4. During mid-term bargaining, when negotiations continue outside of the normal tour of duty, union officials under flexitour for the bargaining sessions shall be eligible for credit hours. Union representatives on a flexitour schedule who are entitled to 100% official time may also earn credit hours while performing representation functions, in accordance with the provisions of this article and Article 4.

### **C. Notification of Intent to Work Credit Hours.**

1. Employees shall provide their supervisors written notification of their intention to work longer than the regular scheduled work hours using the webTA system. Notification in webTA must be provided to the supervisor no later than one workday, unless less notice is approved by the supervisor, prior to when the credit hours will be worked to enable the supervisor to acknowledge receipt or disapproval. In webTA, employees will identify the specific dates and times they plan to earn credit hours (employees may earn credit hours in the morning and afternoon of the same day). Credit hour requests that do not receive a response from management sufficient to provide a decision to the employee prior to the requested Credit Hours period may be grieved in accordance with Article 9. Under the U.S. Office of Personnel Management (OPM) regulations, credit hours are hours that an employee elects to work in excess of the employee's basic work requirement to vary the length of a workweek or work day under a flexible work schedule. The supervisor reserves the right to assign work at any time, including during credit hours. The supervisor may disapprove the earning of credit hours in appropriate circumstances such as those listed in paragraph 2 or 3 below.
2. The supervisor may disapprove the notification of the intent to work credit hours if there is a lack of work to cover the full period of the credit hours requested.
3. Management may restrict, temporarily suspend, or disapprove the earning of credit hours in cases where Management determines there is abuse of the credit hour program or performance is below the Fully Successful level in any Critical Element. In addition to performance, the reasons for such action may include violation of time and

attendance procedures or falsification of time and attendance documents. Specific reasons for such action shall be provided to the employee.

4. If the first line supervisor does not have the WebTA system access necessary to approve the credit hour request, the employee will also send an e-mail request to the acting supervisor. A copy of the email will also be sent to the 2<sup>nd</sup> line supervisor who has access to WebTA. Within two workdays the credit hour request will be approved or disapproved.
5. Employees will not be required to earn credit hours in lieu of ordered overtime.
6. Employees working after 6:00 p.m. in order to earn credit hours shall not be entitled to night differential or other premium pay for such work.

**D. Use of credit hours.**

1. Use of credit hours shall be subject to advance supervisory approval, in the same manner and basis as annual leave, using the webTA system.
2. Credit hours may be used in quarter hour increments.
3. Use of credit hours shall be scheduled so as to avoid disruption to the work of the Department and to minimize the number of employees in a work unit who are off or out of the office on any given workday (e.g., in considering an employee's request to use accumulated credit hours, supervisors shall take into account scheduled leave of other work unit employees, office coverage, scheduled days off for employees in the work unit working compressed work schedules, and employees out of the office for other reasons, such as extended sick leave).
4. Credit hours may be used in combination with approved leave and/or compensatory time off.
5. If an employee calls in because of unanticipated illness, the employee shall have the option of substituting credit hours earned in lieu of annual or sick leave or use credit hours earned in combination with annual or sick leave, subject to following established sick and annual leave procedures.
6. Credit hours may be earned and used on the same work day providing the credit hours used were earned on a previous work day.
7. An employee shall not be permitted to take time off in anticipation of credit hours being earned, i.e., credit hours must be earned prior to time off being granted.
8. If an employee retires, transfers to another agency, or otherwise terminates his/her employment with the Department, any unused credit hours accumulated by an

employee shall be paid at the regular rate of pay in effect at the time the credit hours were earned.

**SECTION 20.06: MAXIFLEX.**

- A. A maxiflex schedule allows employees the option to work a flexible work schedule involving 10 or fewer than 10 workdays in the biweekly pay period, and in which a full-time employee has a basic work requirement of 80 hours biweekly, but can vary the number of hours worked on a given workday or workweek.
- B. The work schedule must comply with the following requirements:
  - 1. Employees must designate the starting time of their workday, which can vary between 6:00 a.m. and 9:30 a.m., on a daily basis; the evening flexiband is 2:30 p.m. to 7:30 p.m. All employees on maxiflex must work the core hours. The core hours for Maxiflex are 9:30 a.m. to 2:30 p.m.
  - 2. Employees may not designate more than 2 days off per pay period.
  - 3. Employees may work no more than 11 hours and no less than 5 hours per day each day worked.
  - 4. Employees working a maxiflex schedule are not eligible to earn credit hours but may be eligible to telework.
- C. Employees interested in maxiflex must submit Form 25017 for supervisory approval with a proposed daily schedule. Each employee requesting maxiflex will be notified of approval or disapproval. Management may disapprove maxiflex based on the criteria listed in Section 20.03(C). If a maxiflex schedule is disapproved by the supervisor, the supervisor will provide a reason for the denial. Requests for a change in the maxiflex schedule should be submitted by the employee on Form 25017 one pay period in advance of the pay period in which the change is proposed to begin, and the employee must have approval from the supervisor prior to starting the changed schedule. Employees may request a change within the maxiflex schedule. Supervisors shall approve or disapprove such requests within 3 work days of the proposed change. If the supervisor is unavailable or out of the office, the designated supervisor will have the authority to approve a temporary work schedule, which may be revisited by the official supervisor upon return.
- D. Management may temporarily suspend or adjust the Maxiflex work schedule in accordance with Article 20.03.C.
- E. **Part-Time Employees.** The work schedules of part-time employees shall be within the discretion of Management. Part-time employees may participate in the maxiflex provisions of this Section, with the approval of Management.

## **SECTION 20.07: COMPRESSED WORK SCHEDULE.**

### **A. General.**

1. Compressed work schedule (CWS) is a work schedule that allows employees to complete the 80 hour biweekly pay period less than the standard 10 workdays. The CWS covers eligible employees who have fulltime appointments. The "5-4/9 Compressed Work Schedule" allows employees to work eight 9-hour work shifts and one 8-hour work shift during each bi-weekly pay period, with 1 workday off. For the 5/4-9 schedule, an employee may exercise the option of working their 8 hour day and having their scheduled day off within the same week.
2. The "4-10 Compressed Work Schedule" allows employees to work eight 10-hour days during each biweekly pay period and have a day off each week.
3. Employees may not combine a compressed work schedule with the flexible schedule. Employees on a compressed work schedule may be eligible to telework but are not eligible to earn credit hours.

### **B. Tour of Duty.** Full-time employees shall be permitted to work the 5-4/9 or 4-10 Compressed Work Schedule as follows:

1. An employee working a compressed work schedule shall account for 80 work hours during each bi-weekly pay period and may not vary their arrival and departure times on a daily basis. Employees who work a compressed work schedule must be on a fixed work schedule.
2. Employees on a 5-4/9 schedule shall not begin work before 6:00 a.m. or after 9:30 a.m. local time on 8 or 9-hour days nor complete work before 2:30 p.m. or after 7:00 p.m. local time.
3. Employees on a 4-10 schedule shall not begin work before 6:00 a.m. or after 9:00 a.m. local time nor complete work after 7:30 p.m. local time.

### **C. Notification.** Employees who elect to work a compressed work schedule or who desire to change their existing compressed work schedule (e.g., their scheduled day off or eight-hour workday) shall notify their supervisor in writing of their intention one pay period prior to the start of the pay period in which the compressed work schedule (or change) is to begin.

1. The written notification shall be made on form HUD-25017 and shall include:
  - (a) The proposed effective date of the compressed work schedule or change;

- (b) If applicable, the day during each pay period (e.g., first Tuesday, second Thursday) on which the employee plans to work the 8-hour work shift required under the 5-4/9 work schedule; and
  - (c) The employee's proposed day(s) off during each pay period.
- 2. Prior to an employee beginning to work a compressed work schedule, his/her supervisor shall provide the employee with a written determination regarding the scheduled day(s) off and the planned 8-hour day, as applicable. Management shall determine the scheduled day(s) off for all employees working compressed work schedules, using the following guidelines:
  - (a) Days off shall be scheduled so as to minimize the number of employees in a work unit who are off or out on the same day.
  - (b) In scheduling days off, supervisors shall give due consideration to work requirements and the preferences of individual employees.
  - (c) Subject to the provisions in 20.07(C)(2)(a)-(b) above, in the event of a conflict among employees in a work unit regarding the scheduling of days off, supervisors will give the affected employees an opportunity to resolve such conflicts among themselves. If the employees are not able to resolve the conflict, Management will make the final determination regarding scheduling. To the greatest extent possible, Management will consider seniority (the Federal Service Computation Date) as a factor in resolving the conflict.
- 3. Employees may request changes to their work schedule, subject to the following limitations:
  - (a) No change shall be made in the middle of a pay period unless approved by the supervisor.
  - (b) An employee may request a change to the work schedule no more than 4 times per year, unless approved by the supervisor.
  - (c) An employee shall make changes on form HUD-25017 as necessary. An employee must submit notification in writing one pay period prior to the start of the effective day of the change, unless less notice is approved by the supervisor. For changes in a compressed work schedule, maxiflex, or from a five-day-per-week flexitour work schedule to a compressed work schedule or maxiflex, the supervisor shall give the employee a written determination regarding the scheduled day off prior to beginning work under the new work schedule.
- 4. A temporary change of the day off in a compressed work schedule within the same week may be made by mutual agreement in writing in advance of the scheduled day off between the supervisor and the employee, to meet management or employee needs.

5. Management may, at its discretion, temporarily suspend or adjust an employee's compressed work schedule for any bi-weekly pay period(s) during which the employee is, for all or part of the pay period, in travel and/or training status, if it determines that such action is in the best interests of the Department. The employee's work schedule during the affected pay period(s) shall be within the discretion of Management. For a 5-4/9 schedule, such temporary suspensions must cover the full pay period(s) during which the travel or training occurs. They may not be implemented for a partial pay period. For a 4-10 schedule, such temporary suspensions may cover only one week of the pay period, if the travel or training is for 40 hours. The employee shall return to his/her compressed work schedule at the beginning of the pay period following completion of the travel and/or training.
6. Overtime work under a compressed work schedule shall be defined as work which has been ordered or approved by Management in excess of 9 or 10 hours, on those days when the employee is scheduled to work a 9-hour or 10-hour tour of duty, and in excess of 8 hours, on those days when the employee is scheduled to work an 8-hour tour of duty, or work on the employee's scheduled day off, unless another day off is granted to the employee within the same pay period.

**D. Crediting and Use of Leave Under Compressed Work Schedules.** The following provisions shall apply to employees working compressed work schedules:

1. An employee who is on annual, sick, or other leave for the full work day on one of his/her scheduled 9-hour or 10-hour workdays shall be charged 9 or 10 hours of leave for that day. An employee who is on annual, sick, or other leave for the full work day on one of his/her scheduled 8-hour workdays shall be charged 8 hours of leave for that day.
2. When an employee's scheduled day off falls on a holiday, the employee shall be entitled to an in-lieu-of holiday on the immediately preceding workday.
3. An employee shall be credited with 9 or 10 hours of holiday leave on those days when a holiday (or an in-lieu-of holiday) falls on one of the employee's scheduled 9-hour or 10-hour workdays; and with 8 hours of holiday leave on those days when a holiday (or an in-lieu-of holiday) falls on one of the employee's scheduled 8-hour workdays.
4. When authorized, the amount of approved leave to be granted to an employee working a compressed work schedule shall be based on the employee's scheduled tour of duty on the day for which the approved leave is granted. The employee may be granted, as appropriate under the provisions of Article 21 of this Agreement, up to 9 or 10 hours of leave for an approved absence on his/her scheduled 9-hour or 10-hour workdays and up to 8 hours for an approved absence on his/her scheduled 8-hour workdays. An employee shall not be entitled to an excused absence on his/her scheduled day off,

regardless of whether excused absences are granted to other employees in the same work unit on that day.

E. **Part-Time Employees.** Part-time employees shall not work a compressed work schedule.

**SECTION 20.08: SPECIAL CIRCUMSTANCES.**

If an employee is delegated to act as a supervisor on a temporary basis, this shall have no effect on that employee's work schedule.

**SECTION 20.09: SYSTEM OF RECORD FOR REPORTING HOURS OF WORK.**

**A. WebTA Time and Attendance System.**

1. This is the official system of record used to record daily time and attendance of each employee. All time and attendance data and leave requests will be approved or disapproved through the automated webTA system, consistent with Article 21 of this Agreement. HUD will ensure that all employees are notified in writing of the name and Contact information of their time keeper.
2. The employee shall complete the record of attendance in the system each pay period in accordance with Article 21; review the time record to affirm the data is true, correct, and complete; and validate the time and attendance record to confirm the accuracy of the entries.
3. The supervisor shall review the employee's time and attendance record in webTA; verify that the data/information is, to the best of the approving official's knowledge, true, correct, and accurate; and certify the timecard when correct, or if incorrect, disapprove the timecard and provide in the system an explanation of the reason for the disapproval. The webTA system will provide automated notification to the employee in the event of a disapproval of the employee's bi-weekly time and attendance. In the absence of the first line supervisor, the delegated authority (supervisor's backup) will certify (or disapprove, if incorrect) the employee's time.
4. If for any reason an employee is unable to complete the input and/or validation of time and attendance information by the end of the pay period, the Timekeeper shall enter and validate the time and attendance information with the approval and direction of the first-line supervisor. The Timekeeper shall process time and attendance in accordance with the information provided by the first-line supervisor. As soon as practical, the employee shall verify that the information is correct, and if necessary, a corrected time and attendance record will be processed.
5. Religious compensatory time and travel compensatory time shall be entered in the webTA system.
6. Time and attendance records along with the supporting documentation will be viewed



in a secure location and not shared with unauthorized personnel in accordance with the Privacy Act. The security of employee information in webTA shall be maintained in accordance with the Federal Information Security Management Act (FISMA).

**B. Premium Pay (Compensatory Time and Overtime).**

The webTA system shall be used to request, approve and record authorized extra hours of work for premium pay, i.e., overtime and compensatory time. The webTA system is utilized by the employee to only request premium pay; overtime and compensatory time shall be approved in accordance with Article 22 of the Labor Management Agreement. The employee may enter the management provided justification for the overtime in the Remarks section of webTA, or the supervisor will complete the HUD 1040 to document the justification for overtime, and a copy will be provided to the employee. The employee validates and confirms the accuracy of the entries.

**C. WebTA Maintenance Procedures.**

1. There shall be a separate link and page from the HUD @ Work site for webTA. The webTA page will contain: Frequently Asked Questions, an on-line training tool and job aids. The Timekeepers and designees shall also be listed on the webTA page by office to assist with technical issues and password resets.
2. The webTA system shall not be used as a sign-in, sign-out system.
3. The webTA system shall warn an employee if entries such as requests for leave, credit hours, official time, do not conform to system edits.
4. The employee shall be able to see who and what edits were made to his/her records once it was validated.
5. The Leave Donation function shall not be changed and shall continue to follow current procedures.
6. A meeting shall be held with the Union to discuss future updates or problems with the webTA system when initiated by either party.

## **ARTICLE 21 LEAVE**

### **SECTION 21.01: GENERAL.**

This Article covers the types of leave available to employees and the procedures for requesting and approving leave.

### **SECTION 21.02: DEFINITIONS.**

- A. **Family Member:** The following are considered family members of the employee (except for purposes of the Family Medical Leave Act (FMLA)):
1. Spouse, domestic partner, and parent(s) thereof;
  2. Children, including step, foster and adopted children and including children of domestic partner, and their spouse or domestic partner; current or previous legal wards, or for whom the employee stands or stood in loco parentis;
  3. Parents of both the employee and the spouse or domestic partner; including adopted step, current or previous foster parent or legal guardian, a person who stands or previously stood in loco parentis;
  4. Brothers and sisters, and their spouses or domestic partners thereof;
  5. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
  6. Grandparents and grandchildren, and their spouses or domestic partners, thereof.
- B. **Domestic Partner:** For the purposes of this Article, an adult in a committed relationship with another adult, including both same sex and opposite sex relationships. This individual meets the criteria as defined in the Affidavit of Domestic Partnership (Appendix D), and is officially designated by the employee on the Affidavit. The employee can also utilize a state-issued certification of registered domestic partnership.
- C. **Medical Certificate:** A written statement signed by a registered practicing physician, other practitioner, or Health Care Provider outlined in Section 21.02(D) certifying that the absence of the employee was due to the incapacitation, examination or treatment, or a period of disability while the patient was receiving professional treatment. For sick leave for a family member, the medical certificate shall contain a statement regarding the family member's need for care, and the anticipated length of time the employee's care or presence is needed. An employee's self-certification as to the reason for his or her absence may be considered to be administratively acceptable evidence for supporting leave requests, regardless of the duration of the absence.
- D. **Health Care Provider:** (1) A licensed Doctor of Medicine or Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations; (2) any health care provider recognized by the

Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question; (3) a health care provider as stated in (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law; (4) a Christian Science Practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or (5) a Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with public law.

### **SECTION 21.03: PROCEDURES FOR REQUESTING LEAVE.**

- A. Employees are responsible for making timely requests for leave. All requests for leave must be made using the webTA automated time and attendance system, as outlined in Article 20. If leave is disapproved, the specific reason(s) will be provided in the webTA system.
- B. Leave should be requested in advance and approval should be obtained from the supervisor or designee before the leave may be taken.
- C. For unscheduled leave:
  1. If the employee is not already at work, the employee is responsible for requesting unscheduled leave from the supervisor or designee via a phone call or email, and providing the specific reason why the leave was not requested in advance no later than one hour after the beginning of core hours. A call-in does not necessarily constitute leave approval; however, if the supervisor intends to deny the leave, the supervisor will contact the employee. If the employee is unable to call or email personally, any responsible person may request the leave on behalf of the employee. If the supervisor or his/her designee is not available to receive the call, the person requesting the leave shall leave a message with the supervisor or designee. The employee should ensure that the supervisor has a phone number, email address on file, or other means to contact the employee. If the employee requesting the unscheduled leave provides an estimate of the date when he/she shall return to work and the leave is approved by the supervisor, the employee is not required to call in again unless the date of his/her return changes or unless the employee requests an extension. The employee is responsible for submitting the leave request in the webTA system within 3 workdays of returning to duty or by the end of the pay period, whichever comes first, unless there are circumstances beyond the employee's control preventing it.
  2. If the employee is already at work, the employee must submit a leave request in the webTA system to the supervisor or designee and obtain the supervisor or designee's approval prior to leaving the worksite unless prevented by circumstances beyond the employee's control.

## **SECTION 21.04: ANNUAL LEAVE.**

Annual leave is a right of the employee and not a privilege. Supervisors are encouraged to grant the leave for the requested times to the maximum extent practicable.

- A. Annual leave should be requested in advance and shall be acted on promptly. For annual leave requests within a 3 month period, the leave requests shall be acted upon within 5 workdays from the supervisor's receipt of the leave request in the webTA system. Annual leave requests beyond a 3 month period shall be acted upon within 15 workdays from the supervisor's receipt of the leave request in the webTA system. Multiple leave requests for the same period will be handled in accordance with Section 21.04B(7). If the leave request is not acted upon within the above referenced timeframes, the employee may appeal to the 2nd level supervisor for a decision on the leave request. The Labor and Employee Relations Branch Chief may be copied. The 2<sup>nd</sup> level supervisor will issue a decision on the leave request within 3 workdays.

### **B. Requesting Annual Leave**

1. Annual leave should be requested in advance and approval should be obtained from the supervisor or designee before the leave may be taken. If the employee is not already at work, or must leave work due to an emergency, the employee is responsible for requesting unscheduled leave from the supervisor or designee via a phone call, text or email, and providing the specific reason why the leave was not requested in advance no later than one hour after the beginning of core hours. A call-in does not necessarily constitute leave approval; however, if the supervisor intends to deny the leave, the supervisor will contact the employee. If the employee is unable to call or email personally, any responsible person may request the leave on behalf of the employee. If the supervisor or his/her designee is not available to receive the call, the person requesting the leave shall leave a message with the supervisor or designee. The employee should ensure that the supervisor has a phone number, email address on file, or other means to contact the employee.
2. If the employee requesting the leave provides an estimate of the date when he/she shall return to work and the leave is approved by the supervisor, the employee is not required to call in again unless the date of his/her return changes or unless the employee requests an extension.
3. All annual leave requested must be recorded in the webTA system. In cases where the leave request is not entered in webTA prior to taking the leave, the employee must enter the leave request in webTA within 3 workdays upon his/her return to duty or by the end of the pay period, whichever comes first, unless there are circumstances beyond the employee's control preventing it.
4. Employees that are not available or are unable to enter their leave request in webTA prior to the end of the pay period must submit their leave request in webTA within 3 workdays upon their return to duty.

5. Requests for annual leave shall be approved by the supervisor unless the employee's services are necessary for valid operational reasons. Denial of a leave request or cancellation of approved leave must be based on an explanation of the valid operational reason for denial. The reason for denial or cancellation must be recorded in the webTA system. When annual leave is cancelled or denied, the employee, in consultation with the supervisor, should reschedule the annual leave to ensure that such leave will not be forfeited.
  6. Supervisors shall approve employees' requests for annual leave to the extent practicable to permit every employee to take at least 2 or more consecutive weeks in each year upon request of the employee.
  7. When it is impracticable to grant all requests for annual leave for a given period, the supervisor shall provide the affected employees with the opportunity to work out leave conflicts prior to resolving the conflict. If it is necessary for the supervisor to resolve a conflict, the relative importance of each of the following criteria shall be considered:
    - a. Employees with "use or lose" leave, especially in the cases where the period involved is at the end of the leave year.
    - b. The amount of leave to employee's credit.
    - c. Relative need of employees for taking leave at a specific time.
    - d. Whether the employee had to reschedule or forego leave in a similar scheduling conflict.
- C. Employees may be granted annual leave if requested for workday observance of religious holidays.
- D. Annual leave should be scheduled to prevent employees from forfeiting annual leave in excess of the maximum carryover permissible under leave regulations.

#### **SECTION 21.05: ADVANCE ANNUAL LEAVE.**

- A. Advance annual leave may be approved at the discretion of the authorized approving official. For cases involving childbirth, adoption and foster care as outlined in Section 21.12, to the maximum extent practicable, advanced annual leave should be approved. The amount of annual leave advanced may not exceed the number of hours that the employee would accrue during the remainder of the leave year.
- B. The following must be considered in approving or disapproving the request:
1. Probability of the employee returning to work;
  2. Need for the employee's services;
  3. Benefit to the Department in retaining the employee;

4. Employee's total employment and leave history; and
5. Waiver of the advance leave debt if the employee separates prior to liquidating the advanced leave due to disability retirement, voluntary retirement due to health reasons supported by medical certificate, or death.

C. Annual leave may not be advanced if it is known or reasonably expected that the employee will apply for disability retirement or voluntarily retire for health reasons.

#### **D. Repayment of Advanced Annual Leave**

Repayment of advanced annual leave may be satisfied by:

1. Subsequently earned annual leave during the remainder of the leave year.
2. By refund upon separation.
3. If employee transfers to another Federal agency without a break in service, any negative leave balance will be transferred to the employee's new agency for charge. An employee is not required to refund the amount of advanced annual leave in order to achieve a "zero" balance at the time of transfer.
4. If the employee separates from Federal service, he/she is required to refund the amount of advanced annual leave or the agency may deduct that amount from any pay due the employee upon separation.
5. If the employee dies, retires for disability, or is separated or resigns because of disability (as determined by Management), the requirement to repay does not apply.
6. An employee who enters active military service with a right to restoration is not considered as having separated and is not required to refund the amount of advanced annual leave when entering military service. The advanced annual leave should be liquidated either after the employee returns to duty or is separated from Federal Service.

#### **SECTION 21.06: ANNUAL LEAVE DISAPPROVAL.**

When there are patterns of documented frequent tardiness or unscheduled annual leave, unscheduled annual leave need not be granted.

#### **SECTION 21.07: SICK LEAVE.**

- A. Sick leave is a paid absence from duty. An employee is entitled to use sick leave for authorized sick leave purposes such as but not limited to personal medical needs, general family care as outlined in Section 21.07 I (3) and (4), bereavement, care of family member with a serious health condition and adoption related purposes.
- B. For sick leave periods of not more than 3 consecutive workdays, the employee shall be required to submit a leave request in the webTA system, but not with medical certification unless the employee is on leave restriction. Sick leave in excess of 3 consecutive workdays shall be requested in the webTA system, and a medical certificate or other administratively acceptable evidence. An employee's self-certification as to the reason for his or her

absence may be considered to be administratively acceptable evidence for supporting leave requests, regardless of the duration of the absence. In this circumstance, a statement from the employee of the nature of the illness and why a medical certificate is not furnished shall be submitted to the supervisor no later than 10 workdays after the employee's return to duty unless there are circumstances beyond the employee's control preventing it, in which case the employee shall submit the documentation as soon as possible.

- C. Requests for approval of sick leave for non-emergency medical, dental, or optical examinations or treatments shall be submitted, where practicable, at least 1 work day in advance to the supervisor in the webTA system.
- D. In cases where it is not practicable to submit a written request in advance, the employee shall, within 3 workdays of returning to duty or by the end of the pay period, whichever comes first, submit a leave request in the webTA system to document the sick leave previously requested.
- E. To the extent possible, advance approval must be received for sick leave for family care or bereavement in the webTA system. The leave request must indicate the name and relationship of the family member; the appropriate notation(s) for the type of leave in the webTA system; and appropriate medical certification or other administratively acceptable evidence/employee statement for an absence of more than 3 consecutive days or for a leave restriction.
- F. An employee must obtain advance approval for sick leave for adoption related reasons, using the webTA system, along with a notation that the leave is for adoption related reasons.

**G. Sick Leave Accumulation and Usage Limits**

- 1. There is no limitation on the amount of sick leave that can be accumulated or on the amount of accumulated sick leave balance that can be carried over to the next leave year.
- 2. There is no limitation on the amount of sick leave that an employee may use for his/her own personal medical needs.
- 3. Up to 13 days (104 hours) of sick leave may be used for general family care and bereavement each leave year for a full time employee; part-time employees and employees with uncommon tours of duty are also entitled to use sick leave, and the amount of sick leave which may be granted is pro-rated in proportion to the average number of hours of work in the employee's scheduled tour of duty each week.
- 4. Up to 12 weeks (480 hours) of sick leave may be used to care for a family member with a serious health condition each leave year. Part-time employees and employees with uncommon tours of duty are also entitled to use sick leave, and the amount of sick leave

which may be granted is pro-rated in proportion to the average number of hours of work in the employee's scheduled tour of duty each week.

5. There is no limitation on the amount of sick leave that may be used for adoption related purposes. Sick leave for adoption-related purposes does not count towards the 104 hour (13 day) limit of sick leave each year for family care and bereavement or the overall limit of 12 weeks of sick leave each year for all family care purposes.
6. If an employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement for family care with a serious health condition. If an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care purposes. An employee is entitled to no more than a combined total of 12 weeks of sick leave each leave year for all family care purposes.
7. Sick leave may be used without invoking leave under the Family Medical Leave Act.

#### **H. Requesting Sick Leave**

1. Sick leave should be requested in advance and approval should be obtained from the supervisor or designee before the leave may be taken. Employees are encouraged to enter their sick leave request in the webTA automated time and attendance system prior to taking the leave, when practicable. If the employee is not already at work, or must leave work due to an emergency, the employee is responsible for requesting unscheduled leave from the supervisor or designee via a phone call, text or email, and providing the specific reason why the leave was not requested in advance no later than one hour after the beginning of core hours. A call-in does not necessarily constitute leave approval; however, if the supervisor intends to deny the leave, the supervisor will contact the employee. If the employee is unable to call or email personally, any responsible person may request the leave on behalf of the employee. If the supervisor or his/her designee is not available to receive the call, the person requesting the leave shall leave a message with the supervisor or designee. The employee should ensure that the supervisor has a phone number, email address on file, or other means to contact the employee.
2. If the employee requesting the leave provides an estimate of the date when he/she shall return to work and the leave is approved by the supervisor, the employee is not required to call in again unless the date of his/her return changes or unless the employee requests an extension.
3. All sick leave requested must be recorded in the webTA system. In cases where the leave request is not entered in webTA prior to taking the leave, the employee must enter the leave request in webTA within 3 workdays upon his/her return to duty or by



the end of the pay period, whichever comes first, unless there are circumstances beyond the employee's control preventing it.

4. Employees that are not available or are unable to enter their leave request in webTA prior to the end of the pay period must submit their leave request in webTA within 3 workdays upon their return to duty.
  5. Sick leave may be used without invoking leave under the Family Medical Leave Act.
- I. Sick leave may be used for the following purposes:
1. Receiving medical, dental, or optical examination or treatment;
  2. Incapacitation for the performance of duties by physical or mental illness, injury, pregnancy or childbirth;
  3. Providing care for a family member who is incapacitated by a medical or mental condition, including injury, pregnancy or childbirth, or attending to a family member receiving medical, dental or optical examination or treatment;
  4. Providing care for a family member with a serious health condition as defined in law and regulation. (A serious health condition does not include routine physical, eye or dental examinations or a regimen of continuing treatment that includes the taking of over-the-counter medications, bed-rest, exercise, and other similar activities that can be initiated without a visit to the health care provider. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines) and routine dental problems are not serious health conditions);
  5. When the employee's exposure to a communicable disease would jeopardize the health of others by his/her presence on the job, as determined by the health authorities having jurisdiction or by a health care provider; Provide care for a family member who would, as determined by the health authorities having jurisdiction or a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease;
  6. For bereavement purposes, i.e., to make arrangements necessitated by the death of a family member or attend the funeral of a family member;
  7. When an employee is disabled and depends on an aid or device, e.g., wheel chair, seeing-eye dog or a prosthetic device, to perform his or her duties, and the employee is without that aid or device; or
  8. When an employee must be absent for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption

to proceed. This includes periods during which the adoptive employee needs to be home to care for the newly adopted child, as required by the adoption agency or by the court.

- J. Employees, who, because of illness, are granted sick leave to leave the work site after a partial tour of duty, shall not be required to furnish a medical certificate to substantiate sick leave for the day released from duty unless the employee is under leave restriction. The three day time period for providing medical certification shall run from the next day following release from work.
- K. An absence which would otherwise be chargeable to sick leave may be substituted with earned annual leave, credit hours, or leave without pay, if requested by the employee and approved by Management. However, this does not apply to sick leave which has been approved and used as sick leave, nor may this provision be applied retroactively to avoid forfeiture of annual leave.
- L. If illness occurs during annual leave, sick leave may be substituted with appropriate documentation as outlined in Section 21.07B above.
- M. An employee who had a break in service is entitled to a re-credit of sick leave without regard to the date of separation, provided the employee returned to Federal employment on or after December 2, 1994, unless the sick leave was forfeited upon reemployment in the Federal Government before December 2, 1994 (the effective date of Public Law 103-388, the Federal Employees Family Friendly Leave Act).

#### **SECTION 21.08: ADVANCE SICK LEAVE.**

- A. At the discretion of the approving official a maximum of 30 days (240 hours) sick leave may be advanced to an employee, without sick leave to his/her credit, who or whose family member is ill, injured or incapacitated or has a serious disability. Application for advance sick leave must be supported by a medical certificate or other administratively acceptable evidence.
- B. For cases involving childbirth, adoption and foster care as outlined in Section 21.12, advanced sick leave must be granted, to the maximum extent practicable. Application for advance sick leave must be supported by a medical certificate or other administratively acceptable evidence.
- C. Advance sick leave is at the manager's discretion, and therefore may be disapproved for a number of reasons. However, management cannot approve advance sick leave if the following situations occur:
  - 1. It is known or reasonably expected that the employee will apply for disability retirement or voluntarily retire for health reasons;

2. The employee is absent for maternity reasons after the delivery of her child and the request is for a period of adjustment and/or to make arrangements for the care of the child;
  3. The remaining time on a limited appointment would be insufficient to liquidate the advance by future accruals;
  4. The employee is medically certified as terminally ill;
  5. Chronic ailments have necessitated the employee's absences in the past, and are expected to continue; or
  6. The total illness lasts less than 2 consecutive days.
- D. When it is known that the employee is to be retired or otherwise separated, the total advance may not exceed the amount that can be liquidated by accrual before separation. Advance sick leave is liquidated automatically through accrual of sick leave after the employee returns to work. Repayment is not required when separation is because of death, resignation for supported by acceptable medical documentation, or disability retirement.
- E. Disabled Veterans: A disabled veteran who presents documentation from a physician or other medical authority showing that medical examination, treatment or absence in connection with a service-connected disability is required must be granted sick leave (including advanced sick leave) and annual leave permitted by law, plus any leave without pay that may be necessary to undergo treatment.

#### **SECTION 21.09: LEAVE RESTRICTION.**

- A. If a supervisor reasonably believes and can demonstrate that an employee is abusing leave (sick leave, unscheduled annual leave, leave without pay, or credit hours), the employee will be counseled concerning such abuse. If the employee continues to abuse his or her leave, the employee may be given a written leave restriction notice concerning such abuse. Abuse of leave shall not be determined solely on the basis of leave balance.
- B. Leave Restriction for Sick Leave Abuse:**
1. The written leave restriction notice concerning abuse of sick leave shall inform the employee of the reasons for the leave restriction, the procedures for requesting leave and the documentation required to support the leave request. The notice shall also inform the employee that all subsequent sick leave or leave in lieu of sick leave must be supported by a medical certificate as defined in Section 21.02(C) which states the period of medical care and, if the absence was due to the employee's illness, certifies, from a medical standpoint, that the employee's condition during the absence was such that the registered practicing physician or other practitioner considered the employee incapacitated for work. If the absence was for care of a family member, the certificate must state the period of care and that the family member required care by the employee.

2. The notice shall be reviewed by the supervisor at the end of the notice period, not to exceed 3 months, and shall be canceled if there is not just and sufficient cause to continue the leave restriction.

**C. Leave Restriction for other Leave Abuse:**

1. The written notice concerning abuse of other leave shall inform the employee of the reasons for the leave restriction, the procedures for requesting leave and the documentation required to support the leave request.
2. The notice shall be reviewed by the supervisor at the end of the notice period, not to exceed 3 months, and shall be canceled if there is not just and sufficient cause to continue the leave restriction.

**SECTION 21.10: EXCUSED ABSENCES.**

An excused absence is an absence from duty, administratively authorized, without loss of pay and without charge to leave. Supervisors are authorized to excuse employees for brief periods for reasons that are in the best interest of the public or HUD.

**A. Voting.** An employee may be excused to vote as follows:

1. If the polls are not open at least 3 hours, either before or after an employee's hours of duty, he/she may be allowed to report for work 3 hours after the polls open or to leave work three 3 hours before the polls close, whichever is the lesser; or
2. If an employee's voting place is beyond normal commuting distance and voting by absentee ballot is not permitted, sufficient time off (not to exceed 1 day) may be granted to enable the employee to make the trip to the voting place. Where more than 1 day is required, a liberal leave policy shall be observed, and time off in excess of 1 day shall be charged to annual leave, if available, or to leave without pay.

**B. Voter Registration.**

1. For an employee who votes in a jurisdiction which requires registration in person, time off may be granted on substantially the same basis as for voting, except that time off should not be granted if registration can be accomplished on a non-workday and the place of registration is within a reasonable 1 day round trip travel distance of the employee's residence.
2. Where registration by mail is permitted, an employee may not be excused for registration.

**C. Blood Donation.** Upon advance request to his/her supervisor, employees may be granted up to 4 hours (or more in unusual circumstances) of excused absence to donate blood or blood product, such as platelets or plasma. This does not cover an employee who

gives blood or blood product for an employee's own use or receives compensation for giving blood or blood product. Such absences shall include the amount of time necessary to travel to the donation site, donate blood or blood product, recuperate at the donation site, if needed, and return to work if the employee's tour of duty is not over.

- D. **Bone Marrow/Organ Donation.** An employee may be granted up to 7 days of excused absence per calendar year to serve as a bone marrow donor and 30 days of excused absence per calendar year to serve as an organ donor. The employee must obtain advance written approval for any period of excused absence related to the bone marrow/organ donation process, using the webTA system, and provide acceptable medical evidence that the absence is related to a bone marrow or organ donation.
- E. **Office Closure and Early Dismissal.** When an Office closes down due to emergency situations or hazardous weather conditions, the amount of leave and/or excused absence charged is based on the employee's duty status at the time set for dismissal.
- F. **Brief Absences.** Brief absences from duty of less than 1 hour and occasional tardiness up to 1 hour may be excused when reasons are justifiable to the supervisor.
- G. **Administrative Leave for Volunteer Activities.**

Employees may apply for administrative leave for volunteer activities using the Administrative Leave for Volunteerism Form (Appendix E), and subject to the provisions in HUD Handbook 610.01. (See Article 56)

- H. **Unsanitary/Dangerous Conditions:** An employee may be granted excused absence where conditions exist that may affect the employee's health (e.g. leaking pipes, bathroom facilities not functioning, etc.)
- I. **Military Funerals:** An employee is excused for not more than three days to make arrangements for or to attend the funeral or memorial service of an immediate relative who died as the result of wounds, disease, or injury while serving in the armed forces in a combat zone.

### **SECTION 21.11: COURT LEAVE.**

Employees shall be granted necessary time off without charge to leave or loss of pay in response to a summons to serve as a juror in a judicial proceeding or as a non-party witness when one of the parties is the United States, a State, a municipality, or the District of Columbia, and other U.S. Territories. The employee shall submit the court-issued certificate of jury/witness service for the specific date(s). Employees must reimburse the department any fees paid for service as a juror or witness. However, monies paid to jurors or witnesses which are in the nature of "expenses" (i.e. transportation) do not have to be reimbursed.

An employee who is summoned as a witness in an official capacity on behalf of the federal government is on official duty, not court leave.

## **SECTION 21.12: LEAVE FOR CHILDBIRTH, ADOPTION, OR CARE OF A NEWBORN.**

- A. Where an employee intends to request leave for childbirth, adoption, or care of a newborn, the employee may request the use of credit hours, compensatory time, sick leave, annual leave, advance sick leave, advance annual leave, leave donation (voluntary leave transfer program and voluntary leave bank), leave without pay or a combination of these, as applicable. The leave may be requested using the webTA system under the provisions of this Article, and/or the Family and Medical Leave Act as appropriate to the circumstances.
- B. As outlined in the January 15, 2015 Presidential Directive entitled “Modernizing Federal Leave Policies for Childbirth, Adoption and Foster Care to Recruit and Retain Talent and Improve Productivity” and the OPM Handbook for Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care, to the maximum extent practicable, Management should advance sick or annual leave, approve donated annual leave under the voluntary leave transfer program and the voluntary leave bank program, and approve leave without pay for the purposes of childbirth, adoption and foster care, as appropriate. Specifically, Management should offer 240 hours of advanced sick leave, at the request of the employee and in appropriate circumstances, in connection with the birth or adoption of a child or for other sick leave eligible uses, and should offer the maximum amount of advanced annual leave, at the request of the employee, for foster care placement in their home or bonding with a healthy newborn or newly adopted child. This advanced leave should be offered for purposes specified in law and regulation irrespective of existing leave balances.
- C. The employee must provide a medical certificate stating the expected date of delivery or other documentation outlining the date the child will be received in the home. If the employee anticipates that he or she will not return to duty on the scheduled date, he or she must submit, in advance, a request for additional leave accompanied by appropriate medical or other certification.
- D. If a pregnant employee requests modification of duties or a temporary reassignment and presents acceptable medical evidence that this is advisable, Management will immediately process such a request in accordance with the Reasonable Accommodation procedure.
- E. The Patient Protection and Affordable Care Act amended Section Seven of the Fair Labor Standards Act (FLSA) to provide nursing mothers with reasonable break time to express breast milk. It allows up to one year after the child’s birth and each time an employee has a need to express milk. Private space, other than a bathroom, that is shielded from view and free from intrusion of others shall be made available to HUD employees to express breast milk, in accordance with Section 7 of the Fair Labor Standards Act.

## **SECTION 21.13: MILITARY SERVICE.**

Military service is very technical in nature. Supervisors and employees should contact their assigned Labor and Employee Relations Specialist for guidance regarding military service.

- A. Any employee who is a member of the National Guard or a Reserve component of the Armed Forces or the National Disaster Medical System (NDMS) as coordinated by the Department of Homeland Security, per 20 CFR 1002.5(F) shall be entitled to approved time off for service as authorized under 5 USC 6323. During this approved time off, 15 workdays (plus 22 workdays if serving under a contingency operation) of paid military leave shall be provided for all related duties, including but not limited to active duty, inactive duty, and active duty for training, as provided for in 5 USC 6323, as amended or updated, and all other statutes governing military leave, implementing regulations, and OPM policy directives, as amended or updated. Military leave is absence from duty in the employee's civilian position without loss of pay (including pay for regularly scheduled overtime). Any employee may carry over a maximum of 15 military leave days in to the next fiscal year. An employee is entitled to receive both his or her civilian salary and his or her military pay when using the 15 workdays of military leave. For the 22 workdays under a contingency operation, when applicable, an employee is entitled to the greater of his or her military or civilian pay, but not both.
- B. Any form of leave or Leave Without Pay (LWOP-US) may be used for military service, including annual leave, sick leave, compensatory time, and credit hours, according to normal statutory and regulatory provisions for Federal employees.

Management understands, in accordance with 20 CFR 1002.87, that an employee is required only to provide notice of upcoming military service, and is not required to ask for or obtain permission in order to leave to perform uniformed services. In accordance with 20 CFR 1002.85, an employee should provide notice as far in advance as is reasonable under the circumstances.

- C. In accordance with the Uniform Services Employment and Reemployment Rights Act (USERRA), 38 USC Chapter 34, 5 U.S.C. 6323, 20 CFR Part 1002, and all applicable OPM regulations, memoranda and updates, Management will ensure that all benefits of employment will be maintained and timely processed while the employee is in military service, specifically with regard to return to civilian duty rights, excused absences, annual reviews, bonuses, paid holidays and paid days, step increases, approval of leave, medical benefits, medical savings accounts, employee retirement accounts and any other benefits the employee would have received if not on military duty.
- D. Management and employees shall ensure that they are fully compliant with the Uniform Services Employment and Reemployment Rights Act (USERRA), as provided for in 38 U.S. Code, sections 4301 to 4333 and 20 CFR Part 1002, and any additional subsequent statutory, OPM regulatory, and policy changes.
- E. Employees who are called for a period of military service beyond the 5-year limit and meet

the exception criteria in 38 U.S.C. § 4312 shall retain their re-employment and benefits rights that they had for military service of 5 years or less.

**F. MILITARY SERVICE DOCUMENTATION.** The types of documents that are submitted to establish eligibility will vary from case to case. However, any one of these documents will suffice for the purposes of eligibility, unless they are not presently available. Employees shall make every effort to supply the appropriate documentation in a reasonable timeframe, and management acknowledges that it cannot place any arbitrary time frames on the employee for furnishing documentation that is not presently available.

1. Military Service/USERRA for periods of service of thirty days or less:

Per USERRA and implementing regulations 20 CFR Part 1002, an employee is not required to provide documentation for service under 30 consecutive days.

2. Military Service/USERRA for periods of service of 31 days or more:

For periods of service of 31 days or more, appropriate documentation shall be provided to management, as outlined below in Section 21.13(E)(3).

3. Documents that satisfy the burden of documentation for Military Service/USERRA:
  - a. DD (Department of Defense) 214 Certificate of Release or Discharge from Active Duty.
  - b. Copy of orders directing the employee to active duty.
  - c. Letter from the commanding officer or other official authorized by military authorities.
  - d. Certificate of completion from a training school.
  - e. Discharge certificate showing character of service.
  - f. Copy of extracts from payroll documents showing periods of service.
  - g. Letter from National Disaster Medical System (NDMS) Team Leader or Administrative Officer verifying dates and times of NDMS training or Federal activation.
4. Periods of service may include inactive duty, training, travel, etc., which may not be accompanied by orders directing the employee to active duty. In those cases, any documentation as outlined in 21.13(E)(3) from an authorized military authority that outlines the dates of military service for these inactive duty periods, if available, shall be accepted.

**G.** Management will ensure that compliance training will be provided to



supervisors concerning the rights of affected employees. Management will also provide training to affected employees and reservists concerning their rights and responsibilities under USERRA and their benefits regarding leave, health benefits and retirement.

#### **SECTION 21.14: WORKERS COMPENSATION.**

Workers Compensation and the associated leave procedures are addressed in Article 29.

#### **SECTION 21.15: LEAVE WITHOUT PAY (LWOP).**

- A. Leave without pay is approved leave and may be approved at the discretion of the approving official. Some situations when extended LWOP may be approved include:
1. For individual educational purposes, when the completion of the course shall contribute to the Department's best interest;
  2. For illness or disability not of a permanent or disqualifying nature;
  3. For a disabled veteran who needs medical treatment for a service-connected disability;
  4. When Federal employment is interrupted by a period of service in the uniformed service; and
  5. Pending final action by the Office of Personnel Management on a claim for disability retirement or pending final action by the Office of Workers' Compensation Programs on a claim resulting from employment-connected injury or disease.

#### **B. Leave Without Pay under the Family and Medical Leave Act**

1. Under the Family and Medical Leave Act (FMLA) of 1993 as prescribed in 5 CFR 630, eligible employees (completed at least 12 months of service) have an entitlement of up to 12 workweeks (480 hours) of unpaid leave during any 12-month period for:
  - (a) Birth of a child and care of a newborn (within 1 year after birth);
  - (b) Placement of a child with an employee for adoption or foster care (within 1 year after placement);
  - (c) Care of a spouse, child, or parent of an employee, if such spouse, child, or parent has a serious health condition; or
  - (d) Serious health condition of the employee that makes the employee unable to perform the essential functions of his/her position. A "serious health condition" is defined in 5 CFR 630 as an illness, injury, impairment, or physical or mental

condition that involves (1) inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or (2) continuing treatment by a health care provider, which may include a period of incapacity of more than 3 consecutive calendar days that involves treatment two or more times by a health care provider or treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider, (3) any period of incapacity due to pregnancy, childbirth or for prenatal care, (4) any period of incapacity or treatment due to a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.), (5) a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective, (the employee must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g., Alzheimer's, severe stroke, or terminal stages of a disease), and (6) any period of absence to receive multiple treatments (including any period of recovery) by a health care provider for restorative surgery after an accident or injury or for a condition that would likely result in a period of incapacitation of more than 3 consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy or radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease).

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

(e) Any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

2. An employee may elect to substitute sick or annual leave for leave without pay under the Family and Medical Leave Act, consistent with current law and regulations

governing the granting and use of annual and sick leave. The employee must notify Management of his or her intent to substitute paid leave for leave without pay under FMLA prior to the date such leave commences. An employee may not retroactively substitute paid leave for leave without pay previously taken under FMLA.

3. If the leave taken under the Family and Medical Leave Act is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee shall provide notice to Management of his or her intention to take leave not less than 30 calendar days before the date the leave is to begin. If the date of birth or placement or planned medical treatment requires leave to begin within 30 calendar days, the employee shall provide such notice as is practicable.
4. If leave taken under paragraph 21.15(B)1(c) or (d) above is foreseeable based on planned medical treatment, the employee shall consult with Management and make a reasonable effort to schedule medical treatment so as not to disrupt unduly the operations of the Department, subject to the approval of the health care provider. Management may, for justifiable cause, request that an employee reschedule medical treatment, subject to the approval of the health care provider.
5. If the need for leave is not foreseeable, e.g., a medical emergency or the unexpected availability of a child for adoption or foster care, and the employee cannot provide 30 calendar days' notice of his or her need for leave, the employee shall provide notice within a reasonable period of time appropriate to the circumstances involved. If necessary, notice may be given by an employee's personal representative (e.g., a family member or other responsible party).
6. An employee must invoke his or her entitlement to Family and Medical Leave in accordance with the notification requirements above. An employee may not retroactively invoke entitlement to family and medical leave. However, if an employee and his personal representative are physically or mentally incapable of invoking family and medical leave during the entire period in which the employee is absent for a FMLA-qualifying purpose, the employee may retroactively invoke entitlement to FMLA leave within 2 workdays after returning to work.
7. If the need for leave is foreseeable, and the employee fails to give 30 days' notice with no reasonable excuse for the delay of notification, Management may delay the taking of leave under the Family and Medical Leave Act until at least 30 days after the date the employee provides notice of his or her need for family and medical leave.
8. Leave requested under the FMLA for the purposes in paragraph 21.15(B)1(a) or (b) above must be submitted to the first line supervisor or Senior-level Management in the program chain, and supported by evidence that is administratively acceptable to Management. Leave requested under the FMLA for the purposes in paragraph 21.15(B)1(c) or (d) above must be supported by the Department of Labor WH-380 form completed by a physician, or similar written medical certification which shall include:
  - (a) the date the serious condition commenced;
  - (b) the probable duration of the serious

health condition; (c) the appropriate medical facts within the knowledge of the health care provider regarding the serious health condition, including a general statement as to the incapacitation, examination, or treatment that may be required by a health care provider; (d) for leave requested under paragraph 21.15(B)1(c) above, a statement from the health care provider that the spouse, child, or parent of the employee requires psychological comfort and/or physical care; needs assistance for basic medical, hygienic, nutritional, safety, or transportation needs or in making arrangements to meet such needs; and would benefit from the employee's care or presence; and a statement from the employee on the care he or she will provide and an estimate of the amount of time needed to care for the spouse, child, or parent; (e) for leave requested under paragraph 21.15(B)1(d) above, a statement that the employee is unable to perform one or more of the essential functions of his or her position or requires medical treatment for a serious health condition; (f) for intermittent leave requested under paragraph 21.15(B)1(c) or (d) above for planned medical treatment, the dates (actual or estimates) on which such treatment is expected to be given, the duration of such treatment, and the period of recovery, if any, or a statement that the serious health condition is a chronic or continuing condition with an unknown duration and whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

9. If the employee is unable to provide the requested medical documentation before the FMLA leave begins, or if Management questions the validity of the original certification provided by the employee and the medical treatment requires the leave to begin, Management shall grant provisional leave under FMLA pending receipt of final written medical certification.
10. The employee must provide the required medical certification, signed by the health care provider, no later than 15 calendar days after the date that Management requests such medical certification. If it is not practicable under the particular circumstances to provide the requested medical certification no later than 15 calendar days after the date requested by Management despite the employee's diligent, good-faith efforts, the employee must provide the medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date Management requests such medical certification.
11. If, after the leave has commenced, the employee fails to provide the requested medical certification or administratively acceptable evidence, Management may charge the employee as Absent without Leave (AWOL) or allow the employee to request that the provisional FMLA leave be charged as regular leave without pay, annual leave and/or sick leave, as appropriate.
12. **FMLA for Military Family Leave:** Covered family members are entitled to up to 26 weeks (1040 hours) of FMLA leave during a single 12-month period to care for the service member. During the single 12-month period, the employee is entitled to a combined total of 26 weeks (1040 hours) of regular FMLA leave and military family leave.

For example, if during the single 12-month period an employee wants to take 6 weeks (240 hours) of regular FMLA leave for the birth of a child, as well as military family leave for care of a service member, the 6 weeks (240 hours) of regular FMLA leave would be subtracted from the combined entitlement of 26 weeks (1040 hours), leaving the employee with 20 weeks (800 hours) of military family leave for care of the service member.

The use of this military family leave in a single 12-month period does not limit the use of regular FMLA leave during any other 12-month period. For example, if an employee uses 26 weeks (1040 hours) of military family leave during a single 12-month period but has not used any regular FMLA leave during that period, the employee would be entitled to use up to 12 weeks (480 hours) of regular FMLA leave immediately following the single 12-month period.

Similar to regular FMLA leave, military family leave is unpaid leave for which an employee may substitute any accumulated annual or sick leave. The normal leave yearly limitations on the use of sick leave to care for a family member do not apply.

13. Management and the Union jointly agree to comply with 5 CFR 630 and all other applicable laws.

#### **SECTION 21.16: COMPENSATORY TIME FOR RELIGIOUS OBSERVANCES.**

- A. An employee may request to work compensatory overtime for the purpose of taking compensatory time off for religious observances when personal religious beliefs require that the employee abstain from work during certain periods of the work day or work week.
- B. All requests to earn and use compensatory overtime for religious observance must be submitted through the webTA system to the employee's immediate supervisor. The request must contain the religious belief, observance or practice for which the employee is requesting to earn compensatory time and explain why the religious belief, observance or practice requires the employee to abstain from work during the employee's normal work schedule in the comments section of the webTA system. An employee may not begin to work compensatory overtime until the supervisor has approved the request for religious compensatory time. The request for religious compensatory time must be accompanied by a schedule of the dates and times when the employee intends to earn the compensatory overtime to offset the compensatory time used. An employee may accumulate only the number of hours of compensatory time needed to offset the time off for religious observance.
- C. The compensatory overtime must be earned within 13 pay periods prior to or after the compensatory time is used. If an employee does not earn the hours within 13 pay periods after they are used, the employee will be charged annual leave or leave without pay as appropriate. If an employee does not use the compensatory hours within 13 pay periods

after they are earned, the employee loses the hours. Compensatory overtime may not be converted to overtime and paid.

- C. The employee's request to work compensatory overtime or take compensatory time off for religious observance may be disapproved if such modifications to the work schedule would interfere with the efficient accomplishment of the Department's mission.

#### **SECTION 21.17: VOLUNTARY LEAVE TRANSFER PROGRAM.**

This program permits employees to donate accrued annual leave to other employees who have insufficient leave available to cover absences from work because of a medical emergency involving the employee or a family member, in accordance with applicable law and regulations.

- A. **Inter-agency Transfers.** The Department shall accept leave donations from employees in other Federal agencies.
- B. **Donor Criteria.** Employees are prohibited from donating leave to either their first or second-line supervisor.
- C. **Certification.** The Department requires a certification from a physician, or other appropriate expert, with respect to the medical emergency. If the Department requests the applicant to provide medical documentation of the emergency from more than one source, the Department shall pay for the second certification.
- D. **Information to Employees.** The names of approved leave recipients shall be posted on hud@work (or successor site), or provided to any potential leave donor upon request to the Human Resources program coordinators in headquarters. If the employee objects in writing, his/her name shall not be posted on hud@work or provided to potential donors by the coordinators.
- E. **Restoration.** Restoration of donated leave is considered to be administratively infeasible when the donor is no longer employed by the Department and attempts to locate him or her at a last known address have failed or when the amount of leave to be restored is less than 1 hour. At the time a leave donor becomes eligible for restoration of annual leave, the donor shall be informed in writing of the donor's right to donate such restored leave to another leave recipient or retrieve the leave.
- F. **Employees Who Are Wounded Veterans.** Effective January 28, 2008, an employee, who sustained a combat-related disability while serving as a member of the Armed Forces (including a reserve component) and is undergoing medical treatment for that disability may participate in the Voluntary Leave Transfer Program without first having to exhaust his/her own available paid leave. This provision is in effect for a 5-year period. The 5-year period begins on January 28, 2008, for an employee who is already undergoing medical treatment.

## **SECTION 21.18: VOLUNTARY LEAVE BANK**

- A. Purpose: The purpose of the Voluntary Leave Bank Program (VLBP) is to provide income protection for employees who experience a personal medical emergency or medical emergency of a family member that is likely to require an employee's absence from work for a prolonged period of time, i.e., at least 24 hours for a full-time employee, and would result in a substantial loss of income because all leave has been exhausted. The Parties shall refer to HUD Handbook 600.1 for more information regarding the Voluntary Leave Bank.
- B. Leave Bank Board: The Leave Bank Board (LBB) will consist of a NFFE 1450 Union official who shall serve among the four Unions to be rotated at least 25% of the time in each rotation (schedule to be determined in subsequent negotiations); an OCHCO non-bargaining unit employee; and one management official.
- C. Leave Bank Membership: The LBB will establish the minimum contribution required to become a Leave Bank member for the leave year in which the contribution is made, and the maximum contribution within a leave year, depend on the contributing employee years of service.
- D. Leave Bank Process: Employees who want to join the Leave Bank must make a minimum contribution of annual leave during a specified enrollment period. Minimum contributions to initiate membership are 4, 6, or 8 hours of annual leave, depending on enrolled employees' annual leave earning category or as otherwise determined by the Leave Bank Board. These contributions are normally withheld during the first full pay period of each leave year. This pooled leave is then available to Leave Bank members, who are approved by the Leave Bank Board as recipients. A member is eligible to apply/receive leave from the Bank. Employees can also donate without being a member. An employee with use or lose annual leave has the option to donate hours to the leave bank at any time during the leave year. However, membership enrollment is only allowed during open enrollment periods.
- E. Annual Leave Donation Limits: In any one leave year, an employee may donate no more than one-half of their annual leave he or she may be entitled to accrue during the leave year for which the contribution is made. Annual leave may not be donated before it is earned. A written request for a Waiver of Limitations on Annual Leave donations can be submitted to the LBB as outlined in 5 CFR 630.1005.
- F. Leave Bank Recipient Application: To become a Leave Bank Recipient, Leave Bank members must submit the appropriate HUD Leave Bank Application to the LBC. If a Leave Bank member is not capable of applying on his or her own behalf, an authorized personal representative may make the written application. Applications for the Leave Bank Program may be made retroactively, but no later than thirty (30) calendar days after the applicant has returned from leave *required by the medical emergency*.
- G. Leave Bank Board Response: The LBB will establish the number of hours to be granted for each application. The minimum number of hours that may be granted is 24 hours. The maximum number of hours an applicant may be eligible to receive in each calendar year is

240, although not guaranteed. The LBB will provide written notification within 14 working days to the applicant with their decision on the leave bank application.

- H. Leave Bank Board Appeal: If the applicant is dissatisfied with the decision of the Leave Bank Board the applicant may reapply, providing ADDITIONAL information within thirty (30) calendar days from the date of the notice of decision. The cost of a second medical opinion provided as additional information will be incurred by the applicant. In any instance, the decision of the Leave Bank Board will be final.
- I. Use of Leave from the Leave Bank Program: Employees are required to exhaust all available annual and sick leave prior to using leave granted from the Leave Bank. Leave from Leave Bank Program may not be included in a lump-sum payment nor made available for re-credit upon re-employment. If a medical emergency terminates prior to the date projected by the leave recipient, the Leave Bank Coordinator must insure that the unused leave is re-deposited to the Leave Bank.
- J. Prohibition: An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to do so, any other employee in order to interfere with the rights of that employee to contribute, withdraw, or use annual leave in connection with the department Leave Bank Program. The term “intimidate, threaten, or coerce” includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion or compensation).
- K. The parties (NFFE 1450 and Management) will negotiate additional details regarding the Voluntary Leave Bank at a later date.

#### **SECTION 21.19: ABSENCE WITHOUT LEAVE.**

Absence without leave (AWOL) is a leave charge for an employee’s absence which is unauthorized, or the authorization is pending submission of required supporting documents. Recording an absence as AWOL is not a disciplinary action. However, absences without approved leave can become the basis for initiating disciplinary or adverse action.



**ARTICLE 22**  
**OVERTIME AND COMPENSATORY TIME**

**SECTION 22.01: TYPES OF OVERTIME WORK.**

Generally, this Article refers to two types of overtime work:

- A. Regular overtime work means overtime work that is part of an employee's regularly scheduled administrative workweek; and
- B. Irregular or occasional overtime work means overtime work that is not part of an employee's regularly scheduled administrative workweek.

**SECTION 22.02: APPROVAL.**

- A. Overtime is management-directed hours of work beyond the tour of duty. All overtime and compensatory time must be approved in advance by the appropriate official. All approved or "suffered or permitted" overtime will be paid in accordance with statute, regulation and prevailing law. Upon management's assignment of overtime work, the employee should enter the overtime or compensatory time request in the webTA system, as appropriate. The first line supervisor will consult with the appropriate management official and obtain the necessary signatures on the HUD-1040, if appropriate, prior to approval in the webTA system. If the employee works less hours than what is approved, the employee shall correct the overtime hours worked in webTA.
- B. "Suffered or permitted" overtime is any work performed by an employee for the benefit of an agency, whether requested or not, provided the employee's supervisor knows or has reason to believe that the work is being performed, and has an opportunity to prevent the work from being performed. "Suffered or permitted" overtime must be compensated with overtime pay, not compensatory time, credit hours or other forms of compensation.

In order to curtail concerns of "suffered or permitted" overtime, non-exempt employees are not allowed to work through lunch, after hours, or from home during off duty hours, unless approved by the supervisor. This includes responding to emails, voicemails, and checking Personal Digital Assistants

(PDAs) from off-site when not on duty hours.

### **SECTION 22.03: COMPENSATION FOR OVERTIME WORK.**

#### **Non-exempt Employees**

Consistent with governing law, and existing Government-wide regulation (5 CFR 550 and 551), **Non-exempt employees** are those employees covered by the Fair Labor Standards Act (FLSA) according to the classification of the position.

- Non-exempt employees with Flexible Work Schedules are entitled to overtime pay or, at their election, to compensatory time off in lieu of overtime pay for regularly scheduled or irregular/occasional overtime work.
- Non-exempt employees with Compressed Work Schedules are entitled to overtime pay or, at their election, to compensatory time off in lieu of overtime pay for irregular/occasional overtime work only.

#### **Exempt Employees**

Consistent with governing law, and existing Government-wide regulation (5 CFR 550 and 551), **Exempt employees** are those employees not covered by the Fair Labor Standards Act (FLSA) according to the classification of the position.

- Exempt employees (both Flexible and Compressed Work Schedules) above GS-10 step 10 may be required to accept compensatory time for irregular or occasional overtime worked.
- Exempt employees (both Flexible and Compressed Work Schedules) GS-10 step 10 and below are entitled to overtime pay or, at their election, to compensatory time off in lieu of overtime pay.

### **SECTION 22.04: ACCUMULATION OF COMPENSATORY TIME.**

If compensatory time off for FLSA exempt employees is not requested and taken within the established time limits, currently 26 pay periods, the employee will forfeit the compensatory time,

unless an exigency of the service prevents the employee from using the compensatory time. If compensatory time off for FLSA nonexempt employees is not requested and taken within the established time limits, currently 26 pay periods, the employee must be paid for overtime work at the overtime rate in effect for the work period in which it was earned. As such, employees are required to exhaust their compensatory time first prior to utilizing annual leave. Travel compensatory time may be used any time in the 26 pay periods after it is earned, with supervisory approval.

#### **SECTION 22.05: OVERTIME AGGREGATION.**

- A. **Regular and Recurring Overtime Scheduled in Advance.** Management agrees that in the scheduling of overtime in advance, such work shall be scheduled in quarter hour increments. Such increments shall be aggregated into hours or portions thereof at the end of each pay period for compensation. Any portion of a quarter hour shall be rounded off to the next higher increment.
- B. **Irregular or Occasional Overtime.** When employees work irregular or occasional overtime, Management shall aggregate time as follows:
  - 1. It shall round down to the next lower quarter hour those odd minutes of work that are less than 50 percent of a quarter hour; and
  - 2. Shall round up to the next higher increment those odd minutes of work that equal or exceed 50 percent of a quarter hour.

#### **SECTION 22.06: REST BREAKS ON OVERTIME.**

Each employee who works overtime shall be entitled to one paid rest break of 15 minutes for each 4 hours of overtime. A rest break may be taken after the first 2 hours of the overtime period. However, a rest break may not be taken at the end of the overtime period or be in lieu of or added to the normal lunch break after a 4 hour segment of overtime worked.

#### **SECTION 22.07: ASSIGNMENT OF OVERTIME WORK.**

The Department shall advise employees that those who desire to volunteer for overtime work may indicate their preference by signing up on a volunteer overtime list which shall be made readily available for inspection. The Department shall first consider the assignment of overtime to volunteers who perform work of the same nature during the time falling within their basic workweek, as well as to other qualified employees having the requisite skills and personal qualifications for the work to be performed. The Department will give fair consideration of all relevant factors prior to bringing employees into an office to work overtime when there are qualified employees currently in that office who have volunteered to work overtime. Assignments

of overtime shall be made on a fair and equitable basis in accordance with The Department's need to accomplish the work.

Any adjustments of employee work schedules which may avoid the payments of overtime shall be based on business needs.

Overtime shall be offered to qualified permanent full time employees before being offered to part time or temporary employees.

**SECTION 22.08: EXCUSAL.**

Upon request and a reasonable showing that a requirement to work overtime shall cause a hardship on the employee, Management shall excuse employees from overtime work provided that a comparably qualified employee is available for the assignment.

**SECTION 22.09: CALL-BACK.**

Employees called back to work outside of their regular hours of work shall be paid for at least 2 hours of work. Management, to the extent practicable, shall schedule work for at least 4 hours on such occasions.

**SECTION 22.10: TIME SPENT TRAVELING.**

- A. Time spent traveling shall be considered hours of work if the employee:
  - 1. is required to travel during regular working hours (i.e., during the regularly scheduled administrative workweek);
  - 2. is required to work while traveling (e.g. being required to drive as part of a work assignment);
  - 3. is required to travel as a passenger on a one (1) day assignment away from the official duty station; or

4. is required to travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours (See 5 CFR 551.422(a)).
- B. For exempt employees, time spent traveling is hours of work which may be subject to overtime or regular compensatory time (and not travel compensatory time) if the travel is:
1. within the days and hours of the employee's regularly scheduled administrative workweek, including regularly scheduled overtime hours, **or**
  2. outside the hours of the employee's regularly scheduled administrative workweek, is ordered or approved, **and** meets one of the following four conditions-
    - i. involves the performance of work while traveling (such as driving a loaded truck);
    - ii. is incident to travel that involves the performance of work while traveling (such as driving an empty truck back to the point of origin);
    - iii. is carried out under arduous and unusual conditions (e.g., travel on rough terrain or under extremely severe weather conditions);  
or
    - iv. results from an event that could not be scheduled or controlled administratively by any individual or agency in the executive branch of Government (such as training scheduled solely by a private firm or a job-related court appearance required by a court subpoena).

Note: An 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.

#### **SECTION 22.11 - TRAVEL COMPENSATORY TIME.**

Compensatory time off for travel (Travel Compensatory Time) is earned by an employee for time spent in travel status away from the employee's official duty station when such time is not otherwise compensable.

- A. The Department shall credit an employee on an hour for hour basis with travel

compensatory time for time in travel status.

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

1. Time spent traveling between the official duty station and a temporary duty station;
2. Time spent traveling between two temporary duty stations; and
3. The "usual waiting time" as defined in 5 CFR 550.1404 (b) preceding or
  - i. interrupting such travel (e.g., waiting at an airport or train station prior to departure).

In circumstances beyond an employee's control, approval may be granted after the fact (i.e., travel delay/emergencies, etc.).

B. Travel compensatory time does not impact the budget.

#### **SECTION 22.12 - ELECTION.**

The election of an employee to request either compensatory time or overtime pay shall not be a factor in the assignment of overtime work.

#### **SECTION 22.13 - NOTICE.**

The Department shall, to the extent practicable, provide employees with two (2) days' advance notice of overtime assignments. Employees will be notified of the cancellation of scheduled overtime.

**ARTICLE 23**  
**REST AND LUNCH BREAKS**

**SECTION 23.01: AUTHORIZED REST BREAKS.**

Employees who work a full eight- or nine-hour workday shall be entitled to two authorized rest breaks, not to exceed 15 minutes each, on that workday, one to be taken before the lunch period and one to be taken after it. Employees who work at least 4 but less than 8 hours on a workday shall be entitled to one authorized rest break, not to exceed 15 minutes on that workday. However, employees who work 10 hours or more, shall be entitled to an additional 15 minute rest break.

**SECTION 23.02: SCHEDULE OF REST AND LUNCH BREAKS.**

- A. Lunch breaks may not be taken immediately prior to departure, unless the remainder of the work day is covered by leave.
- B. Rest breaks may not be taken immediately upon arrival or immediately prior to departure or immediately before or after the employee's lunch period. Rest breaks may not be taken in any combination nor accumulated or accrued for future use.
- C. Rest and lunch breaks shall be taken so as not to unduly interrupt the work of the Department.
- D. Nursing mothers will be provided with reasonable break time to express breast milk, in accordance with The Patient Protection and Affordable Care Act, Section 7 of the Fair Labor Standards Act (FLSA).

**SECTION 23.03: REST BREAK FACILITIES.**

Management shall provide rest break areas for employees which are safe, clean and well lighted, if similar facilities are not conveniently available as part of the overall facility. Management will provide a working refrigerator and microwave in each official lunch room. Rest rooms shall be maintained in safe and sanitary condition. Private space, other than a bathroom, that is shielded from view and free from intrusion of others shall be made available to HUD employees to express breast milk, in accordance with Section 7 of the Fair Labor Standards Act.

**ARTICLE 24**  
**FACILITIES AND SERVICES**

**SECTION 24.01: COVERAGE.**

The provisions of this Article are supplemental to the HUD Handbook 2200.1, Administrative Services Policy, or its negotiated successor, and applicable regulations in effect on the effective date of this Agreement.

**SECTION 24.02: OFFICE SPACE.**

- A. Space shall be provided for all allocated positions, including outstationed positions requiring a work station.
- B. Management agrees that the allocation of space and furnishings shall be adequate to maintain an efficient work environment and for performance of assigned duties.
- C. Upon request, when a service contract does not already cover a deep cleaning, Management agrees to arrange for a deep cleaning of all office space no less than once a year (including complete dusting of all surfaces and deep carpet cleaning).

**SECTION 24.03: EMPLOYEE FITNESS ACTIVITIES.**

If available through the conference room reservation system, Management agrees to provide available space, such as conference rooms, training rooms, etc., for use by employees for exercise classes, yoga, and other organized low-impact physical fitness activities. This space shall be made available during normal operating hours for use by employees during their lunch hours or nonworking hours, to the extent that the employee activities do not cause a disruption to the office. Employees must be responsible for removing any exercise clothing or other items from the conference rooms after each session. Employees who participate in these activities shall sign a liability release form. It is understood that program work takes priority if a conference room or large training/conference room is needed and not available.



**SECTION 24.04: WORKSTATION PANELS OR OTHER SYSTEMS FURNITURE.**

Employees located in open space areas will normally have systems furniture that reduce noise levels and regulate traffic. When a workstation is not consistent with the office standard and not equipped with workstation panels or other systems furniture to provide the appropriate visual and sound protection, if management determines that there are available extra panels in spare inventory, or other readily interchangeable systems furniture available in spare inventory for employees, they shall be provided to employees based on Federal service seniority (Federal Service Computation Date). The workstation must meet all safety and accessibility standards and be consistent with the established office workstation standard. This does not preclude the Union from proposing and negotiating with management during mid-term space negotiations on additional workstation panels or other systems furniture for noise-reduction needs of bargaining unit employees, consistent with the established office workstation standard.

**SECTION 24.05: DECORATIONS.**

Employees have the right to decorate their working areas with prints, photographs, awards, posters and artistic or symbolic representations appropriate to the working environment. The display must be consistent with governing General Services Administration (GSA) regulations and building lease requirements, and must not violate the Hatch Act or be inappropriate for the workplace.

**SECTION 24.06: SPACE CHANGES.**

Space adjustments shall be implemented in such a way as to minimize disruption to employees.

**SECTION 24.07: OFFICE RELOCATIONS.**

A. For any office relocation, once GSA notifies HUD that their lease is set to expire 24-36 months in advance, management will within 10 workdays:

1. Issue Phase 1 of an Article 38 notice, which will consist of the date of

expiration of the lease and the date GSA gave notice to the Agency;

2. Request that the Union appoint a representative to the relocation committee;
  3. Provide monthly updates and information regarding the office move, with more frequent updates as needed;
  4. When GSA notifies Management that a location has been determined, issue Phase 2 of the Article 38 notice, which will designate whether the office is moving to federal or leased space, and the new location; and
  5. Schedule a meeting with GSA, Management and Union to discuss timelines and space planning needs consistent with the terms of the LMA.
- B. The Union will be given 20 workdays after meeting with GSA to submit concept paper/sketches/drawings regarding the development of the Design Intent Drawing (DID) and physical design of the space.
- C. GSA, Management and the Union will collaboratively and jointly work on the draft DID. Once all parties are in agreement on the draft DID the drawing will be considered final and provided to GSA. If there is no agreement within 20 workdays, the parties shall proceed to mediation and impasse over the DID.
- D. Management will notify the Union if there are any necessitated changes to the DID after submission to GSA, which will be discussed with the Union.
- E. Management will bargain with the Union on all negotiable issues related to the relocation, including but not limited to, the union office, break areas, and décor. The Union recognizes that it can only make recommendations regarding office selection, and agrees that they will not participate in the official financial procurement bidding process.
- F. Seating may be arranged in teams or on an open basis, depending on the existing arrangements of the office and the work needs as determined by Management. During office relocations or space realignments, management will issue an Article 38 notice, and employees in the same team, where applicable, shall select seating in orders of highest seniority by Federal Service Computation Date, and if there is a tie, time with HUD, time in the program area, and then coin toss to break the tie.

G. Management shall include the Union in all phases of the planning process.

**SECTION 24.08: INFORMATION TO UNION.**

Upon written request, Management will provide the Union with:

- A. Copies of the Occupancy Agreement and all Addenda if available; and
- B. HUD's Space Requirement Package, and floor plans with detailed specifications and furniture layout.

**SECTION 24.09: OFFICE ENVIRONMENT.**

Management agrees to maintain an appropriate temperature range while employees are in the facility, within the parameters of the flexible time band (6:00 a.m. to 7:30 p.m.) GSA and OSHA's recommended temperature range is between 68 and 76 degrees. If there are extreme temperatures falling outside of the range outlined above, it will be addressed within 3 hours. In the event Management cannot address within 3 hours, it will rectify the situation by evaluating other options to include temporarily working from a different location, administrative leave, situational telework, etc. If Management directs a group of employees to work overtime or compensatory time (FLSA exempt), overtime utilities must be requested and approved by the assigned Administrative Officer or designee in advance.

**SECTION 24.10: FACILITY SECURITY.**

Management acknowledges that security is one of the preferences when selecting site location. Management agrees to coordinate with GSA to assure that Government-owned or leased buildings are provided appropriate security.

**SECTION 24.11: SECURITY ACCESS AND CONFIDENTIALITY.**

- A. A copy of the written Federal ID replacement credential procedures will be posted on hud@work (or successor site) for employees.
- B. Personal data provided by employees for security investigations will be safeguarded to protect the employees' privacy.
- C. If the Federal ID Credential is lost or damaged, the first two replacements in any calendar year will be made without penalty. The third and subsequent replacements will be paid for by the employee at a replacement fee of \$25.00 for each new credential.
- D. The union will be provided Article 38 notification regarding any future changes to the replacement credential procedures, which would affect bargaining unit employees.
- E. Employees will not be denied access to HUD space in a federal or commercial building based solely on a HUD employee not having the new Federal ID Credential, unless the employee is under administrative leave (based on misconduct), suspension or has been removed.
- F. Potential problems of public access to open work areas shall be mutually considered when office layouts are being planned. The workflow of employees performing work which is confidential in nature shall be considered before space plans are developed.

**SECTION 24.12: SYSTEMS FURNITURE AND WORKSTATION STANDARDS.**

To ensure workstation furniture and equipment systems are equitable, when it is determined that an office will receive new furniture and equipment, the workstation standard for employees will be locally negotiated. The workstation size will be determined based on local negotiations and will provide for adequate common space, files, etc. The internal workstation components shall be negotiated at the local level. The vendor will be selected in accordance with the procurement regulations.

**SECTION 24.13: WORKSTATION ALLOCATION.**

Management will ensure that systems furniture is distributed in a fair and reasonable manner to ensure consistency within the office.

**SECTION 24.14. OUTSTATIONED EMPLOYEES.**

Bargaining unit employees outstationed from Headquarters or other Field Offices will be provided space that conforms to the office standard where the employee is physically located.

**SECTION 24.15: UNOCCUPIED PRIVATE OFFICE SPACE.**

An unoccupied private office shall not be used as a temporary private office for any bargaining unit employee who is not entitled to a private office as described in Chapter 13 of the Administrative Services Handbook 2200.01 or its negotiated successor. However, the office may be used for other purposes. If the office space is used for other purposes that affect bargaining unit employee working conditions, it will be locally bargained, unless waived by the Union in writing.

**SECTION 24.16: SEATING ASSIGNMENTS.**

- A. New Employees (Including Employees Permanently Transferring Into NFFE 1450 Covered Locations):

Management will provide notice to the Union of any new bargaining unit employee or transferred employee at least 2 workdays, if practicable, prior to onboarding. Management will also provide the Union with the cubicle/private office assignment as determined by management. The Union will confer with affected employees within the same program area or team, as appropriate, by Federal SCD, and provide a response to Management within 3 workdays. In the case of a tie, time with HUD, time in the program area, and then coin toss shall be used. If no other employee desires said cubicle/private office, then the new employee will be assigned the cubicle/private office.

- B. Existing Employees:

- 1. When an employee is interested in moving into a vacant workstation within their program area or team, as appropriate, he or she will notify his or her immediate supervisor and the designated Union representative for the office;

2. Management will contact OCIO and the designated Administrative Officer to determine costs and feasibility, and will make a determination on approval within 5 workdays.
  3. Upon approval, the Union will then send an email to the employees on the same team as the requesting employee(s) or program office, depending on the existing seating arrangements (i.e. team vs. open) already negotiated with or agreed to by the Union, requesting that employees interested in moving into the vacant workstation(s) respond to the email within 3 workdays;
  4. The Union will then consult with the employees and determine the proposed vacant workstation(s) selection based on seniority according to the Federal Service Computation Date (SCD). In the event of a tie, HUD program-office seniority shall be the tie breaker. If it is still a tie, then a coin toss will determine the workstation selection;
  5. The Union will provide the proposed workstation selection to Management and the local Administrative Officer;
  6. Management shall provide boxes and tape for packing, if needed. The employee(s) shall be responsible for packing their files, books, binders and personal belongings;
  7. The employee shall be responsible for moving employee files, books, binders and personal belongings to the new cubicle. Management shall make available carts or dollies so that the employee(s) can transfer heavy files, books, binders and personal belongings without injuring themselves on the job. Employees with an approved Reasonable Accommodation may request and receive assistance from Management;
  8. Management shall be responsible for moving and connecting computer equipment and printers at the new workstation prior to occupancy;
  9. The employee(s) shall take their assigned ergonomic chair to the new workstation(s).
- C. As long as the above procedures are followed, there are no further mid-term bargaining obligations for workstation assignments unless management proposes to change existing team or open seating arrangements.

**SECTION 24.17: SPACE PREFERENCE.**

Management agrees that HUD employees shall have preference in space and workstation location over onsite contracted employees. Contractors do not have seniority in seating preferences. This is not intended to force current contractors to vacate their seats (i.e. “bump”).

**Section 24.18: PARKING**

- A. Management will research implementation of a pre-tax parking program.
- B. Management agrees to make available to the NFFE Local 1450 Union President a parking space under the same general terms as it provides to the Field Office Director at that duty station.

**SECTION 24.19: AUTOMATED EXTERNAL DEFIBRILLATORS.**

Management agrees to maintain all defibrillators in good working order and will not remove them from the HUD offices in Region IX.

**ARTICLE 25**  
**FAMILY FRIENDLY WORK ENVIRONMENT**

**SECTION 25.01: GENERAL.**

The Parties recognize that whenever employees are provided with an environment supportive of balancing the demands of work and family life, the results are greater cost efficiency, increased worker commitment and productivity, better customer service, and improved family life.

The Parties also recognize that some employees need to have reliable and adequate family care services available to them so they are free to devote their full energy and attention to their duties and responsibilities at the work site. In addition the Parties support the Department's policy to encourage employees to become familiar with the options available to them and to make use of them wherever possible.

**SECTION 25.02: NEEDS DETERMINATION.**

- A. Field Office Health and Safety Committees, as specified in Article 27, may conduct studies to determine employee needs for a family-friendly work environment, to include family care services. Where sufficient need is determined to exist, the Committee may work with Management to meet the work environment needs, identify already existing family care services, and/or foster the establishment of an appropriate facility, consistent with the available resources of the Department and the needs of the employees.
  
- B. If the identified needs warrant, Management will:
  - 1. Provide appropriate resources/referral services through the Employee Assistance Program or other HUD approved program to help employees meet dependent care needs.
  
  - 2. Provide employee benefit programs such as parental leave, family leave, alternate work schedules, leave transfer programs, flexitime, credit hours,



telecommuting, etc., which give employees latitude to respond to their family care needs while ensuring organizational needs are met.

**SECTION 25.03: FUNDING.**

The Parties commit to provide a family friendly work environment, such as establishing or participating with other Federal agencies to establish day care facilities close to the workplace, subject to the availability of sufficient funds to support these facilities. If the Department approves other programs, the Union will be provided notice and an opportunity to bargain as appropriate.

**SECTION 25.04: NOTIFICATION.**

Management shall promptly notify the appropriate Union representative of the intent to conduct needs studies and any new family friendly initiatives. Employees shall also be given proper and timely notice of the establishment of day care centers or other family-friendly initiatives so that employees may participate.

**SECTION 25.05: ENHANCING WORKPLACE FLEXIBILITIES AND WORK-LIFE PROGRAMS.**

A. Right to Request Work Schedule Flexibilities.

1. HUD shall make employees aware, on a periodic basis, that they have the right to request work schedule flexibilities available to them under law, without fear of retaliation or adverse employment action as a consequence of making such a request.
2. HUD shall allow employees an ability to request work schedule flexibilities, and that, upon receipt of such requests, supervisors (or their designees) should meet or confer directly with the requesting employee as appropriate to understand fully the nature and need for the requested flexibility;
3. HUD should remind employees on a periodic basis of the workplace flexibilities available to them.

B. Expanding Access to Workplace Flexibilities.

As per the Presidential Memorandum – Enhancing Workplace Flexibilities and Work-Life Program dated June 23, 2014, HUD shall take steps to increase the availability and use of work life flexibilities and programs to the maximum extent possible. If subsequent official guidance is issued on workplace flexibilities, Management will issue notice to the Union.

**ARTICLE 26**  
**TRAVEL AND PER DIEM**

**SECTION 26.01: GENERAL.**

Management and the Union recognize that the nature of the mission of the Department sometimes requires bargaining unit employees to travel away from their official duty station.

Employees designated as acting on behalf of the Union are governed by other provisions of this Agreement. The Travel Handbook is available on the HUDweb.

**SECTION 26.02: SCHEDULING TRAVEL.**

- A. Employees shall utilize HUD's automated travel system, Concur, or successor system to gain travel authorization approval and to submit expense reports.
- B. Management shall, to the maximum extent practicable, schedule administratively controllable travel to occur within each employee's standard working hours.
- C. Management shall give as much notice as practicable to employees selected for assignments involving travel.
- D. In accordance with GSA travel regulations, for travel over 12 hours, on the first and last day of travel, employees shall be compensated 75% of the per diem for the primary destination, and up to 100% of the per diem for all other days in travel status.

**SECTION 26.03: TRAVEL ADVANCES.**

The amount of travel advance shall be the maximum allowed under applicable regulations.

**SECTION 26.04: MODE OF TRANSPORTATION.**

- A. Official travel shall be accomplished by the method of transportation that is considered most advantageous to the Government, in accordance with 41 CFR Part 301. Employees must use government contract transportation carriers, unless one of the exception criteria is met at 41 CFR 301.10-107. Employees shall provide justification for a non-contract carrier in the travel authorization and it must be approved by the appropriate management official. In the event that Government-wide travel regulations change to allow employees to use self-service online booking outside of Concur or the successor travel system, employees may use that option with prior approval of the appropriate management official.
  
- B. If an employee elects to travel by a means of transportation other than the means determined most advantageous to the Government, and the change is approved by Management, the traveler may be required to travel during some nonduty hours or may be subject to reduced mileage reimbursement, as prescribed in GSA travel regulations.

**SECTION 26.05: REIMBURSEMENT OF OFFICIAL TRAVEL.**

**Rate.** Employees who are ordered by Management to perform official travel shall be reimbursed for all authorized expenses at the maximum standard rate allowed by law, rule, or Government-wide regulation.

**SECTION 26.06: USE OF PRIVATELY-OWNED VEHICLES.**

- A. Employees who are required to use their privately-owned vehicle (POV) or a GSA car for official business shall be reimbursed in accordance with the Federal Travel regulations and the HUD Travel Handbook.
  
- B. Employees shall not be required to use their privately owned vehicles (POV) in the course of business unless such use was made a formal condition of employment when they accepted their current position.

**SECTION 26.07: TRAVEL BONUSES.**

Employees may use frequent flyer miles obtained on Government travel for personal use in accordance with the Federal Travel Regulation.

**SECTION 26.08: CONCUR SYSTEM (E-TRAVEL).**

- A. **System Assistance:** Employees will be provided with information regarding the Concur system help desk in initial training and online help assistance available within the Concur system.
  
- B. **System Failure:** If the Concur system is not operational, employees are not subject to the penalties found in FTR 301-73.104, 301-73.105, and 301-50.5.
  
- C. **Travel Approval:** Concur has the capability to assign primary and alternate approvers at each approval level.
  
- D. **Travel Preparers:** Only Management designated “alternate preparers” are authorized to complete travel plans and expense reports (authorizations and vouchers) for employees needing such services. The traveler shall be the only individual allowed to sign and certify his/her own expense voucher.
  
- E. **Confidentiality of Information:** Travelers shall be reminded during system training regarding the Confidentiality Use Notice contained in Concur. Managers shall safeguard travel information obtained during the course of Official duties.
  
- F. **Disbursements and Reimbursements:** Travelers shall complete travel claims in accordance with Federal Travel Regulations and HUD policy. The Concur system automatically reimburses the travel card provider for all approved travel related expenses. Employees shall be held harmless for late payments of the Government Travel Charge Card bills when the lateness was caused by management delays in timely approving the travel-expense report.

- G. **Individual Waivers:** The Department head or his/her designee has the authority to grant individual waivers from the required use of the Concur system for security reasons, necessity of disability accommodations, or special needs.
  
- H. **Acceptable Lodging:** When selecting a commercial lodging facility, first consideration must be given to the commercial lodging facilities under FedRooms (<http://www.fedrooms.gov>), within Concur, all of which meet fire safety requirements.
  
- I. **Labor Agreements:** Management agrees that implementation of the Concur system shall not infringe upon or adversely impact current law or regulation, or this Agreement.

#### **SECTION 26.09: GOVERNMENT CHARGE CARD PROGRAM FOR OFFICIAL TRAVEL EXPENSES.**

- A. **General:** The Government employee individual charge card program will improve service to HUD employees traveling on official Government business away from the permanent duty station. This will also limit the amount of cash advance for travel expenses.
  
- B. **1. Travel without a Government Travel Charge Card:** New employees who do not have a government travel charge card and employees whose cards expired and were not issued a timely renewal card shall not be personally financially responsible for authorized airfare costs incurred while on official travel. Employees who travel less than 4 times a year are exempt from the mandatory requirement to be issued a Government travel charge card.
  
- 2. Required use and exceptions:** In accordance with the Federal Travel Regulations at 41 CFR 301-70.700, employees must use a Government Travel Charge Card for hotel, air fare, and rental car expenses, unless an exception is approved by the agency head or designee, in accordance with 41 CFR 301-70.701. Employees are not required to use their Government Travel Charge Card for all other expenses identified in 41 CFR 301-70.704. Employees who do not have a travel card may request a travel cash advance or that their transportation and lodging charges be centrally billed. There will be no adverse impact on employees who have been approved for an exception to use personal funds, a non-

government credit card, or travel advance in lieu of a Government Travel Charge Card in accordance with 41 CFR 301-70.701.

C. **Card Issuance:** The Government Travel Charge cards will be issued to full

time permanent HUD employees who are authorized to travel, for use while on official travel away from their official duty station.

D. **Late Payment:** Employees shall also be held harmless for late payments due

to billing cycle issues such as early charges to the Government Travel Charge Card prior to receiving reimbursement from management for expenses incurred, provided the employee submitted a timely and proper claim. In the event of an emergency and the employee is unable to file a claim for reimbursement after returning from the trip, she/he shall notify as soon as possible the Program Coordinator who may assist the employee in avoiding suspension/cancellation of the card.

E. **Reimbursable Out-of-Pocket Expenses:** A travel advance will be issued to

any employee for reimbursable out-of-pocket expenses if he or she is approved for an exception from using the Government Travel Charge Card in accordance with Federal Travel Regulations at 41 CFR Section 301-70.701. The advance cannot exceed the out-of-pocket expenses shown on the travel authorization.

F. **HUD Telephone Calling Card:** For employees who travel outside of their permanent duty stations as part of their regular job duties, Management shall provide them an official government calling card to use while in travel status.

An employee may use the HUD calling card to make personal calls home up to \$7 per day while in travel status. Employees may make an email request to their supervisor for a HUD calling card.

G. **Emergency Charging:** Emergency circumstances, such as an official vehicle breakdown, inclement weather, disasters, etc. may justify the use of the charge card for food, lodging, and other expenses covered under the Federal Travel Regulations while the employee is away from his/her official duty station in an official travel status. The travel authorization must be amended by the employee as soon as practical and submitted for approval.

- H. **Credit Checks:** The parties understand that credit checks will be made for an employee prior to being issued a Government Travel Charge Card, in accordance with Appendix B OMB Circular, A-123, and Section 846 of the Consolidated Appropriations Act of 2008 [PL 110-161, Title VII, Section 743]. The credit check shall not adversely affect an employee's credit or FICO score.
- I. **Card Use Information:** Monthly charge card reports are considered highly confidential material, subject to the Privacy Act, and must be secured from observation by any party other than persons who have a need to know.
- J. **Use of the Charge Card:** Use of the charge card does not relieve Management or the employee from observance of rules and regulations governing official travel as set forth in the Federal Travel Regulations and HUD Handbook 2300.2 REV-3, Travel, or its successor.
- K. **Card Security:** Each participant in the contractor-issued charge card program is responsible for safeguarding his/her card. If the full charge card account number is visible on a receipt, it is recommended that the traveler safeguard the receipt.
- L. **Delayed Reimbursement:** In the event of unanticipated delays in HUD processing of the expense report for reimbursement, and upon notification by the employee, the Program Coordinator may assist the employee in avoiding suspension/cancellation of the card.
- M. **Unused Transportation Tickets:** Employees are responsible for cancelling travel reservations when travel plans are changed or cancelled, unless the employee is in leave status when the plans are changed. Management will provide an employee assistance with reversing Government Travel Charge Card charges for unused transportation tickets with the credit card company and/or transportation provider upon request by the employee.
- N. **Lost/Stolen Tickets:** When a ticket is lost/stolen through no fault of the traveler's, the refund application service charge shall be reimbursed. When a replacement ticket cannot be provided, the employee may, with supervisory concurrence, postpone or reschedule the trip.



O. **Grievance Rights:** Employees may grieve Management actions relative to the charge card program that fall within the scope of this Agreement.

P. **Debt Collection:**

1. In accordance with 41 CFR Chapter 301-54.1 of the Federal Travel Regulations, management may collect undisputed delinquent amounts from an employee's disposable pay.
2. In accordance with the due process requirements outlined in 41 CFR Chapter 301-54 of the Federal Travel Regulations, Management must:
  - a. Provide the employee a copy of the written request from the contractor for payment of the delinquent amount;
  - b. Provide the employee with written notice of the type and amount of the claim, the intention to collect the claim by deduction from his/her disposable pay, and an explanation of the employee's rights as a debtor;
  - c. Give the employee the opportunity to inspect and copy their records related to the claim;
  - d. Allow an opportunity for a review within the agency of its decision to collect the amount; and
  - e. Provide the employee with an opportunity to make a written agreement with the contractor to repay the delinquent amount of the claim.
3. Management may only collect undisputed delinquent amounts for which the employee has been reimbursed under the applicable travel regulations. However, if the employee has not submitted a proper travel claim within the timeframe requirements of 41 CFR §301-52.7, and there are no extenuating circumstances, management may collect the undisputed delinquent amounts based on the amounts charged on the travel charge card.

4. As set forth in Public Law 105-264, 112 Stat. 2350, October 19, 1998, the maximum amount management may deduct from the employee's disposable pay is 15 percent a pay period, unless the employee agrees in writing to a larger percentage.
5. Disposable pay is compensation remaining after the deduction from an employee's earnings of any amounts required by law to be withheld. These deductions do not include discretionary deductions such as savings bonds, charitable contributions, etc. Deductions may be made from any type of pay the employee receives from the agency, e.g., basic pay, special pay, retirement pay, or incentive pay.

**ARTICLE 27**  
**HEALTH AND SAFETY**

**SECTION 27.01: GENERAL.**

- A. Management shall provide and maintain safe and healthful conditions of employment that are free of hazards that cause, or are likely to cause, accident, injury, or illness to employees. Management shall comply with the Department's Support Services Handbook (HUD Handbook 2200.01, Chapter 12) and the Department of Labor regulations (29 CFR 1960).
- B. The Union shall cooperate with Management's health and safety program and shall encourage employees to work in a safe manner.

**SECTION 27.02: FREEDOM FROM REPRISAL.**

Management recognizes the existence of certain employee rights under 29 CFR Section 1960. Employees shall be guaranteed protection from any restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful condition; or for any other participation in the safety program. Employees who reasonably believe they must evacuate the work space without supervisory approval because of a perceived situation posing imminent risk of death or serious bodily harm will be free from reprisal and provided an opportunity to explain prior to a charge to leave or other supervisory action. Employees who feel they are victims of reprisal based on filing a report of unsafe or unhealthful conditions may address the issue with the appropriate Manager or Regional/Field Office Director; or may file a grievance in accordance with Article 9.

**SECTION 27.03: COMMITTEES.**

- A. The Parties agree to establish or continue Health and Safety Committees with equal numbers of Management and Union designated non-management representatives in each Field Office. Composition of Health and Safety Committees shall be in accordance with the Department's Support Services Handbook 2200.01, Chapter 12.
- B. Duties of the Health and Safety Committee shall include, but not be limited to the following:

1. Monitoring and assisting in the operation of the local health and safety program and making recommendations for improvement to the official in charge.
  2. Recommending improvement/abatement of unsafe or unhealthful working conditions.
  3. Monitoring findings and reports of workplace inspections to confirm that appropriate corrective measures are implemented.
  4. Participating in inspections of the office when, in the judgment of the Committee, such activity is necessary for monitoring office inspections procedures.
  5. Reviewing Management's plans for abating hazards.
  6. Reviewing responses to reports concerned with allegations of hazardous conditions and alleged health and safety program deficiencies. If half of the members of record on the Committee are not substantially satisfied with the response, they may request an appropriate investigation be conducted by the Occupational Health and Safety Administration (OSHA) or other appropriate regulatory/investigative body.
  7. Reviewing procedures for handling health and safety suggestions and recommendations from employees.
  8. Reviewing reports of unsafe and unhealthful conditions where the hazard has been disputed.
- C. The Committees shall meet at least every 6 months and on such other occasions as may be determined by the Committee Chair, or as otherwise decided by the Committee. Meetings shall be conducted on official time.

**SECTION 27.04: SAFETY REPRESENTATIVES.**

Management will designate a Safety Representative for each Field Office, in accordance with HUD Handbook 2200.01, Chapter 12.

**SECTION 27.05: ABATEMENT OF UNSAFE AND UNHEALTHFUL WORKING CONDITIONS.**

- A. Management will, to the extent of its authority and resources, take prompt and appropriate action to correct any reported unsafe working condition. Whenever Management cannot abate unsafe or hazardous conditions within 30 calendar days, Management shall develop an abatement plan with a timetable of abatement and a summary of interim corrective

steps. When abatement is dependent upon the General Services Administration (GSA), the abatement plan shall be prepared in conjunction with GSA.

- B. The Union will be given a copy of the abatement plan. Employees exposed to such conditions shall be informed of the abatement plan and advised as to measures which should be taken to safeguard their health.

**SECTION 27.06: INSPECTIONS.**

When a workplace inspection is conducted by a Management safety representative, a Department of Labor Inspector, Fire Marshall, or GSA, or by any entity authorized to test or inspect the workplace or to assure safe working conditions, a representative appointed by the Union shall be allowed to accompany the inspector and participate in the inspection and/or witness any tests that are made. Union shall be notified at least 48 hours in advance, where possible, of such inspection. During the course of any inspection, any employee may bring to the attention of the inspector or the participating representative any unsafe working conditions. Results of inspections and/or tests will be provided to the Union upon request and upon receipt by Management within 5 workdays.

**SECTION 27.07: GENERAL CONDITIONS.**

Management recognizes that matters of discomfort to employees which do not necessarily rise to the level of serious health or safety hazards are still important. Management shall make a reasonable effort to remedy matters such as uncomfortable temperatures, disruptive noise, smells and similar negative environmental factors in the workplace.

**SECTION 27.08: HEALTH PROGRAMS.**

Immunization, where available through existing Public Health Service facilities, shall be provided free to employees. Employee health screening and examinations shall be offered to employees within the allocation, if any, made available by Management within each Field Office. Employee participation shall be voluntary.

**SECTION 27.09: HEALTH AND SAFETY RECORDS.**

Management will provide the Union access to records and reports maintained under the Occupational Health and Safety Act, consistent with the Privacy Act.

**SECTION 27.10: UNION NOTIFICATION.**

Management will inform the Union of the report of any job related injury within 6 days of receipt of the reporting form by the local Safety Representative. Procedures to follow in the event employees suffer an on-the-job injury will be posted on all official bulletin boards.

**SECTION 27.11: SMOKE FREE ENVIRONMENT.**

- A. The Parties agree that the work place must be free of the hazards caused by second hand smoke to protect the health and safety of employees and visitors. Therefore, smoking, including the use of e-cigarettes and similar products, is prohibited in HUD-occupied space. HUD-occupied space includes classrooms and training rooms, elevators, reception areas, conference rooms, restrooms, stairwells, hallways, health units, break rooms, libraries, open space, and all office space whether or not occupied, and all shared and private offices.
- B. Smoking, including the use of e-cigarettes and similar products, shall be prohibited in GSA owned or leased vehicles. Smokers may take smoke breaks outside the vehicle during their designated break times.

**SECTION 27.12: SMOKING CESSATION PROGRAM.**

The Department supports and encourages efforts by employees to quit smoking. Management shall publicize the availability of smoking cessation programs and sponsor such programs to the extent interest is demonstrated by employee requests. Management shall provide appropriate official time and bear the cost of HUD-sponsored programs.

**SECTION 27.13: IMMINENT DANGER SITUATIONS AND THREATS TO SAFETY AND HEALTH.**

- A. In the case of imminent danger situations, the persons reporting such situations shall make the reports in the most expeditious manner available. The Department recognizes that employees have a right to decline to perform their assigned task because of a reasonable belief that, under the circumstances the task poses an imminent risk of death or serious bodily harm, and that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures. The Department agrees to make every effort to ensure an appropriate response to imminent danger situations.
- B. Immediately upon identifying any condition that could reasonably be expected to cause death or serious physical harm, the Department shall immediately inform all employees at risk and where necessary, evacuate staff.

## **ARTICLE 28 COMPUTER MONITORS**

### **SECTION 28.01: GENERAL.**

“Monitors” refers to laptop monitors or self-standing computer monitors.

### **SECTION 28.02: VISION SAFEGUARDS.**

If an employee is assigned to work at a monitor that he or she believes has an out-of-focus display screen, the employee shall report it to HUD’s Information Technology System (HITS) Help Desk, or its successor (contractor/HUD IT staff).

### **SECTION 28.03: MONITOR PROBLEMS.**

Should a concern arise over the safety and health of monitor users, including physical discomfort and stress, the matter may be referred to the Safety and Health Committee. The Safety and Health Committee shall notify the Parties of its findings, analysis, and recommendations for corrective action. Environmental/ergonomic factors such as glare controls, illumination, arrangement of the work station, insufficient work space, and potential radiation exposure are appropriate matters for review and recommendation by the committee.

### **SECTION 28.04: BREAKS FROM MONITORS.**

Employees shall not be required to work at a monitor continuously without interruption for more than 2 hours without a break from the machine. Where practical, the employee and the supervisor should schedule the rest break authorized in Article 23 so as to ensure periods of continuous machine use would not extend past 2 hours. Where the authorized break cannot serve this purpose, alternative work assignments or additional brief breaks shall be authorized.

### **SECTION 28.05: HARDWARE ACQUISITION.**

Management shall consider available health and safety information related to use of monitors in the acquisition of monitor equipment.

### **SECTION 28.06: EYE EXAMINATIONS.**

Employees assigned to work with computers/monitors for 4 hours or more per day may request and receive annual eye examinations through the Public Health Services facilities, where available, at no cost to the employee, per HUD’s pre-paid contract.

**SECTION 28.07: WORKSTATION.**

Management shall provide employees who are required to use computers/monitors in HUD work space with workstations or desks that are designed for the use of computers/monitors and necessary to perform the assigned duties and responsibilities of their positions. Upon request of an employee, Management will take action to obtain ergonomically designed chairs and wrist rests as soon as practicable. Employees with medical need will be given priority.



## **ARTICLE 29 WORKERS COMPENSATION**

### **SECTION 29.01: EMPLOYEE ASSISTANCE.**

**General.** If an employee is injured while on duty or becomes ill as a result of the workplace environment, the employee may be entitled to workers' compensation benefits in accordance with the Federal Employees Compensation Act (FECA). Unless otherwise specified in this Article, the Agency will process claims for and provide Office of Workers Compensation Program (OWCP) benefits in accordance with FECA.

While the Agency may use a third party to administer OWCP, to ensure proper functioning of the program, it is the responsibility of the Agency to take the following actions in a timely fashion: advise employees, or their representative(s), of their rights under OWCP; assist employees in filling out forms or refer employees to the appropriate resource, act on forms that require agency or supervisory action; follow up with designated third parties if appropriate and requested; and prominently display, and maintain links to current OWCP policies and procedures on the internal HUD web site. Workers Compensation claims and filings are excluded from the Negotiated Grievance Procedure.

**Reporting.** When an employee suffers an illness or injury in the performance of their official duties, they or their representative must:

Notify the employee's supervisor as soon as practical.

Submit the appropriate claims forms in a timely manner to the supervisor.

Submit documentation requested by OWCP.

If the injury has caused the employee to miss work, notify the employee's supervisor of the date the employee expects to return to work.

When employees are injured in the performance of their duties and so notify their supervisor, they will be informed of the procedures for filing a claim (Notice of Injury, Form CA-1) for benefits under the Federal Employees Compensation Act. Information will be provided about the type of benefits available, including the right to elect continuation of regular pay (COP) or annual or sick leave if time loss will occur and the employee's claim is approved by the Department of Labor (DOL). Employees must submit medical evidence of disability within 10 working days or risk termination of COP. Management will advise the employee if continuation of pay (COP) will be controverted (disputed), and whether COP will be terminated.

If applicable, employees may use an appropriate amount of time and government equipment to complete workers compensation claims. The Employer will provide appropriate assistance to employees filing a Workers Compensation claim.

An employee who files a false report to obtain OWCP benefits is subject to criminal prosecution and/or agency disciplinary action.

**Return to Duty.** Employees returning to duty from an approved Workers' Compensation injury or illness will be restored in accordance with applicable OWCP Rules and Regulations.

### **SECTION 29.02: WORKERS COMPENSATION BENEFITS.**

- A. Workers compensation cannot be paid for any period when an employee is on paid leave. If, at the time disability begins, the injured employee has sick or annual leave to his/her credit, the employee may decide whether to use all or part of it before applying for workers compensation. If the employee decides to be charged for sick or annual leave (or if so charged because the employee was not informed of the possibility of workers compensation benefits), the employee may repay the Government, in a lump sum or by any other plan acceptable to the servicing Human Resources Office, the amount paid to the employee while on annual or sick leave.
  
- B. **Leave/Continuation of Pay.** An employee who suffers a traumatic injury while on duty may be granted up to 45 days of Continuation of Pay (COP) after filing a form CA-1, if requested and in accordance with OWCP rules and regulations. Employees should review the OWCP area of HUD's web site for leave and COP options. COP does not apply when filing a CA-2 for Occupational illnesses or diseases.

Once the Department of Labor (DOL) approves an employee's claim for compensation, an employee may request a re-credit of leave used during recovery from a job-related injury. If and/or when the DOL approves the request for the re-credit of leave or has waived the repayment, and once the employee repays the Agency for the leave that has been used, the Agency shall process the change into the payroll system within two (2) pay periods from the receipt of the payment.

- C. When COP is exhausted for persons sustaining a traumatic injury, absences due to an accepted claim may be filed by using the CA-7 for compensation benefits paid by the DOL. If the claim is not accepted, the employee may request sick, annual, or leave without pay (LWOP). For either a traumatic

injury or occupational disease/illness claim that is accepted, an employee may have the leave restored in accordance with DOL regulations.

**SECTION 29.03: REVIEW OF DOCUMENTS.**

Employees shall be permitted to review the Agency's copies of the documents relating to their claim which the Office of Workers Compensation Programs (OWCP) has authorized to be made available. Employees may be accompanied by their designated representative, if they so desire.

**ARTICLE 30**  
**EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND DISCRIMINATION FREE WORK**  
**ENVIRONMENT**

**SECTION 30.01: GENERAL.**

- A. In conformance with Federal statutes and Equal Employment Opportunity Commission (EEOC) regulations, Management shall provide equal employment opportunities for all persons. The Parties agree that no discrimination shall be tolerated on the basis of age (40 and over), sex, sexual orientation, gender identity and expression, parental status, genetic information, pregnancy, race, religion, disability, color, or national origin, or veterans status, in any matter relating to employment. In addition, the Parties agree that no discrimination or harassment shall be tolerated on the basis of political affiliation.
- B. Employees who allege discrimination and anyone who participates in the presentation of discrimination complaints shall be free from restraint, interference, coercion, discrimination, or reprisal.
- C. Employees should please be advised that the following classes are not appealable to the EEOC: harassment and discrimination on the basis of veterans status, marital status, gender identity and expression, parental status, and pregnancy status.
- D. The Union may choose to represent Union members, if requested, or class representatives (for class complaints), in EEOC cases or in other Statutory Forums (MSPB, OSC, etc.)

**SECTION 30.02: EQUAL EMPLOYMENT OPPORTUNITY COUNSELORS.**

Resolving EEO complaints involves the use of an EEO Counselor and the process of entering into a pre-complaint or informal process prior to the filing of a formal complaint. Management will post the Office of Departmental Equal Employment Opportunity (ODEEO)'s EEO intake information on all official bulletin boards and the HUDweb.

**SECTION 30.03: DISCRIMINATION COMPLAINT PROCEDURES.**

- A. Both Parties acknowledge that employees who have discrimination complaints can elect to have their complaints resolved by one of the following, but not both, procedures:
1. The negotiated grievance procedure as provided in this Agreement; or,
  2. The Statutory discrimination complaint process which begins with the Complainant's initiating the pre-EEO process, and if the matter is not resolved, the filing of a formal EEO complaint.
  3. ODEEO will ensure complainants receive a response to their request to file an informal complaint within 3 workdays.
- B. An employee shall be deemed to have made an election to raise a complaint under either the statutory procedure or the grievance procedure at such time as he/she timely files a formal written complaint under the statutory EEO complaint procedure or a grievance, whichever comes first. Discussions with an EEO Counselor in no way preclude the filing of a grievance that is otherwise timely. It is important for employees to understand that there are a number of important timeframes under the regulatory EEO complaint process. For example, an informal or pre-EEO complaint must be initiated within 45 days of the alleged discriminatory act or when the individual became aware of the alleged discrimination. All relevant timeframes may be found on ODEEO's HUD@Work site.
- C. Employees are afforded a reasonable amount of official time to prepare the formal complaint and any appeals that may be filed with the EEOC. "Reasonable," with respect to preparation time (as opposed to time actually spent in meetings and hearings), is generally defined in terms of hours, not in terms of days, weeks, or months. What is reasonable depends on the individual circumstances of each complaint. Employees must submit a request to their supervisor for official duty time. In accordance with the Limited Use Policy, employees will be allowed to use HUD computers and laptops, when available, during weekends (at work and at home) to work on their EEOC case. However, nothing in this section is intended to entitle an employee to overtime, compensatory time, or any form of extra compensation for working on EEOC complaints from home. Employees who are given official time will be permitted use of time while on their regular telework schedules.

**SECTION 30.04: EEO ALTERNATE DISPUTE RESOLUTION (ADR) PROGRAM.**

- A. It is the policy of the Department to make all reasonable efforts to resolve potential EEO conflicts informally and to the mutual satisfaction of the employee and their Management organization. An employee or party may use the EEO ADR process prior to or following the filing of an EEO complaint or grievance or to resolve any underlying EEO issue consistent with this Article. The Department and the Union agree that EEO ADR should be made available to the employee and the employee's organization as soon as possible following the events that would form the basis of a complaint or grievance. If an employee files a formal EEO complaint or appeal, once the matter has been assigned to a judge or other adjudicator, the Department and the employee will consider mediation or other facilitated resolution of the matter available from the outside agency or court prior to seeking resolution through the Department's EEO ADR process. To the extent authorized by such third party tribunals and if the parties (i.e., the Department and the employee) mutually agree, the parties may utilize HUD's EEO ADR process after a third party tribunal takes jurisdiction over the matter. When a judge has been assigned, the parties seeking EEO ADR will provide appropriate notice and accord appropriate deference to the judge. The purpose of the EEO ADR program is to facilitate the resolution of matters arising under this Article.
- B. All EEO ADR sessions will occur during regularly scheduled hours of work. No EEO ADR participant will be made to suffer loss of pay, or charged leave to the extent they are otherwise in duty status.
- C. **Employee Rights:** The ADR Program is voluntary for employees and is an informal and confidential process to assist employees and employers to reach their own resolution of disputes involving EEO matters. When an employee requests ADR, Management, within the affected Program Office, shall designate an individual with settlement authority. If the Program Official with settlement authority is not directly involved in the ADR proceeding, then he or she shall be available to provide information, make an offer of settlement, or make a decision during any ADR session.
- D. **EEO ADR Program Conformance:** The Department's ADR program will be conducted in accordance with Chapter 3 of the EEOC Management Directive MD-110. Information on ADR will be available on the Department's intranet (hud@work) or its successor.
- E. **Alternative Dispute Resolution Process:** ADR shall be available during both the informal and formal complaint process. If ADR is elected, it will not prevent the filing of a formal EEO complaint.

- F. **Employee Participation:** Participation in the ADR program at the informal stage does not preclude the employee from exercising rights under any of the Department's other complaint or appeals procedures, including the negotiated grievance procedures, when no resolution is reached. However, timeframes are not extended by use of ADR.
- G. **Representation:** The parties in the ADR process are entitled to representation of their choice.
- H. **ADR Proceedings and Records:** ADR proceedings are confidential and, if resolution attempts fail, offers and statements made by parties cannot be used as evidence against either party in any administrative, judicial or arbitration proceeding. All parties involved in the ADR process shall not disclose any information said or done during the ADR proceedings, except for those with a need to know in order to authorize, approve or implement a resulting resolution. There will be no recorded transcript taken of the ADR sessions. If settlement is reached, then the settlement agreement will be the record from the ADR proceeding.
- I. **Mediators:** Only certified ADR mediators/neutrals shall be used for the ADR mediation process. These may be contract mediators or shared interagency neutrals/mediators.
- J. **Availability of Mediators:** ADR mediators will be made available Department-wide, regardless of geographical location. However, mediation may occur via teleconference or video-conference by mutual agreement.
- K. **Concurrent Process:** If the ADR process is requested after a formal complaint has been filed, then the formal complaint process and the ADR process proceed concurrently.
- L. **Alternative Solutions:** The ADR process shall allow for the use of innovative alternative solutions that will be fully considered by the Department.
- M. **Settlement Agreements:** The parties have significant flexibility in structuring settlement agreements. As long as the parties agree, they can settle for any relief that a court could order if the case were to go to trial. For example, a Department and an employee may agree to a retroactive or prospective personnel action, back pay or lump sum payment, attorney's fees, costs, and/or monetary damages or other appropriate solutions. ADR settlements that are part of the EEOC statutory appeals procedure can be appealed to the EEOC Office of Federal Operations for enforcement. If the settlement agreement was made to settle a grievance or arbitration, then the employee and union could file a grievance/arbitration or ULP charge for enforcement.

N. **Binding Effect:** All final ADR agreements are binding.

**SECTION 30.05: AFFIRMATIVE EMPLOYMENT PROGRAM (AEP).**

- A. The EEOC issued compliance guidance to all federal departments and agencies in an Equal Employment Opportunity Management Directive entitled “MD-715”. This Directive provides policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII and Section 501 of the Rehabilitation Act. The Directive also sets forth general reporting requirements.
- B. In order to develop a competitive, highly qualified workforce, federal agencies must fully utilize all workers' talents, without regard to race, color, religion, national origin, sex, sexual orientation, gender identity, pregnancy, parental status, genetic information, or disability. Title VII of the Civil Rights Act of 1964 (Title VII) and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act) mandate that all federal personnel decisions be made free of discrimination on the basis of race, color, religion, sex, national origin, age (40 and over), reprisal, genetic information, pregnancy, sexual orientation, gender-identity, parental status or disability and also require that agencies establish a program of equal employment opportunity for all federal employees and job applicants.
- C. The MD 715 Directive requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination. It also sets forth the standards by which EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs, which include periodic agency self-assessments and the removal of barriers to free and open workplace competition.
- D. Federal Equal Employment Opportunity Recruitment Program (FEORP): The Office of Personnel Management (OPM) has codified under 5 CFR 720.204-205 its Affirmative Employment Program (AEP) regulation. This Section reads as follows:



*Sec. 720.204 Agency programs.*

*(a) Each Executive agency having positions in the pay systems covered by this program must conduct a continuing program for the recruitment of minorities and women for positions in the agency and its components to carry out the policy of the United States to insure equal employment opportunities without discrimination because of race, color, religion, sex or national origin. The head of each agency must specifically assign responsibility for program implementation to an appropriate agency official. All agency officials who have responsibility for the program will be evaluated on their effectiveness in carrying it out as part of their periodic performance appraisals.*

*(b) Programs established under this subpart must be designed to cover recruitment for all positions in pay plans covered by this program including part-time and temporary positions.*

*(c) Where an agency or the Office of Personnel Management has determined that an applicant pool does not adequately provide for consideration of candidates from any underrepresented group, the agency or agency component must take one or more of the following actions:*

- (1) Expand or otherwise redirect their recruitment activities in ways designed to increase the number of candidates from underrepresented groups in that applicant pool;*
- (2) Use selection methods involving other applicant pools which include sufficient numbers of members of underrepresented groups;*
- (3) Notify the office responsible for administering that applicant pool, and request its reopening of application receipt in support of expanded recruitment activities or certifying from equivalent registers existing in other geographic areas; and/or*
- (4) Take such other action consistent with law which will contribute to the elimination of underrepresentation in the category of employment involved.*

*(d) Agencies must notify and seek advice and assistance from the Office of Personnel Management in cases where their equal opportunity recruitment programs are not making measurable progress in eliminating identified underrepresentation in the agency work force.*

*Sec. 720.205 Agency plans.*

*(a) Each agency must have an up-to-date equal opportunity recruitment program plan covering recruitment for positions at various organizational levels and geographic*

*locations within the agency. Such plans must be available for review in appropriate offices of the agency and must be submitted to the Office of Personnel Management on request. In accordance with agreement reached between the Office and the Equal Employment Opportunity Commission, such plans must be incorporated in the agency's equal employment opportunity plans required under section 717 of the Civil Rights Act of 1964, as amended, pursuant to regulations and instructions of the Commission, provided they are separable parts of those plans for purposes of review by and submission to the Office of Personnel Management. Agency organizational and geographical components which are required to develop and submit Equal Employment Opportunity plans, under instructions issued by the Equal Employment Opportunity Commission, must also have up-to-date special recruitment program plans. On a determination by the Office of Personnel Management, in consultation with EEOC, that additional component plans are needed to implement an agency's program effectively, the Office will instruct the agency to develop additional plans. Agencies must comply with such instructions.*

- (b) Agency plans must include annual specific determinations of underrepresentation for each group and must be accompanied by quantifiable indices by which progress toward eliminating underrepresentation can be measured.*
- (c) Where an agency or agency component is located in a geographical area where the percentage of underrepresented groups in the area civilian labor force is higher than their percentage in the national labor force, the agency or component must base its plans on the higher level of representation in the relevant civilian labor force.*
- (d) Where an agency or agency component is located in a geographical area where participation of a particular underrepresented group is significantly lower than its participation in the national labor force, the agency or component may, in consultation with the Office of Personnel Management, use the lower percentage in determining underrepresentation. An agency may not use a figure lower than the relevant regional or nationwide labor force percentage where recruitment on a regional or nationwide basis is feasible for particular categories of employment. Factors such as size of the agency or unit, nature of jobs and their wage or pay scale may be considered in focusing recruitment for various job categories.*
- (e) In addition to the underrepresentation determinations described in paragraphs (b), (c) and (d) of this section, agency plans must, at a minimum, include:*
  - (1) An assessment of grades or job categories and numbers of jobs in such categories expected to be filled in the current year, and on a longer term basis (based on anticipated turnover, expansion, hiring*

*limits and other relevant factors) identification of those occupational categories and positions suitable for external recruitment, and description of special targeted recruitment programs for such jobs and positions;*

- (2) A similar assessment for job categories and positions likely to be filled by recruitment from within the agency and/or the Federal civil service system and a description of recruitment programs developed to increase minority and female candidates from internal sources for such positions;*
- (3) A further assessment of internal availability of candidates from underrepresented groups for higher job progressions by identifying job-related skills, knowledges and abilities which may be obtained at lower levels in the same or similar occupational series, or through other experience;*
- (4) A description of methods the agency intends to use to locate and develop minority and female candidates for each category of underrepresentation and an indication of how such methods differ from and expand upon the recruitment activities of the agency prior to establishment of the special recruitment program or the last revision to the agency's plans;*
- (5) A description of specific, special efforts planned by the agency (or agency component) to recruit in communities, educational institutions, and other likely sources of qualified minority and female candidates;*
- (6) A description of efforts which will be undertaken by the agency to identify jobs which can be redesigned so as to improve opportunities for minorities and women, including jobs requiring bilingual or bicultural capabilities or not requiring English fluency.*
- (7) A list of priorities for special recruitment program activities based on agency identification of:
  - (i) Immediate and longer range job openings for each occupational/grade-level grouping for which underrepresentation has been determined;*
  - (ii) Hiring authorities which may be used to fill such jobs;*
  - (iii) The possible impact of its actions on underrepresentation.**
- (8) Identification of training and job development programs the agency will use to provide skills, knowledge and abilities to qualify increased numbers of minorities and women for occupational series and grade levels where they are significantly underrepresented.*

*(9) Identification of problems for which the assistance of the Office of Personnel Management is needed and will be requested.*

*(f) Equal opportunity recruitment program plans must be consistent with agency Upward Mobility program plans and should be developed with full consideration of the agency's overall recruiting and staffing planning objectives.*

- E. **Reports.** Per 5 CFR 720.207, not later than November 1 of each year, the Agency must submit an annual report (on their equal opportunity recruitment programs) to the Office of Personnel Management.

The Union will be provided a copy of said report upon submission to OPM simultaneously, or no later than December 1 of each year.

#### **SECTION 30.06: AFFIRMATIVE EMPLOYMENT PROGRAM (AEP) MANAGERS.**

- A. Management agrees that HUD Affirmative Employment Program (AEP) Managers are responsible for carrying out the requirements of the Equal Employment Opportunity Commission (EEOC) pursuant to the Civil Rights laws and regulations, including EEOC Management Directive 715, and the HUD policies issued by the Secretary. This includes:
1. Preparing the annual EEO Plan;
  2. Managing the EEO Plan implementation in Headquarters and the field;
  3. Providing advice and guidance to managers and supervisors in removing barriers to the EEO Plan and in carrying out all their EEO responsibilities; and
  4. Reviewing all recruitment and personnel actions taken by managers and supervisors to ensure there are no barriers that prohibit the advancement of any group of employees.
- B. **Management Responsibilities.** Management agrees to ensure that an ODDEO Representative is available to assist NFFE 1450 bargaining unit employees.

Management agrees that all managers and supervisors of the Department are responsible for:

1. Removing barriers to EEO and ensuring that Affirmative Employment Plan objectives are accomplished in their areas of responsibility;

2. Evaluating subordinate managers and supervisors on their performance of EEO/AEP responsibilities;
3. Encouraging and taking positive steps to ensure respect for and acceptance of minorities, women and persons with disabilities, veterans and others of diverse characteristics in the work force;
4. Providing for the non-discriminatory treatment of all employees and for providing full and fair opportunity for all employees in obtaining employment and career advancement, including support for the Upward Mobility Program, the Mentoring Program and the Individual Development Plan;
5. Encouraging and authorizing staff participation in the various Diversity Program Observances;
6. Being proactive in addressing EEO/AEP issues, and for work environments that encourage and support complaint avoidance through sound management and personnel practices;
7. Resolving complaints of discrimination early in the EEO process either independently, or through the use of Alternative Dispute Resolution techniques, when it is the right thing to do and when it represents a sound business decision; and
8. Making Reasonable Accommodation to the religious and disability needs of applicants and employees when those accommodations can be made without undue hardship on the business of the agency.

#### **SECTION 30.07: EQUAL EMPLOYMENT OPPORTUNITY REPORTS.**

Management shall furnish to the NFFE 1450 President quarterly upon request, a copy of the Form 462 Report or other EEO/AEP statistical reports submitted by ODEEO to the EEOC or OPM. The Form 462 report will summarize the EEO complaints and their status.

#### **SECTION 30.08: DISCRIMINATION FREE WORK ENVIRONMENT.**

- A. Discrimination or harassment shall not be tolerated on the basis of marital status, ancestry, pregnancy, sexual orientation, gender identity (gender-related identity, self-image, appearance, or behavior with or without regard to the sex designated to the individual at birth), medical condition, HIV status, status as a covered veteran, citizenship, political affiliation, union activity and membership or non-membership in the union.

B. Employees who feel harassed on any of the bases above may grieve per Article 9.

**SECTION 30.09: REGIONAL/FIELD OFFICE SPECIAL EMPHASIS PROGRAMS.**

Several laws, Executive Orders, Public Law, Federal regulations, Presidential Proclamations and orders, and Supreme Court decisions have provided civil rights and Equal Employment Opportunity protections in America. They apply to all Federal employees and provide the statutory basis for the Special Emphasis Programs.

These programs improve the workplace environment by promoting and fostering diversity in the workplace through awareness and educating HUD employees and others to appreciate, value, understand, and celebrate social and cultural similarities and differences.

A. The Special Emphasis Programs include the following programs:

1. Black History Month (February)
2. Women's History Month (March)
3. Asian Pacific American Heritage Month (May)
4. Lesbian, Gay, Bisexual & Transgendered (LGBT) Month (June)
5. Hispanic Heritage Month (September 15 – October 15)
6. Disability Employment Awareness Month (October)
7. American Indian & Alaska Native Heritage Month (November)

B. Special Emphasis Program (SEP) Committee: A committee may be established at any Field or Regional Office to assist with Field Policy and Management's (FPMs) (or its successor's) role of managing the SEP office programs. This Committee, if established, will have responsibility for coordinating Special Emphasis Program activities/events, subject to review by the Regional/Field Office Director. The Regional/Field Office Director's determination on the appropriateness of any activities/events may be grieved in accordance with Article 9. Committee membership will consist of Union and Management volunteers, solicited via email (i.e., all employees have notice of the creation of the committee). The SEP Committee, if established, shall meet as needed. Each local Committee shall prepare a yearly report for the Regional/Field Office Director & Union President, containing recommendations, for the next year, as necessary. If a SEP committee is not created then Field Policy and Management (or its successor) retains full responsibility to ensure that Special Emphasis Program activities/events are held.

**ARTICLE 31**  
**REASONABLE ACCOMMODATION**

**SECTION 31.01: GENERAL.**

**General.** The Department will provide a reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability unless the Department demonstrates that the accommodation would impose an undue hardship on its operations, as defined by the U.S. Equal Employment Opportunity Commission's regulations at 29 CFR 1630. An accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. Categories of reasonable accommodations include, but are not limited to:

- A. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential function of that position.
- B. Modifications or adjustments that enable a qualified individual with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated individuals without disabilities.
- C. Modifications or adjustments to the job application process that enables a qualified applicant with a disability to be considered for the position that such qualified applicant desires.

The parties agree that Handbook 7855.1 provides the responsibilities and processes for managers and employees to follow regarding reasonable accommodation requests. Where there is a conflict between this Agreement and the Departmental policies on Reasonable Accommodation, this Agreement will prevail.

The policy, procedures, and terminology established in this Article are in conformance with the governing law, rule, and regulations, including but not limited to:

- 1. The Rehabilitation Act of 1973
- 2. The Americans with Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008 (ADAAA)
- 3. Executive Order 13164
- 4. EEOC's regulations implementing the ADA (29 CFR part 1630)
- 5. Handbook 7855.1, dated April 2003

## **SECTION 31.02: DEFINITIONS**

- (1) **Undue hardship.** Undue hardship means significant difficulty or expense and focuses on the resources and circumstances of the Department in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship means significant difficulty or expense incurred by the Department, in consideration of the following factors: (1) the nature and net cost of the accommodation; (2) the overall financial resources of the Department, the overall size of the Department with respect to the number of employees, type, and locations, the number of persons employed in the office or program area of the employee, and the effect on expenses and resources; ; (3) the type of operations of the Department including the composition, structure, and functions of the workforce; and (4) the impact of the accommodation on the Department's operations, including the impact on the ability of other employees to perform their duties and the impact on the Department's ability to conduct business; or would fundamentally alter the nature or operations of the Department. The Department must assess on a case-by-case basis whether a particular reasonable accommodation would cause undue hardship.
- (2) **Individual with a Disability.** An individual who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such impairment, or (3) is regarded as having such impairment.
- (3) **Qualified Individual with a Disability.** An individual with a disability who, with or without reasonable accommodation, can perform the essential functions (grade controlling duties) of the position in question without endangering the health and safety of themselves or others.
- (4) **Major life activities.** Major Life Activities include but are not limited to (1), caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and (2) Major bodily functions including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.
- (5) **Essential Functions.** In general, the term essential functions means the fundamental job duties of the employment position the individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position. The grade controlling duties that an employee must be able to perform, with or without a reasonable accommodation are a factor in determining whether job duties are essential functions. (See EEOC regulations at 29 CFR 1630.2(n) for more examples of factors.)



### **SECTION 31.03: MITIGATING MEASURES.**

- A. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:
  - 1. medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eye glasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
  - 2. use of assistive technology;
  - 3. reasonable accommodations or auxiliary aids or services; or
  - 4. learned behavioral or adaptive neurological modifications.
  
- B. The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
  - 1. The term 'ordinary eyeglasses or contact lenses' means lenses that are intended to fully correct visual acuity or eliminate refractive error.
  - 2. The term 'low-vision devices' means devices that magnify, enhance, or otherwise augment a visual image.
  - 3. Notwithstanding the fact that the ameliorative effects of ordinary eyeglasses or contact lenses are to be considered when determining whether an impairment substantially limits a major life activity, employers "shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity."

### **SECTION 31.04: REPORT.**

Within 30 days of receipt of a request from the NFFE Local 1450 President for a report, Management will provide a report showing the field office from which the reasonable accommodation request was made by NFFE Local 1450 employees; the date the reasonable accommodation request was submitted; the accommodation requested; the name and title of the deciding official; the date of the decision(s); a summary of the decision; and the date the accommodation was provided.

## **SECTION 31.05: TYPES OF REASONABLE ACCOMMODATIONS.**

**Examples of Reasonable Accommodations.** Reasonable accommodations may include but shall not be limited to:

- A. Modification of job duties including job restructuring.
- B. Modification of job environment (i.e., making facilities readily accessible to and usable by disabled persons).
- C. Telework modification, work at home (separate and apart from the Department's Telework policy), or an alternate worksite as a reasonable accommodation for disabled employees.
- D. Part-time or modified work schedules.
- E. Acquisition or modification of equipment.
- F. Make available alternate forms of written examinations, Departmental written program and training materials, policies, laws, rules, and regulations.
- G. Providing qualified readers and interpreters.
- H. Reassignment. This type of reasonable accommodation is a last resort accommodation provided to an employee who, because of a disability, can no longer perform the essential functions of their current position, with or without reasonable accommodation, unless the Department can show that it would be an undue hardship. The reassignment accommodation will be based on positions the employee qualifies for at the same or lower grade, if necessary.

An employee must be "qualified" for the position to which they are reassigned. An employee is "qualified" for a position if they: (1) satisfy the requisite skill, experience, education, and other job-related requirements of the position, and (2) can perform the essential functions of the new position, with or without reasonable accommodation. The employee does not need to be the best qualified individual for the position in order to obtain it as a reassignment.

Before considering reassignment as a reasonable accommodation, the Department shall first consider those accommodations that would enable an employee to remain in their current position. Reassignment is the reasonable accommodation of last resort and is required only after it has been determined that: (1) there are no effective accommodations that will enable the employee to perform the essential functions of their current position, or (2) all other reasonable accommodations would impose an undue hardship. However, if

both the Department and the employee voluntarily agree that the reassignment is preferable to remaining in the current position with some form of reasonable accommodation, then the Department may reassign the employee.

A vacant position is one in which the Department has an interest and authorization to fill.

Unless doing so would constitute an undue hardship, the Department must reassign the individual to a vacant position that is equivalent in terms of pay, status, or other relevant factors (e.g., benefits, geographical location) if the employee is qualified for the position. If there is no vacant equivalent position, the Department must reassign the employee to a vacant lower level position for which the individual is qualified. Assuming there is more than one vacancy for which the employee is qualified, the Department must place the individual in the position that comes closest to the employee's current position in terms of pay, status, etc. If it is unclear which position comes closest, the Department should consult with the employee about their preference before determining the position to which the employee will be reassigned. Reassignment does not include giving an employee a promotion. Thus, an employee must compete for any vacant position that would constitute a promotion.

- I. **Funded Positions.** The Department may consider reassigning the employee to a funded vacant position as a reasonable accommodation.
- J. **Relocation.** Relocation to another office will be considered, regardless of grade level, if an employee is willing and requests to relocate. The cost of a permanent change of duty station based on a Reasonable Accommodation request will be at the employee's expense, unless it is in the interest of the government (see 41 CFR §302-1.1).

### **SECTION 31.06 PROCESS FOR REQUESTING A REASONABLE ACCOMMODATION.**

The following are procedures for requesting and processing a request for reasonable accommodation as described in Handbook 7855.1.

- A. **Request for Reasonable Accommodation.** The process for requesting a reasonable accommodation may be initiated by an employee, a representative of the employee, the employee's supervisor, or other Departmental official. The decision for the reasonable accommodation will be made as soon as possible, but no later than 26 workdays from the date of the written or oral request, absent any mitigating circumstances allowed under the law or unless otherwise agreed upon by the employee and the Department. If the proposed accommodation or an acceptable counter-proposal does not require expenditures of

Departmental funds outside the control of the supervisor, the process should be concluded with the agreement between the employee and the supervisor. For known or obvious physical or mental limitations of qualified employees, while awaiting a decision on the Reasonable Accommodation request, an interim solution shall be provided and put in place by management immediately pending the outcome of the request, if necessary and practicable.

- B. **Interactive Process.** The employee, the manager through which the Reasonable Accommodation decision is made, and the Disability Program Manager (DPM) or designee shall engage in an interactive process to propose and determine an appropriate accommodation. This process should identify the precise workplace limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. It should provide the employee's supervisors with an opportunity to discuss how the proposed accommodation might affect Departmental operations. It is the Department's and Union's objective that the entire reasonable accommodation process be resolved, to the extent possible, between the employee and supervisor to preserve privacy and confidentiality and to resolve matters in the most expeditious, informal means possible.
- C. **Evaluation and Decision Process.** The process to consider a reasonable accommodation request should begin immediately upon the receipt by the receiving official of an oral or written request by the individual asking for the accommodation or their representative with a response due to the employee within seven (7) workdays of receipt. If the decision maker wishes to render a recommended denial determination, they must, within three (3) workdays, consult with the DPM or designee, and then complete a "Denial of Request" form and forward it, with all the supporting documentation, to the Disability Program Manager. The explanation for the denial must be written in plain language, clearly stating the specific reasons for the denial on HUD Form 11600.
- D. The supervisor may participate in a discussion with the employee concerning Reasonable Accommodation options, but it is not appropriate to independently initiate a request if the employee does not wish an accommodation.
- E. Where the decision maker has denied a specific requested accommodation, but has offered to make a different one in its place which was not agreed to during the interactive process, the notice should explain both the reasons for the different accommodation and the reasons that the decision maker believes that the recommended accommodation will be

effective. If the employee is dissatisfied with the alternate accommodation, the employee may follow the provisions of Section 31.06 (6).

- F. If an individual wishes reconsideration, they should first ask the decision maker to reconsider the decision. If an interim solution has been implemented, it shall remain in place until a final decision is issued. The decision maker will respond to the request for reconsideration within five (5) workdays. If the decision maker does not reverse the decision, the individual can ask the Principal Organization Head for reconsideration. The Principal Organization Head shall respond to this request within seven (7) workdays.
- G. If the Principal Organization Head does not reverse the decision, the individual can ask the Principal Organization Head to have the decision reviewed and evaluated by the Reasonable Accommodation Committee. The Principal Organization Head shall contact the Disability Program Manager who, in turn, will schedule a Reasonable Accommodation Committee meeting. The Committee will respond to this request within seven (7) workdays.

#### **H. Documentation.**

1. In accordance with HUD Handbook 7855.1 Section 4-1(A)(7), it is the responsibility of the employee or applicant requesting a reasonable accommodation to provide appropriate medical documentation related to the functional impairment at issue and the requested accommodation where the disability and/or the need for accommodation is not obvious. If additional medical information is needed, the receiving official or HQ Disability Program Manager (DPM) will explain to the individual seeking the accommodation, in specific terms, why the need for information or if the provided information is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request. The employee may submit medical documentation to their supervisor or directly to the DPM or designee.
2. Upon reviewing and ensuring that the employee's position description is accurate, the manager or supervisor will provide the employee with a copy of their position description and a list of any supplemental essential job functions. The manager may also provide a copy of the employee's performance standards, when needed.
3. Documentation from the employee is not necessary when both the disability and the need for reasonable accommodation are obvious or when the individual has already provided sufficient information to substantiate that the employee has a disability and

needs the requested reasonable accommodation. The employee's supervisor may forego requesting documentation of the employee's disability and/or need for an accommodation if the disability is known to the supervisor and the supervisor believes the accommodation is reasonable and necessary.

4. When requested, the employee shall provide a written justification regarding the employee's medical condition from a health care provider or other credible source, including but not limited to a licensed professional social worker, rehabilitation counselor, representative of a benefits agency such as Social Security or similar agency, or other credible source. The employee may self-certify that the accommodation is necessary when the employee's disability is obvious or known to the Department. The justification will include an explanation of how the accommodation will permit the employee to perform essential functions, as well as the duration of the necessary accommodation.
  
5. If after submission of the information, the Department believes that it is insufficient, i.e. medical documentation is inadequate to establish that the individual has a disability and/or the proposed reasonable accommodation does not meet the needs of the individual, the Department shall provide to the employee, in writing, the reason and at its option, the DPM may do any of the following:
  - i. offer a medical examination and/or review (including a psychiatric evaluation), at the agency's expense (Management will grant the employee a reasonable amount of administrative leave to attend an agency offered examination);
  - ii. allow the employee to provide additional medical documentation to the Department within 15 workdays;
  - iii. allow the employee to provide the additional medical documentation in a sealed envelope directly to the Department to be forwarded to the DPM, or
  - iv. allow the employee's physician to provide the medical documentation directly to the DPM.

However, the timeframes in Handbook 7855.1 will be suspended until the information is received.

6. Should the employee fail to produce documentation the process will be discontinued. If the employee is dissatisfied with the discontinuation, the employee may follow the provisions of Section 31.06(6).

I. **Denial.** Any disapproval of a reasonable accommodation must be made in writing in plain language providing the specific reasons for denial of the accommodation, if alternate accommodations were considered and what was considered.

1. The Department is not legally required to accommodate an employee's disability in accordance with 29 CFR 1630, which includes the following:

- The disabled employee is unable to perform the essential functions of the job and that no reasonable accommodation exists that would enable the person to perform the essential functions of the job.
- The employee would create an imminent and substantial danger or harm to him/herself or a substantial danger to others by performing the job and no reasonable accommodation can be made to remove or reduce the danger.
- The Department can demonstrate that the accommodation would impose an undue hardship.

A reasonable accommodation may also be denied on other bases consistent with statute and regulations.

2. The Department shall document the results of Reasonable Accommodation requests.

J. **Appellate Rights.** If an employee's request for reasonable accommodation is denied or the decision maker does not reverse the decision in the reconsideration process, the employee has a right to file an EEO complaint within 45 days of the denial, even if he/she is participating in the ADR process. The employee may elect alternatively to appeal the denial through the Grievance process; however, they may only choose one process.

#### **SECTION 31.07: PREVIOUSLY APPROVED ACCOMMODATION.**

Once a permanent disability has been established it will not be subject to further medical documentation or revocation. However, when an employee requests a new or additional reasonable accommodation based on changing or expanding needs associated with an existing

medical condition, or is in a new position, only the new or additional needs shall be subject to review and evaluation.

**SECTION 31.08: PROVISIONS OF ESSENTIAL JOB FUNCTIONS.**

- A. Essential job functions are the fundamental or grade-controlling duties that an employee must be able to perform, with or without reasonable accommodation. Management agrees to provide an employee a copy of his/her current position description, highlighting the essential job functions and a copy of the performance standards within 15 days of the employee's request.
- B. **Determination of Essential Job Functions:** Essential job functions shall be determined by the employee's first or second-line supervisor and certified by a qualified classifier. It is understood that management decisions are subject to the grievance procedure and other applicable administrative and legal complaint or appeal processes.

**SECTION 31.09: DISTRIBUTION OF DISABILITY PROGRAM MANAGER (DPM) INFORMATION.**

The Department's DPM contact information will be placed on the Field Office's official bulletin board(s) with the EEO poster and posted on the HUDWEB.

**SECTION 31.10: IMPLEMENTATION.**

Management agrees that the implementation of a decision to grant a reasonable accommodation request will be met within 30 workdays unless there is an extenuating circumstance. It is understood additional time may be needed if special equipment needs to be ordered.

**SECTION 31.11: FUNDING.**

As indicated in Chapter 3, Section 3.3 of Handbook 7855.1, the Chief Financial Officer has Department-wide responsibility for the allocation of all funds in support of reasonable accommodations.

**SECTION 31.12: PRIVACY.**

The parties recognize that the Rehabilitation Act requires that all medical information be kept confidential. This means that all medical information the agency obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel files. It also means that any employee who obtains or receives such information is strictly bound by these confidentiality requirements. Managers and supervisors are responsible



for the safekeeping and confidentiality of all personal information, medical or otherwise, that they obtain during processing of reasonable accommodation requests.

**SECTION 31.13: EMERGENCY EVACUATION PLAN.**

Any medical information released to assist in the development of the emergency evacuation plan shall be subject to the confidentiality requirements of HUD Handbook 7855.1.

**SECTION 31.14: POSITION DESCRIPTION AND PERFORMANCE STANDARDS.**

Position Descriptions will be modified when applicable to match the employee's duties. Performance Standards will be modified to match the position description.

**SECTION 31.15: ASSISTIVE TECHNOLOGY EQUIPMENT.**

Reasonable Accommodation requests for Assistive Technology (AT) equipment will be submitted via HUD Form 22006. The procedure for requesting AT equipment can be found on hud@work (or successor site) (<http://hudatwork.hud.gov/po/i/it/usersupp/enabled/>). HUD Form 22006 will be submitted to the supervisor for signature and the Headquarters Assistive Technology Program Coordinator for processing, with a copy to the local Information Technology Director (ITD) representative. Standard equipment will be provided to the employee, normally within five (5) workdays. If the request for non-standard AT equipment cannot be provided within five (5) workdays, the Headquarters AT Program Coordinator will provide the individual and the immediate supervisor a notice of when the equipment is expected to be provided. Requests that involve both electronic technology and other reasonable accommodation request processing will run concurrently.

If an employee physically moves or relocates to another HUD Office, equipment obtained as a reasonable accommodation will be moved or replaced.

**ARTICLE 32  
TRAINING AND CAREER DEVELOPMENT**

**SECTION 32.01: GENERAL.**

- A. It is recognized that training and development of employees is a matter of importance and is clearly in the public interest.
- B. It is understood that Management determines training needs and the methods for meeting these needs, as well as assignment of employees to training.
- C. Any training assessment tool used by Management to determine an employee's training needs (e.g., the Individual Development Plan (IDP)) shall not in and of itself be used to adversely affect the employee's performance rating, qualifications for the position, or promotion consideration. Nothing in this paragraph precludes management from exercising its right to address performance issues as outlined in the performance standards.

**SECTION 32.02: TRAINING CRITERIA.**

- A. Employees may request training at any time. All training requests shall be processed in accordance with applicable Departmental regulations and the Government Employee Training Act of 1958, as amended. Management may use the following criteria when developing or approving a training request:
  - 1. Availability of funds;
  - 2. Relationship of the training to the employee's ability to meet or exceed required standards of performance for the employee's current job or for the job which the employee has been selected to fill;
  - 3. Potential use of the training for readily foreseeable developments or events in the Department's programs;
  - 4. Consistency with plans for the employee's career development;
  - 5. Equitable distribution of training opportunities; and,

6. Expectation that the training could help the employee correct a deficiency in performance.

The criteria shall be explained upon request to employees when developing an Individual Development Plan and when approving or developing a training request.

- B. Management will maintain information and furnish counseling and guidance about suitable available educational resources. The Union will encourage employees to take advantage of suitable self-development opportunities.

### **SECTION 32.03: INDIVIDUAL DEVELOPMENT PLANS (IDP).**

- A. The HUD Electronic Individual Development Plan (EIDP) and self-assessment/goal setting website and handbook (revised 4/2015) is a flexible tool developed jointly between the employee, supervisor, mentor and/or coach for current and future professional and career development. The IDP is responsive to the needs of the organization and employee. It may include on-the-job developmental assignments, after hours study, volunteer activities, etc. It does not guarantee an employee a promotion or that training specified on the IDP will be funded by the Agency.
- B. When an employee is selected for training within a formal training program, such as upward mobility or intern programs, Management shall develop with the employee an Individual Development Plan which shall be responsive to both the needs of the program and the employee.
- C. All employees shall be given the opportunity to prepare and/or amend an IDP as needed. Every HUD employee shall be assigned a mentor and/or coach, upon request. They may seek assistance from career counselors, career coaches, IDP Coordinators, mentors, employee development specialists and administrative officers. Supervisors provide advice and additional information on assignments, developmental activities, and training. Employees shall not be penalized in terms of performance appraisals, promotional consideration, competitive placement, work assignments and training opportunities (except for training provided as part of a formalized training program pursuant to (B) above) for not participating in an IDP.

- D. Individual Development Plans shall be implemented within resources available, and taking into consideration workload demands.
- E. Upon request, Management shall provide career counseling through such means as discussing career goals, skills, and experience required for positions within the Department. The employee's supervisor, the supervisors of the positions in which the employee is interested, as well as the Human Resources Office, are available for this purpose.
- F. A more specific IDP shall be required of certain employees under a Performance Improvement Plan or under an Upward Mobility Plan. Management shall initiate this type of IDP.
- G. Each employee shall be entitled to voluntarily establish an Individual Development Plan (IDP) to be used as a roadmap for the employee's professional and career development. The IDP shall be submitted to and approved by the employee's supervisor. The IDP is responsive to the needs of the organization and the employee. An IDP may include on-the-job developmental assignments. Self-directed training or development activities may be conducted during duty time upon supervisory approval, if such activities are related to the employees current or prospective job duties.
- H. The IDP is a working document, which may be updated as necessary. They may seek assistance from managers, HR Specialists, Employee Development Specialists, Administrative Officers and Regional Support Managers. Supervisors may provide advice and additional information on assignments, developmental activities, and training. Employees will not be penalized via the performance evaluation process for not completing or not implementing an IDP.
- I. IDPs shall be implemented within resources available, and take into consideration workload demands. Training opportunities will follow the provisions of Section 32.02, Training Criteria.
- J. The Departmental IDP Workbook provides guidance on the IDP planning process and on preparing the EIDP tool which is located in the workbook as well as in the Career Development and Training Bulletin Board on the HUD@Work and/or HUD Learn web site.

- K. An IDP shall be required of employees in a formal training or developmental program, such as the upward mobility, Presidential Management Fellow or intern programs. The Department shall initiate this type of IDP.
- L. IDP's are not mandatory and employees will not be penalized via the performance evaluation process for not completing or not having an IDP. Any training assessment tool used by Management to determine an employee's training needs shall not in and of itself be used to adversely affect the employee's performance rating, qualifications for the position, or promotion consideration. Any self-assessment is voluntary. Nothing in this paragraph precludes management from exercising its right to address performance issues through management-directed training.
- M. Employees' performance ratings will not be used as a basis for approval or denial of training opportunities.

**SECTION 32.04: ACCOMMODATION FOR TRAINING.**

Employees may be granted variations within the normal workweek, including leave without pay and absence without charge to leave, for educational purposes. Management shall, to the maximum extent practical, ensure the scheduling of training (over which the agency has administrative control) so that it occurs during the normal workweek, including travel to and from training. When an employee's normal work schedule is different from the hours of training, i.e., Alternative Work Schedule (AWS), the employee's AWS is temporarily suspended as acknowledged by the signature of the supervisor and employee on the training form.

**SECTION 32.05: MEMBERSHIP IN ORGANIZATIONS.**

Payment of annual dues for membership in a professional organization is not reimbursable to the employee, even if the Government would benefit from the employee's development as a result of the membership.

**SECTION 32.06: SERVICE AGREEMENT.**

- A. An employee selected for training for a minimum period prescribed by the Department shall agree in writing with the Department before assignment to the training that he/she will:

1. Continue in the service of the Department after the end of the training period for a period at least equal to three times the length of the training period unless he/she is involuntarily separated from the service of the Department; and
  2. Pay to the Department the amount of the expenses incurred by the Department in connection with his/her training if he/she is voluntarily separated from the service of the Department before the end of the period for which he/she has agreed to continue in the service of the Department.
- B. The Department's right to recover the expenses of training may be waived, in whole or in part, only if one or more of the following conditions exists:
1. The employee has completed most, but not all, of the required period of service;
  2. The employee resigned because of his or her own illness or the serious illness of a member of his or her immediate family; or
  3. The employee is unable to make payment because of severe financial hardship.
- C. A waiver of the Service Agreement must be requested in writing and submitted to the Assistant Secretary for Administration or his/her designee.

**SECTION 32.07: PREMIUM PAY.**

No funds appropriated or otherwise available to the Department may be used for the payment of premium pay (overtime or compensatory time) or credit hours to an employee engaged in training by, in or through Government facilities or non-government facilities or while traveling to/from training except as allowed by the Code of Federal Regulations (CFR) or United States Code (USC).

**SECTION 32.08: MENTORING PROGRAM.**

- A. The purpose of the HUD Mentoring Program is to assist all HUD staff - from entry level to Executive level - to succeed in achieving their career goals and to increase their proficiency on the job.

- B. The Mentoring Program will provide an opportunity for experienced HUD staff (Mentors) to help and guide other HUD staff (Mentees). Mentors benefit from the Program by experiencing the satisfaction of using their knowledge and experiences to assist mentees, by assisting the Department with its efforts to support its employees, and by the new participation in the Mentoring Program. Mentees will benefit by increased job proficiency and satisfaction and by increased potential for achievement. With supervisory approval, mentors and mentees may be allowed up to one hour a week for mentoring activities. This hour must be used in a given week. Hours cannot be banked for future use, nor can hours be used in advance. At the discretion of the mentor and mentee, additional sessions may be scheduled on their own time. Mentoring relationships may be terminated at any time by either the mentor or mentee. However, the Mentoring Program Coordinator must be consulted before the relationship is terminated.

**SECTION 32.09: UPWARD MOBILITY.**

- A. The policy described in HUD Handbook 8055.1 dated June 1991 and the Departmental Upward Mobility Training Agreement approved by the Office of Personnel Management on April 16, 1980, and changes thereto, will be adhered to in carrying out the Upward Mobility program.
- B. Management shall provide training programs in support of employees selected through the merit staffing process to participate in Upward Mobility programs. This training shall be directed toward providing the knowledge and skills required by the targeted positions.
- C. Management shall consider the Union's comments concerning improving the effectiveness of or proposed changes to the Upward Mobility program.
- D. The Department's Upward Mobility policy/program is established and implemented in accordance with HUD Handbook 951.1 dated December 11, 1998, and this Agreement.
  - 1. The implementation and effectiveness of the Upward Mobility training program may be reviewed at the local level by the Labor Management Forum(s) and may be discussed, as well, in the local and National Labor Management Forums. Management shall consider the Union's recommendations concerning improving the effectiveness of the Upward Mobility Program.

2. Recognizing the Department's commitment to establish and maintain a well-trained and productive workforce, the Department will continue efforts to implement an effective Upward Mobility Program which contains credible goals or target number of positions for each Program/Support Area.

E. **Development Programs:** Changes in current policies and procedure for Development programs such as, the Emerging Professional Program (EPP), Emerging Leaders Program (ELP), and Leadership Development Program (LDP) or successor program(s) will be bargained under the provisions of Article 38. Employees who are current or former participants in these programs are still subject to the provisions of the existing programs.

**SECTION 32.11: EMPLOYER RIGHTS.**

Management will decide at its sole discretion which positions will be announced as Upward Mobility opportunities.



**ARTICLE 33**  
**REDUCTION-IN-FORCE, REORGANIZATION,**  
**AND/OR TRANSFER OF FUNCTION**

**SECTION 33.01: REFERENCE.**

The policy, procedures, and terminology established in this Article are in conformance with:

5 USC 3501-3504

5 CFR Part 351

**SECTION 33.02: POLICY.**

Nothing in this Article shall diminish the rights of employees which are specifically provided by law. Where a provision of this Article conflicts with a provision of law which provides greater legal rights for employees than that provided by this Article, the provision of law shall apply.

**SECTION 33.03: DEFINITIONS.**

- A. **Reduction-In-Force (RIF)** means the release of an employee from his/her competitive level by: (1) separation; (2) demotion; (3) furlough for more than 30 days; or (4) reassignment of an employee requiring the displacement of another employee when it is for (a) lack of work or shortage of funds; (b) insufficient personnel ceiling; (c) reorganization; (d) reclassification due to an erosion of duties only if such action shall take effect after the RIF has been formally announced in the employee's competitive area and when the RIF shall take effect within 180 days; or (e) the exercise of reemployment or restoration rights which requires Management to release the employee from his/her competitive level.
  
- B. **Transfer of Function (TOF)** means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.

- C. **Reorganization** means the planned elimination, addition, or redistribution of functions or duties in an organization or activity. Reorganization comes under this Article only if there are employees affected under paragraphs A or B of this Section.
- D. **Excepted Service Employee** is an employee whose position is excepted from the competitive service. These persons are appointed in the Federal personnel system under various authorities including "Schedule A," "Schedule B," and "Schedule C."
- E. **Undue Interruption** is a degree of interruption that would prevent the completion of required work within the allowable limits of time and quality. Depending upon the pressures of priorities, deadlines, and other demands, the ordinary work program generally would not be unduly interrupted if the optimum quality and quantity of work were regained within 90 days after a reduction-in-force. Lower priority programs might tolerate even longer interruption.
- F. **Order of Release.** Whenever a reduction-in-force occurs, the layoff is made from the bottom of the retention register. Thus, employees in subgroup III-B, (e.g., indefinite/temporary appointment, non-preference eligible) are separated first and employees in subgroup I-AD, (e.g., career, 30 percent or more service connected disability preference eligible veteran) last. Within each subgroup, employees are reached in the order of their length of RIF creditable service, thus the employee with the least amount of service being first.
- G. **Competitive Level.** A competitive level consists of all the positions in a competitive area that are in the same grade or occupational level and classification series and which are similar enough in qualification requirements, duties, pay schedule, and working conditions, so that the incumbent of one position could successfully perform the critical elements of any other position upon entry into it without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.

#### **SECTION 33.04: UNION NOTIFICATION.**

- A. When it is determined that any of the actions stated in this Article are necessary and the scope of the action affects more than one Field Office, Management shall inform the Union President and the designated Union representative for each affected office. If only one Field Office is affected, Management shall notify the designated Union representative.

- B. Written notification shall be given to the appropriate Union representatives at least 15 days in advance of the specific notice to the employee.
- C. Management shall provide the Union with specific information concerning the matter, to include:
  - 1. The reasons for the reduction-in-force, reorganization, or transfer of function;
  - 2. The approximate number, types, and geographic locations of positions affected; and
  - 3. The approximate date of the action.
- D. Management shall provide the Union President and the designated Union representative in the affected offices with a copy of specific RIF notices.

**SECTION 33.05: EMPLOYEE NOTIFICATION.**

- A. An individual employee who is adversely affected by actions stated in this Article (geographically transferred, demoted, or separated because of reduction-in-force) shall, as a minimum, be given specific notice not fewer than 60 but no more than 120 days in advance of the effective date. Such notices shall contain the information required by law and regulations, in addition to that required by this Agreement.
- B. **Content of Specific Reduction-In-Force Notice.** The specific reduction-in-force notices include the following information specified at 5 USC 3502(d)(2):
  - 1. The specific reduction-in-force and personnel action to be taken with respect to the employee involved;
  - 2. The effective date of the action;
  - 3. The employee's competitive area, competitive level, subgroup and service date, and annual performance ratings of record received during the last 4 years, however, only the three most recent ratings of record will be credited;
  - 4. The place where the employee may inspect the regulations and records pertinent to his/her case;
  - 5. The employee's ranking relative to other competing employees;

6. A description specifically showing how the employee's ranking relative to other competing employees was determined.
7. The justification for retaining a lower standing employee in the same competitive level because of a temporary or continuing exception;
8. Grade and pay retention information;
9. A description of the employee's grievance or appeal rights; and
10. Reemployment rights.

**SECTION 33.06: ADDITIONAL EMPLOYEE INFORMATION.**

Management shall provide complete information needed by employees to fully understand the reduction-in-force and why they are affected. Specifically, Management shall:

- A. Inform all employees as fully and as soon as possible of plans or requirements for reduction-in-force in accordance with applicable rules and regulations; and
- B. Inform all employees of the extent of the affected competitive area, the regulations governing reduction-in-force and the kinds of assistance provided for affected employees.
- C. The servicing Human Resources Office shall maintain, distribute, and publicize a list of vacancies, Department-wide, and maintain a copy of the Government-wide job bulletins, such as Federal Jobs or Federal Research Service. This information shall also be provided to the Union for all offices in the jurisdiction of the Union.
- D. HUD maintains the Official Personnel Folder electronically. Employees can access their Official Personnel Folder 24/7 online.
- E. Within five (5) business days of when specific written RIF notices are distributed, the Department will provide a briefing(s) for the affected employees to explain the RIF process. In the meeting, a representative of the Department will explain how RIF retention is determined, the scope of the particular reduction in force, how to access their electronic Official Personnel Folder (eOPF), employee placement opportunities, severance pay computations, Re-employment Priority List (RPL), Career Transition Assistance Plan (CTAP) and Interagency Career Transition Assistance Plan (ICTAP) provisions and services to employees who are designated for separation in the RIF. A representative of the Department will take employee questions and attempt to provide

immediate answers. If immediate answers cannot be provided, then answers to those questions will be distributed via e-mail to all employees who were invited to the briefing. In addition, the Department will designate someone who will receive and respond to additional employee questions. A representative of the Union will be invited to attend these briefings, and will be given thirty (30) minutes at the conclusion of the briefing to speak with the employees.

- F. If early retirement or buy-out opportunities are offered to employees in connection with a RIF, the Department will provide a briefing(s) for employees. Eligibility requirements, and the application processes will be explained. The effects of a buyout or early retirement on severance pay, reemployment, and continued health insurance coverage will be presented. A representative of the Department will take employee questions and attempt to provide immediate answers. If immediate answers cannot be provided, then answers to those questions will be distributed via e-mail to all employees who were invited to the briefing.

**G. Employee Verification.**

As far in advance as possible of an anticipated RIF, the Department will notify employees of the need to review their personnel records and ensure that these records are complete and accurate. This notice will advise employees to ensure that their records are up to date concerning:

- 1 Veterans preference;
- 2 Three most recent performance ratings of record received during the previous four-year period;
- 3 All periods of federal civilian and military service;
- 4 Completed training;
- 5 Current licenses and certifications;
- 6 Experience gained outside Federal service.

The Department will expeditiously resolve any discrepancies raised by the employee.

### **SECTION 33.07: COMPETITIVE LEVEL.**

Competitive levels are established in accordance with applicable law and regulations. An employee is assigned to a position in a competitive level in accordance with regulations. Factors considered in the establishing of competitive levels are as follows:

- A. A competitive level consists of all the positions in a competitive area that are in the same grade or occupational level and classification series and which are similar enough in qualification requirements, duties, pay schedule, and working conditions, so that the incumbent of one position could successfully perform the critical elements of any other position upon entry into it without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.
- B. **Qualification Considerations.** When Management considers the effect of qualifications on the composition of a competitive level, the concern is not with the qualifications an employee possesses but with the qualifications required by the duties and responsibilities of the position as stated in the Official Position Description. Separate levels may be indicated because knowledge, skills and abilities acquired on the job may be distinctive enough to keep the agency from readily moving employees from one job to another. Separate levels shall not be so narrowly defined as to favor or disfavor an employee or group of employees with respect to RIF actions.
- C. **Separate Competitive Levels Prohibited.** Management may not assign a position to a separate competitive level based only on:
  - 1. The employee's sex, except for a position where OPM has found that restricting the certification of eligibles by sex is justified;
  - 2. The fact that the employee is serving a probationary period required by 5 CFR 315, Subpart I, upon initial appointment to a supervisory or managerial position; and
  - 3. Differences in work schedules among other than full-time employees who would otherwise be assigned to the same competitive level.
- D. **Separate Competitive Levels Required.** In accordance with applicable OPM regulations, each agency establishes separate competitive levels for positions according to the following categories:

1. **By Service.** Separate levels shall be established for positions in the competitive service and the excepted service;
2. **By Appointment Authority.** Separate levels shall be established for excepted service positions filled under different appointment authorities;
3. **By Pay Schedule.;**
4. **By Work Schedule.** Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis;
5. **By Supervisory or Nonsupervisory Status.** Separate levels shall be established for positions filled by a supervisor or Management official as defined in 5 U.S.C. 7103(a)(10) and (11); and
6. **By Trainee Status.** Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all the characteristics covered in 5 CFR 351.

**SECTION 33.08: USE OF VACANCIES TO SATISFY ASSIGNMENT RIGHT.**

- A. **Within the Competitive Area.** Consistent with the needs of the Department, Management will make every effort to use vacancies to satisfy the employee's assignment right.
- B. **Outside the Competitive Area.** If a bargaining unit employee's assignment right, determined in accordance with the laws, regulations, and this Agreement, results in an offer at a lower grade or if the bargaining unit employee has no assignment right and is identified for separation, Management will make every effort to utilize available positions in areas outside the employee's competitive area if such an offer is in the best interest of the Department and the offer shall not adversely affect the assignment rights of bargaining unit employees in the other competitive area. If such an offer is accepted, a bargaining unit employee shall be entitled to a reasonable amount of agency official time in order to obtain housing and to facilitate other aspects of his/her relocation. Relocation expenses would be paid in accordance with current statutes, regulations and Departmental policy.

**SECTION 33.09: WAIVER OF QUALIFICATIONS.**

- A. After consultation with the appropriate Union representative, Management may assign an employee without regard to OPM's standards and requirements for the position if:
  - 1. The employee meets any minimum education requirement for the position; and
  - 2. The employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.
- B. All waivers of qualification(s) must be properly documented and justified; this documentation must be maintained by the servicing Human Resource office subject to Union review.

**SECTION 33.10: TRAINING FOR DISPLACED EMPLOYEES.**

If Management waives qualification standards to place an employee in a vacant position under RIF, then Management shall develop a training plan and assure training is provided in accordance with the plan.

**SECTION 33.11: EXCEPTIONS TO THE ORDER OF RELEASE.**

- A. **Temporary Exceptions.** After consultation with the appropriate Union Representatives, Management may allow temporary exceptions, not to exceed 90 days, to the RIF order of release to continue an employee on duties that a higher standing employee cannot take over within 90 days:
  - 1. Without undue interruption to the Department.
  - 2. To satisfy Management's obligation to the retained employee; for example, to delay the effective date of the employee's release long enough to allow the specific notice period required by this Article, as when he/she is absent from his/her duty station on leave and cannot receive his/her notice the same day as a higher ranking employee.



3. To help an employee administratively when the temporary exception does not adversely affect the rights of any other employee released ahead of the excepted employee.

- B. **Continuing Exceptions.** After consultation with the appropriate Union Representatives, Management may allow continuing exceptions to the RIF order of release to continue an employee in duties that a higher standing employee cannot take over within 90 days without undue interruption to the Department.
- C. **Employee Representation.** Employee representatives designated pursuant to Article 4 of this Agreement, who are scheduled for separation due to a reduction-in-force, may be temporarily excepted from the reduction-in-force order of release for up to 90 days upon the recommendation of the Union President provided that the affected employee has been a designated employee representative for the 3 months preceding the scheduled separation.
- D. **Documentation.** All exceptions to the RIF order of release shall be justified and the documentation of such justification shall be maintained with other required RIF records. Justification of continuing exceptions must clearly demonstrate that no higher standing employee could take over the duties of the position without undue disruption to the Department and must explain the consequences of not permitting the exception. The reasons should be consistent with the criteria for justifying a temporary exception and the reasons why a temporary exception not to exceed 90 days is not sufficient, must also be included.

**SECTION 33.12: TIE BREAKING.**

- A. It is possible, in releasing an employee from a competitive level, to reach two employees with identical retention standing. In such cases, the decision to retain one or the other employee in the competitive level shall be made on the basis of the following criteria in the following order:

First: Employee's most recent entry on duty (EOD) date with the Department;

Second: Employee's time in grade; and

Third: Comparative number of RIF displacements resulting from release.

- B. The decision must be documented in writing and retained with RIF files. The Union shall be notified, in writing, of the names of such employees with identical retention standing, the decision as to which employee to retain, and the criteria that were used to make such a decision.

**SECTION 33.13: OFFER OF ASSIGNMENT.**

- A. When an employee is released from his/her competitive level, the operating Human Resources Office must determine whether that employee is entitled to a job offer and, if so, at what grade level. It is possible that a released employee may be qualified and able to displace (by bump or retreat) several other employees at the grade level of entitlement.

This offer shall be made on the basis of the following criteria in the following order:

- (a) The comparative overall performance rating of the vulnerable employee;
  - (b) Qualification match; and
  - (c) Comparative RIF disruption.
- B. In order to minimize displacement resulting from a reduction in force the Department will assist employees in their search for vacancies, and may offer lateral reassignments to vacant positions that the Department otherwise intends to fill.
  - C. Employees who receive job offers will be given reasonable time to consider and respond as to whether they will accept or decline the offer.
  - D. Employees may volunteer to relocate to another location under a RIF and may volunteer to pay for their own relocation expenses.
  - E. Employees who receive an offer of assignment to a different commuting area will be allowed up to 90 calendar days as necessary, to complete the move and report to work. Upon demonstrated need, additional time may be granted.

- F. The Department will utilize the Reemployment Priority List when filling vacancies subject to a RIF.
- G. The decision shall be fully documented and this documentation shall be made available to the Union.

**SECTION 33.14: EXCEPTED SERVICE**

In reduction-in-force, employees in the excepted service shall compete within competitive levels, in order of retention standing, on a separate retention register from competitive positions as specified in OPM regulation. The Department shall provide for bumping or retreat rights for its excepted service employees when they cannot be retained in their competitive levels using the same methodology as that used for competitive service employees.

**SECTION 33.15: OTHER PROVISIONS.**

- A. After consultation with appropriate Union Representatives, Management may, at its election:
  - 1. Use subgroup superiority in displacing tenure Group III employees.
  - 2. Allow employees in the same subgroup with more service to displace those with less service in order to make a better assignment offer.
- B. Written justification of these actions shall be made available to the Union.

**SECTION 33.16: HUD REEMPLOYMENT/REPROMOTION PRIORITY LIST.**

Reemployment-Repromotion Priority List shall be governed by the Career Transition Assistance Program (CTAP) and any supplements and MOUs negotiated by the Parties.

**SECTION 33.17: COUNSELING AND BENEFITS ASSISTANCE.**

- A. In the event of a reduction-in-force effecting separation of employees, Management shall determine from the appropriate State employment service or the appropriate assistance program whether any of the affected employees may be eligible for training or benefits at Government expense, and, if so, shall inform the employees how to apply for such training and benefits.
  
- B. In order to expedite implementation of this Section, Management shall transfer necessary data, in keeping with the Privacy Act, to the Office of Personnel Management and appropriate State employment and benefits agencies. Employees shall be provided an opportunity to waive privacy rights to aid in this transfer of data.
  
- C. Management agrees to assist and refer any Group I or II displaced employees to the Office of Personnel Management (OPM) for consideration for employment under the Displaced Employee Program (DEP).

**SECTION 33.18: FEDERAL OUTPLACEMENT ASSISTANCE.**

Outplacement assistance shall be governed by the Career Transition Assistance Program, and any supplements and MOUs negotiated by the Parties.

- A. Unemployment Compensation.** The Department and the Union may collaborate in arranging to have representatives of the Unemployment Insurance Agencies from all states in which employees would file claims come to the Department and make presentations regarding benefits, eligibility requirements, and application procedures.
  
- B. Severance Pay.** The Department will notify all employees who are separated in a RIF of their rights to receive severance pay under law and regulation. Those who are eligible to receive severance pay will get an estimate of the amount of severance pay that they will receive, and information on how these payments will be made.

### **C. Employment outside the Department.**

- (i) If resources are available, for employees who cannot be placed within the Department, the Department may provide assistance in finding employment outside the Department, whether in another Federal agency, a State or local government, or the private sector. This assistance may include, but not be limited to:
  - a. Resume writing;
  - b. Coaching in job search and interview techniques;
  - c. Reasonable Amount of time to visit local job fairs or attend local job interviews.
- (ii) For a reasonable amount of time and to the extent permitted under law, regulation, and the availability of resources, the Department will continue to extend the services of subsections above to employees after the date of the employee's separation.

#### **SECTION 33.19: PERSONNEL FILES.**

The Union may review any bargaining unit employee's Official Personnel File at the employee's request if that employee reasonably believes that the information used to place him/her on the retention register is inaccurate, incomplete, or not in accordance with law, rule, regulation, and provisions of this Agreement.

#### **SECTION 33.20: RECORDS.**

Management shall maintain all lists, records, and information pertaining to the reduction-in-force for at least 1 year in accordance with applicable rules and regulations.

#### **SECTION 33.21: RETENTION REGISTER.**

Management shall certify the accuracy of all retention registers which are to be used to conduct a reduction-in-force. A copy of the certified retention registers shall be made available to the Union immediately upon its completion. Upon request the Union shall have the right to review any subsequent changes to the uncertified and certified retention registers.

**SECTION 33.22: TRAINING FOR UNION REPRESENTATIVES.**

Management shall provide an opportunity to all Union representatives in each office for RIF training prior to the briefing of the employees. Management sponsored training shall be equivalent to the training provided to supervisors. All training shall be on agency official time.

**SECTION 33.23: EARLY RETIREMENT AUTHORIZATION.**

Management shall request from OPM authorization for early optional retirement for any segment or component of the Department when the minimum eligibility requirements established by regulation are met.

**SECTION 33.24: EMPLOYEE USE OF FACILITIES.**

The employee's use of facilities will be governed by the CTAP and any supplements and MOUs negotiated by the Parties.

**SECTION 33.25: EMPLOYEE USE OF OFFICIAL TIME.**

The employee's use of official time will be governed by the CTAP and any supplements and MOUs negotiated by the Parties.

**SECTION 33.26: PERFORMANCE APPRAISALS.**

In a RIF, all employees shall be entitled to additional service credit for performance in conformity with the regulations at 5 CFR 351.504. Annual performance appraisals shall be frozen prior to the issuance of the specific RIF notice and shall be the evaluations used to determine eligibility for additional credit toward an employee's service computation date. Prior to freezing performance appraisals, Management will ensure that all employees have a current performance rating of record.

An employee who has not received any rating of record during the four (4) year period shall receive credit for performance based on the modal rating (as defined in 5 CFR 351.203) for the summary level pattern that applies to the employee's official position of record at the time of the RIF.

An employee who has received at least one (1) but fewer than three (3) ratings of record during the four (4) year period shall receive credit for performance based on the value of the actual rating(s) of record divided by the number of actual ratings received. If an employee has received only two (2) actual ratings of record for the period, the value of the rating is added together and divided by two (2) and rounded to the next higher whole number to determine the amount of

additional retention service credit. If the employee has received only one (1) actual rating of record, its value is the amount of additional retention service credit provided.

**SECTION 33.27: GRADE AND PAY RETENTION.**

Grade and pay retention for affected employees shall be in accordance with applicable law and regulations.

**SECTION 33.28: DETAILS.**

During a reduction-in-force, employees on detail shall not be released from the position to which they are detailed but, rather, from their permanent position.

**SECTION 33.29: TRANSFER OF FUNCTION.**

When a transfer of function results in a reduction-in-force, RIF procedures, as outlined in applicable regulations and the Agreement, shall be used.

**Transfer of Function.** When the Department determines that a TOF is necessary, the Department will inform the Union as far in advance as practicable, giving the reason for the action, the approximate numbers, types, and geographic location of the positions to be affected, and the approximate date of the action. At that time, Management will issue a notice in accordance with Article 38, as appropriate.

The Department will identify which positions will transfer with the function in accordance with Office of Personnel Management regulations.

**SECTION 33.30: PERSONNEL FREEZES.**

The Union shall be consulted prior to implementation of any Management decisions to freeze personnel actions in conjunction with RIFs, reorganizations, or transfers of function.

**SECTION 33.31: EXTERNAL RECRUITMENTS.**

In anticipation of a RIF, Management shall not create new or different organizational components or subcomponents to favor or disfavor an employee or group of employees.

- A. Prior to effecting the reduction in force, Management agrees to make every effort to eliminate external bargaining unit recruitment efforts in the affected RIF areas. Management agrees to evaluate the placement of qualified employees otherwise to be separated by reduction in force in vacant bargaining unit positions in HUD, provided there is a current need and ability to fill such vacancy as determined by Management and provided further that such action is consistent with rules and regulations of the Office of Personnel Management or higher agency authority. Employees selected for reassignment to other positions within the Agency shall be provided with such additional training as is necessary to perform the requirements of the new job. However, it shall be the responsibility of Management to determine the extent and types of additional training; to determine the numbers and types of employees to be trained within funds and authority available; and to provide the means and methods to furnish such training.
  
- B. Management agrees to make a reasonable effort to minimize a Reduction-in-Force through the reassignment of employees to available vacancies for which they are qualified.

When the specific position in an activity, from which an employee has been demoted through reduction in force (RIF) becomes vacant and is being filled, the demoted employee will be considered for repromotion noncompetitively to the position.



**ARTICLE 34**  
**FURLOUGHS FOR THIRTY (30) DAYS OR LESS**

**SECTION 34.01: GENERAL.**

- A. Furlough means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.
- B. This Article sets forth procedures which shall be followed if Management determines it is necessary to furlough employees for 30 days or less due to:
  - 1. Lack of work;
  - 2. Lack of funds; and/or
  - 3. Unforeseeable circumstances such as a sudden breakdown of equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities including a lapse of appropriations. Unforeseeable circumstances, in addition to meeting the definition of emergency, also include the inability of Management to continue operations to a practical extent.
- C. These procedures shall be carried out in accordance with law and Government-wide regulations. Furloughs of 30 days or more must be carried out according to reduction-in-force procedures.
- D. To the extent practicable, non-excepted bargaining unit employees will be placed in a furlough status in a fair and equitable manner based on sound business reasons.

**SECTION 34.02: NOTIFICATION TO UNION AND IMPACT BARGAINING.**

- A. Before Management furloughs employees, except where an unforeseeable circumstance arises, Management shall provide written notification to the Union President of:
  - 1. The reason for the furlough(s);
  - 2. The organizational segments affected by the furlough(s); and

3. The estimated number of employees to be furloughed.

This notice shall also be provided simultaneously to the designated Union representative in the affected office.

B. Impact and implementation bargaining which is necessitated by a Management decision to furlough employees shall take place at the Field Office or NFFE Local 1450 wide as appropriate. If differences arise, the procedure for handling an impasse shall be resolved during impact bargaining.

**SECTION 34.03: VOLUNTEERS.**

For furloughs not related to a lapse of appropriations, once management determines the number, types, and grades of employees necessary to accomplish the work, Management shall notify employees at the work site and shall solicit volunteers for furlough. If a sufficient number of volunteers do not come forth, then Management shall select employees for furlough on a fair and equitable basis. Any employees not furloughed must be qualified to perform the functions that are to continue to be performed during the period of furlough.

**SECTION 34.04: SCHEDULING FURLOUGH DAYS.**

When Management has made a decision to furlough employees for a specified number of days during a specified period of time, employees shall be provided an opportunity to submit a schedule identifying their preferences in accomplishing the necessary number of days off. These schedules shall be accommodated as much as practicable giving due consideration to workload, staffing and office coverage requirements.

**SECTION 34.05: NOTICE TO EMPLOYEES.**

Except in cases of unforeseeable circumstances, Management shall provide written, individual notices to those employees who are to be furloughed, 30 days prior to the effective date of the furlough. In the event that management puts in place a mandatory continuous multiple day furlough schedule, management will provide an Article 38 notice to the Union and will follow the contractual requirements under LMA Article 38, to the greatest extent feasible.

**SECTION 34.06: UNION ACCESS.**

Access to the Union office during a furlough may be available to the Union President as determined appropriate by Management.

**SECTION 34.07: EMPLOYEE BENEFITS DURING A FURLOUGH.**

- A. **Continuous Furlough.** Life insurance and health benefits enrollment shall continue without cost to the employee on consecutive and continuous furlough of 30 days or less.
- C. **Discontinuous Furlough.** Life insurance and health benefits enrollment shall continue. Contributions by the employee shall continue if the salary in the pay period is sufficient to cover the full deduction.

**SECTION 34.08: FURLOUGHS DUE TO A LAPSE OF APPROPRIATION.**

It is understood that the Antideficiency Act prohibits the authorization of any expenditure or obligation before an appropriation is made, unless otherwise allowed by law. As such, during a lapse of appropriation, employees who are not working or performing excepted work will be placed in a furlough status, and any compensation will not be paid out until a budget is in place and funding approved by Congress.

**A. Compensation.**

- 1. Employees who are required to report for duty during a lapse of appropriations shall be fully compensated in accordance with law and regulation.
- 2. Non-excepted employees who are furloughed may be retroactively paid and otherwise compensated if authorized by law.

**B. Leave.**

- 1. When a furlough is required due to a lapse in appropriation, for employees on approved annual leave, the approved absence may continue, but the annual leave will be cancelled and the employee will be placed in furlough status. Compensation will be governed as described above. Under no circumstance shall an employee be allowed to take unaccrued (advance) annual leave during a lapse of appropriation.
- 2. When a furlough is required due to a lapse in appropriation, for employees on sick leave, the approved absence may continue, but the sick leave will be cancelled and the employee will be placed in furlough status. Compensation will be governed as described above.

**SECTION 34.09: EPPES, DEADLINES & WORK ASSIGNMENTS.**

Furloughs shall be deemed as a factor beyond an employee's control and will not adversely impact an employee's performance evaluation. Should furloughs occur, Management agrees to toll work product deadlines, commensurate with the amount of furlough days. In making work assignments, Management will take into account the furlough days which make employees unavailable to work. Management will work with staff to adjust deadlines that may fall on a furlough day.

**SECTION 34.10: TELEWORK.**

Telework agreements shall not be permanently rescinded solely due to planned furloughs, but may be temporarily modified or suspended in accordance with Article 7. All provisions in Article 7 of the LMA shall remain in effect on working days during the furlough period. Employees will be allowed to swap their regular telework day(s) within the week when a furlough day(s) is/are taken on a regular telework day, with supervisory coordination/approval.

**SECTION 34.11: VOLUNTARY LWOP.**

In accordance with Section 21.15 of the LMA, the Department may approve Leave without Pay (LWOP) on non-furlough days either before or during the furlough period. Use of LWOP shall not count towards meeting the furlough requirement but will factor into additional budget savings that may reduce the amount of additional furlough time for all employees.

**SECTION 34.12: AWS/CWS/MAXIFLEX SCHEDULE.**

AWS, CWS and Maxiflex schedules shall not be permanently rescinded solely due to planned furloughs, but may be temporarily modified or suspended in accordance with Article 20. All provisions in Article 20 of the LMA shall remain in effect on working days during the furlough period for AWS, CWS and Maxiflex schedules. Employees may not take compressed days off in lieu of furlough hours/days. Furloughs must be taken in lieu of normal work hours.

**SECTION 34.13: CREDIT HOURS.**

On non-furlough days, employees on flexitour may continue to earn credit hours, consistent with the LMA.

**SECTION 34.14: REASONABLE ACCOMMODATION.**

Management agrees that there will be no adverse impact on reasonable accommodations due to furloughs, understanding that only excepted employees are allowed to work on furlough days.

**SECTION 34.15: CHANGES IN SCHEDULE:**

In the event that the number of furlough days are reduced then employees who made prior plans will be allowed to substitute leave or LWOP for the cancelled furlough day, unless the Department has a mission compelling reason to deny the leave or LWOP.

**SECTION 34.16: UNEMPLOYMENT INFORMATION.**

For unemployment forms, all affected furloughed employees will be provided contact information to obtain information about the furloughs including the name of the HUD official (name, title & phone number). Agency will also provide information to employees upon request on how to access unemployment compensation.

**SECTION 34.17: AGENCY UPDATES.**

Employees will be provided updates about the status of the furlough.

**SECTION 34.18: ETHICS CLEARANCE.**

Employees should provide complete requests for clearance on outside employment. The Office of General Counsel, Region IX, agrees to make the reviews a priority matter.

**SECTION 34.19: EAP.**

Management will provide employees with contact information for Employee Assistance Program (EAP) counselors and a description of services available to employees during the furlough period.

**SECTION 34.20: INFORMATION TO RETIREMENT ELIGIBLE EMPLOYEES.**

Retirement eligible employees who are concerned about furlough related potential impacts to their retirements date shall be provided a contact number to obtain additional guidance and information.

**SECTION 34.21: UNION PARTICIPATION.**

Union will be invited to participate in all furlough briefings held with NFFE 1450 bargaining unit employees.

**SECTION 34.22: LMA IN EFFECT.**

The implementation of the Department's budget cuts or sequestration does not diminish or abrogate any contractual and/or statutory rights the union or bargaining unit employees may have under the LMA, law, rule or regulation.

**SECTION 34.23: COMMUNICATION TO HUD CLIENTS.**

Employees will be encouraged to have standardized out of office messages (email and phone) noting that the office is closed due to furloughs.

**SECTION 34.24: NOTIFICATION TO EMPLOYEE'S CREDITORS.**

Employees will be provided, as appropriate, a Letter to Creditor stating the furlough of federal employees has caused a temporary reduction in pay which may impact the employee's ability to pay the creditor in a timely manner. The Letter to Creditor will be made available to employees at least two days prior to the first furlough date.

**ARTICLE 35**  
**HEALTH BENEFITS WHILE IN A NONPAY STATUS**

**SECTION 35.01: GENERAL.**

Employees may be in a non-pay status for 365 calendar days and remain enrolled in the Federal Employee Health Benefits (FEHB) Program with the Government continuing to pay its share, provided the employee pays his/her share of the premium costs. The requirement to pay the employee's share of premiums while in a non-pay status shall be announced once a year to all employees. Employees may seek the advice of their local Union representative.

**SECTION 35.02: COUNSELING OF EMPLOYEES.**

Prior to entering a non-pay status, the employee shall have the right to request and receive counseling from his/her servicing Human Resources Office. The counseling shall include: (1) an explanation of the regulations; (2) an outline of the payment plan options available to the employee; (3) estimate of the amount owed; and (4) an opportunity for the employee to continue or cancel health benefits coverage.

**SECTION 35.03: NOTICE.**

Employees who enter a non-pay status (i.e., following a period of annual or sick leave) shall be notified by certified mail immediately following the pay period in which there is insufficient salary to cover FEHB premiums.

**SECTION 35.04: NOTICE REQUIREMENTS.**

The notice to employees regarding FEHB entitlements while in a Leave Without Pay (LWOP) status shall contain the following:

- A. The employee's name and the date of the notice;
- B. An explanation of the purpose of the notice, including actions required by the Office of Personnel Management;
- C. A clear statement of the employee's responsibility to choose to continue or cancel FEHB coverage;
- D. If coverage is to be continued, a statement that the premiums may be paid while the employee is in a Leave Without Pay Status or through payroll withholdings after the employee returns to a pay status;

- E. If coverage is to be continued, a clear statement that, upon return to pay status, the employee shall contact the servicing Human Resources Office to establish a bi-weekly withholding amount. If no contact is made, an amount shall be deducted in accordance with the provisions of 5 C.F.R. 890.502(b)(2)(ii);
- F. If coverage is to be cancelled, an explanation of the consequences of cancellation of benefits;
- G. A statement that the employee may request and receive more information before making an election to continue or cancel benefits; and
- H. A designated space for the employee to make an election to continue or cancel FEHB benefits and a space for the employee's signature and date of decision.

**SECTION 35.05: CANCELLATION.**

Cancellations are effective the end of the pay period following the pay period in which the notice of cancellation is received by Management.



**ARTICLE 36**  
**AGENCY REGULATIONS**

**SECTION 36.01: GENERAL.**

- A. Management shall comply with its own Agency regulations governing personnel policies and practices, and general conditions of employment, which are not in conflict with the provision of the Agreement or any other agreements executed by the Parties.
- B. Bargaining and consultation rights on Agency regulations shall be governed by statute.

**ARTICLE 37  
CONTRACTING OUT**

**SECTION 37.01: UNION NOTIFICATION.**

- A. When Management proposes to contract out a function performed by bargaining unit employees, it shall notify the affected Union representative. The Union President or official designee shall receive a copy of the notification.
- B. Management shall advise the Union whenever a decision is made to perform a cost comparison study.

**SECTION 37.02: LIST OF CONTRACTORS/CONSULTANTS.**

Management shall provide to the Union President annually, a list of contractors and consultants who are occupying space in HUD buildings.

**SECTION 37.03: MINIMIZING EFFECTS ON EMPLOYEES.**

Management agrees, wherever practicable, to minimize adverse actions and reduce separations of employees affected by a contracting out decision. Management shall, in consultation with the Union, consider attrition patterns and the restricting of new hires. Management shall use the approved Career Transition Assistance Plan (CTAP) and negotiated supplements/MOUs for placing employees who are adversely affected by contracting out.

**SECTION 37.04: SUPERVISION.**

Management recognizes that applicable regulations prohibit bargaining unit employees from being supervised by consultants and contractor personnel.

**SECTION 37.05: OMB CIRCULAR A-76 AUTHORITIES.**

Management recognizes that all decisions with respect to contracting out are subject to the provisions of OMB Circular A-76 and other relevant authorities and regulations.

**SECTION 37.06: SPACE ALLOCATIONS FOR CONTRACTORS.**

Space and equipment provided to contract employees will not conflict with HUD policy and GSA guidelines for Government employees. Management will give HUD employees preference over contract employees in allocating space. This is not intended to force current contractors to vacate their seats (i.e. “bump”).

**SECTION 37.07: CONSIDERATION OF HUD EMPLOYEES FOR WORK.**

Prior to contracting out work, Management shall consider, based upon cost and workload, if the affected function/work can be completed using other local employees or completed at other geographic office location(s). A determination to contract out shall be provided to the Union.

**ARTICLE 38**  
**MID-TERM (CONTRACT) AND IMPACT BARGAINING**

**SECTION 38.01: GENERAL.**

- A. The Parties, in accordance with Title 5 USC, Section 7117, will negotiate in good faith and approach negotiations with a sincere resolve to reach a collective bargaining agreement, and meet at reasonable times and convenient places as frequently as may be necessary, and avoid unnecessary delays.
  
- B. The Parties are governed by existing and future laws, existing Government-wide regulations, and decisions of outside authorities binding on the Department. The agency shall provide the union with a detailed notice of a proposed change in working conditions. When providing the notice of proposed change to the union, management shall provide:
  - 1. Copy or statement of the current policy or past practice;
  - 2. The nature, scope, and rationale for the proposed change;
  - 3. A copy or statement of the proposed new policy or practice; and the proposed implementation date.

However, the agency will not implement negotiable changes in working conditions, until the Union has been given the opportunity to demand to bargain.

Either party may request mid-term bargaining. When the agency proposes a non-de minimus mid-term change, if the issue is covered by this Labor Management Agreement as defined by the FLRA case law, the parties must wait until the successor agreement is bargained, except by mutual consent.

- C. If the Union makes a reasonable initial data request no later than 10 workdays after the receipt of management's notice, management will provide the data no later than two workdays prior to the scheduled negotiations. If the agency is unable to furnish the data prior to two work days to negotiations, by mutual consent the parties will consider re-scheduling bargaining until such time as the data is furnished.

**SECTION 38.02: NOTIFICATION TO THE UNION.**

The parties agree that pre-decisional involvement (PDI) is an efficient and effective means of bargaining changes in the workplace. In such cases where PDI is successfully used to reach agreement between the parties, the Union will waive some or all of the informational requirements below.

- A. During the term (duration) of this Agreement, Management will provide the Union notice and an opportunity to bargain consistent with its level of recognition in accordance with law, rule, regulation and Executive Order. Notifications and all attachments for mid-term bargaining will be provided electronically to the Union, except for certain oversized documents. If an oversized hard copy attachment does not lend itself to conversion to an electronic file, (such as large architectural floor plans), that document may be provided in hard copy form.
- B. Prior to implementing any negotiable changes, Management shall notify the Union President for Region IX (NFFE Local 1450-wide) and the designated Union representative or alternate. Delivery to the email addresses of the designated Union Representatives shall constitute date of receipt.
- C. The following information, as appropriate, shall be included in the notices of proposed Management changes. Any further requests for information by the Union will not delay the commencement or completion of negotiations by the Parties.
  - 1. Change in a policy or past practice.
    - (a) Copy or statement of the current policy or practice.
    - (b) The nature, scope and rationale for the proposed change.
    - (c) A copy or statement of the proposed new policy or practice, and the proposed implementation date.
  - 2. Management-Initiated Moves of 1 or More NFFE 1450 Bargaining Unit Employees;

(For procedures to be used for employee initiated moves, hardship reassignment and new hire seating see Article 24)

- (a) Name, room numbers, grade, title, and position of all affected bargaining unit employees.
  - (b) New room number for each affected bargaining unit employee.
  - (c) Current space plan (with names, average number of square feet per employee, and total number of square feet for the office being moved).
  - (d) New space plan (with same information as above).
  - (e) Name and phone number of the move coordinator.
  - (f) Whether employees will be able to keep their current office furniture.
  - (g) Description of plans to install modular furniture, lay carpet, shampoo carpet, install partitions, paint walls, exterminate, lay computer lines, move phone jacks or electrical outlets, or take out or install walls. If any such activity is planned, when the activity will take place and how the employees will be accommodated, if necessary.
  - (h) Names of any employees in the affected office known by Management to have disabling conditions that need to be accommodated in the move. If so, how will they be accommodated?
  - (i) Estimated cost.
  - (j) Projected move date and duration of stay in new location;
  - (k) If required by the nature of the refurbish or move, plans and arrangements for accessibility under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and local standards-in addition to arrangements under reasonable accommodations.
  - (l) Applicable emergency and safety plan(s), and modifications to such plans.
3. Reorganizations.
- (a) Name, grade, title, and position of affected bargaining unit employees.
  - (b) Impact, if any, upon upward mobility and/or career ladder positions.

- (c) Names of any employees who will have a different first or second line supervisor as a result of the reorganization.
  - (d) Impact, if any, upon employee's receipt of performance ratings.
  - (e) Copies of position descriptions for new positions if different from current positions.
  - (f) Names of any employees detailed in connection with the reorganization.
  - (g) Any new positions created as a result of the reorganization.
  - (h) Names of any employees who will be downgraded or separated as a result of the reorganization.
  - (i) Names of any employees who will be moved as a result of the reorganization.
  - (j) Copy of before and after organization charts.
4. Conversion of work performed solely by NFFE Local 1450 employees to Contract Performance under OMB Circular A-76.
- (a) The invitation for bid (IFB) or request for proposal (RFP).
  - (b) The abstract of bids or proposals after contract award.
  - (c) All correspondence from higher authority directing the cost comparison study.
  - (d) The official Department of Labor documentation supporting the wage rates applicable to the function considered for contracting out.
  - (e) The performance work statement.
  - (f) The "Milestone" chart or similar document setting forth the estimated dates for the contracting out process.
  - (g) All changes to the performance work statement.
  - (h) All bidder questions and the Department's answers related to the performance of work statement.
  - (i) Copy of the retention register.
  - (j) Impact upon bargaining unit employees.

5. Reduction-In-Force (RIF) or Transfer of Function.

- (a) Name, grade, title, position, service computation date, and bargaining unit status of all affected employees.
- (b) Impact, if any, upon upward mobility and/or career ladder promotions.
- (c) Impact, if any, upon employee's receipt of performance ratings.
- (d) Will or have any employees been detailed in connection with the RIF/transfer of function? If so, who and provide position descriptions.
- (e) Will any new positions be created as a result of this RIF/transfer of function?
- (f) Will any employee be downgraded, RIFed, or moved out of the bargaining unit as a result of this RIF/transfer of function?
- (g) Will any employee be moved as a result of the RIF/transfer of function? If so, provide information requested above.
- (h) Copy of before-and-after organization charts.

**SECTION 38.03: GROUND RULES FOR MID-TERM (MID-CONTRACT) NFFE LOCAL 1450-WIDE BARGAINING AND MULTI-FIELD OFFICE LEVEL BARGAINING.**

- A. Upon receipt of Management's notice of changes affecting provisions in the existing Labor-Management Agreement or those affecting bargaining unit employees in NFFE Local 1450-wide offices (all represented Field Offices), the Union may request bargaining within 15 workdays by providing a written request to bargain to the Management official who issued the notice. Failure by the Union to submit a timely request to bargain shall be deemed to indicate no intent to bargain.
- B. The Union shall submit preliminary bargaining proposals to Management within 15 workdays from receipt of Management's notice. All proposals shall be related to the proposed changes. Failure by the Union to submit preliminary bargaining proposals within 15 workdays shall be deemed to indicate no intent to bargain.



- C. The Parties shall begin negotiations within 15 workdays after the Union submits its bargaining proposals, unless a delay is mutually agreed to by the Parties.
- D. If the Parties mutually agree to delay negotiations beyond 15 workdays, each party will make every effort to propose 3 separate weeks where negotiations may take place within a 2 month timeframe.
- E. Each Party's bargaining team shall consist of four members on official time, and one additional team member per team, not at government expense, but one team's decision to have fewer than the maximum allowable team members shall not affect the right of the other party to have the maximum number under this clause. The number of negotiators may be increased by mutual consent of the Parties.
- F. Necessary facilities, equipment and services shall be provided by Management and will include a conference room of adequate size to accommodate the equipment and people working therein, with a table, chairs, network access, loaner laptops (as needed and available), access to a printer, phone and office supplies (as needed). The location of negotiations shall rotate between the San Francisco Regional Office and the Los Angeles Field Office. Alternate locations may be selected by mutual consent.
- G. Up to three designated employee Union representatives shall be entitled to receive travel and per diem reimbursement to conduct negotiations, unless changed by mutual consent. The Union may use the GSA car, if available, for negotiations. It is understood that programmatic needs take priority. Management will make every effort to provide travel orders at least 9 workdays prior to travel. Negotiations shall be cancelled if the chief negotiator is unable to arrive at the bargaining location due to travel authorization problems, provided the traveler has properly entered the request for authorization into Concur. If a team member is unable to arrive at the bargaining location due to travel authorization problems, provided the traveler has properly entered the request for authorization into Concur, the affected team's chief negotiator shall have the option of continuing negotiations or delaying negotiations until the team member arrives. Rescheduling of negotiations does not authorize Management to implement. Management shall make every effort to develop a streamlined travel authorization and approval process for Union bargaining. Travel reimbursements will be made in a timely manner, in no case later than 10 workdays. The parties shall consider the use of videoconferencing (VTC) when possible for cost effectiveness.

H. The Parties may agree to limit the number of counter proposals for each side prior to facilitated bargaining.

I. The written agreement resulting from mid-term bargaining shall be a

Supplement to the Agreement which will become effective when signed by the Parties at this level.

**SECTION 38.04: GROUND RULES FOR BARGAINING AT THE FIELD OFFICE LEVEL.**

- A. Upon receipt of Management's notice, the Union may request bargaining within 15 workdays by providing a written request to bargain to the Management official who issued the notice. Failure by the Union to submit a timely request to bargain shall be deemed to indicate no intent to bargain.
- B. The Union shall submit preliminary bargaining proposals to Management within 15 workdays from receipt of Management's notice. All proposals shall be related to the proposed changes. Failure by the Union to submit preliminary bargaining proposals within 15 workdays shall be deemed to indicate no intent to bargain.
- C. The Parties shall begin negotiations within 15 workdays after the Union submits its bargaining proposals, unless a delay is mutually agreed to by the Parties.
- D. If the Parties mutually agree to delay negotiations beyond 15 workdays, each party will make every effort to propose 3 separate weeks when negotiations may take place within a 2 month timeframe.
- E. The Union is entitled to travel and per diem paid by Management for one union negotiator to attend field office bargaining in appropriate circumstances (e.g. office refresh, office-wide moves, office closing, program reorganization, etc.).
- F. Necessary facilities, equipment, and services shall be provided by Management and will include a conference room of adequate size to accommodate the equipment and people working therein, with a table, chairs, network access, loaner laptop (as needed and available), access to a printer, phone and office supplies (as needed). Negotiations will take place at the affected field office, unless an alternate site is mutually agreed upon.

- G. By mutual consent, the Parties may conduct negotiations by telephone or video conference when Management officials initiating the change are not co-located with affected employees.
- H. The written agreement resulting from bargaining at the Field Office shall be a Memorandum of Understanding (MOU) which will become effective when signed by the Parties.

**SECTION 38.05: BARGAINING PROCESS.**

- A. To avoid unnecessary delays in bargaining as prescribed in 5 USC 7117, and to support the timely implementation of management initiated changes which support the mission of this agency, both parties will sincerely resolve to schedule and negotiate matters expediently. To this end, negotiations will commence within 15 workdays of receipt of the union's bargaining proposals, in accordance with Sections 38.03(C) and 38.04(C) or the Union shall be deemed to have indicated no intent to bargain, and management may implement its changes. Once negotiations begin, the Parties shall continue to meet at reasonable times and as frequently as may be necessary and to avoid unnecessary delays until agreement or impasse is reached.
- B. Either Party may substitute negotiating team members at any time by notifying the other Party. The Party making substitutions of team members which result in additional costs for travel and per diem above the amount originally obligated on authorized travel orders for the bargaining shall pay the additional costs.
- C. Each Party's bargaining team members shall adjust their work schedules to meet with the schedule of negotiations (e.g. employees on a 4/10 work schedule must suspend their compressed work schedule in order to attend a 1 week negotiation session and not incur compensatory time on the 5<sup>th</sup> day; employees whose normal work hours are 6:30 a.m. to 3:00 p.m. must change their work hours to align with negotiation hours of 8:30 a.m. to 5:30 p.m. so as not to incur compensatory time in the afternoons, etc.)
- D. Each party's Chief Negotiator shall make the determination regarding when and how their team members may speak during bargaining. Either Party may take written notes of the bargaining sessions. There shall be no taping of the actual negotiations.

- E. If observers and technical experts are requested to attend negotiating sessions in addition to the designated team members, they will only be allowed by mutual consent of the Parties.
- F. Either Party may caucus at any time during negotiations. The caucusing Party shall provide an estimate of the duration of the caucus to the other Party, and shall advise the other Party of new estimates if the original estimate cannot be met.
- G. If the Parties mutually agree to delay negotiations beyond 15 workdays, each party will make every effort to propose 3 separate weeks where negotiations may take place within a 2 month timeframe.
- H. The Parties may agree to limit the number of counter proposals for each side prior to facilitated bargaining.
- I. Once negotiations begin, the Parties shall not submit new proposals but may modify their initial proposals and/or submit counter-proposals until agreement has been reached. This shall not preclude the submission of additional relevant proposals upon receipt of previously unavailable or unknown information related to the scope of the negotiations.
- J. The Parties may reconsider or revise the agreed upon language until final agreement is reached on all items. Upon completing the negotiations, the Parties shall review and edit the written agreement for consistency and make mutually agreed upon changes.
- K. Nothing in this Article is intended to discourage the resolution of collective bargaining issues through negotiations, whether conducted formally or informally.

**SECTION 38.06 NEGOTIABILITY DISPUTES.**

- A. Negotiability determinations may be requested by the Union verbally at the negotiation table, if management alleges non-negotiability regarding any proposal.
- B. The Union may file a petition for review of the agency's allegations of non-negotiability to the Federal Labor Relations Authority for resolution within 15 days of receipt of the agency's written allegation in accordance with 5 CFR 2424.

**SECTION 38.07: MEDIATION AND BARGAINING IMPASSES.**

- A. If the parties are unable to reach agreement on the entire Memorandum of Understanding or Supplement during mid-term bargaining, the parties shall initial off (Tentative Agreement: "TA") on those items in which the parties do agree, and will contact the Federal Mediation and Conciliation Service (FMCS) for mediation over the remaining items within 15 days from the date the parties fail to come to agreement.
- B. Impasse means that point in the negotiation of conditions of employment at which the Parties are unable to reach agreement after making efforts to do so by direct negotiations and by the use of Federal Mediation and Conciliation Service mediation or other voluntary arrangements for settlement.
- C. If impasse is reached and declared by the FMCS mediator, the Union may request consideration of the impasse by the Federal Service Impasses Panel (FSIP). Proposed changes may not be implemented until final agreement is reached or FSIP issues their decision. If the Union fails to request consideration of an impasse by the FSIP in accordance with the procedures in 5 CFR 2470 within 10 days of its receipt of Management's notice of intent to implement its last offer, Management may implement its last offer.
- D. Impasse resolutions shall be implemented expeditiously.

**SECTION 38.08: ANNUAL TRAINING.**

Once a year, during a monthly Regional Managers' meeting, Employee and Labor Relations and a Union Official will present a training session to existing and new HUD supervisors. The session will normally be one (1) hour in length. If practicable, the training will be conducted in person or via Video Teleconferencing (VTC).

**ARTICLE 39**  
**DURATION AND DISTRIBUTION OF THE AGREEMENT**

**SECTION 39.01: DURATION.**

- A. This Agreement shall remain in effect for four (4) years from the effective date. The provisions of this Agreement will continue in full force and effect until a new Agreement becomes effective, subject to the terms of this Article. This Agreement supersedes the previous Labor-Management Agreement (September 9, 2011) and any Supplements, Memoranda of Understanding and past practices which are not expressly contained herein.
- B. In the administration of all matters covered by this Agreement, the Parties are governed by existing and future laws, existing Government-wide regulations, and decisions of outside authorities binding on the Department. However, the agency will not implement any such changes in working conditions, until bargaining has been completed. If the issue is covered by this agreement, the parties must wait until the successor agreement is bargained, except by mutual consent.

**SECTION 39.02: RENEWAL.**

If neither Party provides timely Notice of Intent to Renegotiate this Agreement in accordance with Section 39.04, it shall be automatically renewed for an additional 4 year period. It is intended that such automatic renewals shall occur repeatedly until timely notice is provided by either Party.

**SECTION 39.03: SEVERABILITY.**

If any provision of this collective bargaining agreement is invalidated by existing or subsequent laws, decisions of the Federal Labor Relations Authority (FLRA), the Comptroller General or Courts of competent jurisdiction, such provision shall be provided by Management in notification to the Union. Upon receipt of notification, the Union may request appropriate bargaining for a replacement of the affected provisions. If Management does not provide notice and the Union becomes aware of a law that invalidates a provision(s) of the current contract, the Union may request to bargain. Management shall not implement any such policy changes until all labor

relations obligations have been completed. All other provisions of the Agreement shall remain in full force and effect.

**SECTION 39.04: RENEGOTIATIONS.**

- A. If either Party subsequently desires to renegotiate this Agreement, it shall furnish written or electronic notice to the other Party no earlier than 105 days and no later than 60 days prior to the expiration date of this Agreement.
- B. In the event timely notice is given by either Party, the Parties shall begin ground-rules negotiations within 30 days from receipt of that notice.
- C. The location(s) of ground-rules negotiations shall be mutually agreeable. The number of team members and number of Union officials on paid travel and per diem for the ground-rules negotiations shall be equivalent to that normally provided for mid-term bargaining under Article 38.
- D. The Agreement shall be ratified by the Union members in a manner prescribed by the Union.

**SECTION 39.05: AMENDMENTS.**

Amendments or Supplements to this Agreement shall be negotiated in accordance with Article 38. Any Amendments or Supplements to this Agreement shall become a part of this Agreement. Any Memoranda of Understanding (MOU) will expire either on the date specified in the MOU or on the same date as the expiration of this Agreement, unless superseded earlier.

**SECTION 39.06: DISTRIBUTION.**

- A. Management will provide, at no cost to the Union, a hard copy of the final Labor Management Agreement to each employee and to new employees in the bargaining unit. Management will also provide an additional 100 copies to the Union President. Up to 50 additional copies per year will be provided to the Union President upon request.
- B. There shall be joint training by the Parties in NFFE Local 1450's bargaining unit on this Labor Management Agreement. The training shall be conducted in person in the largest offices (over 75 bargaining unit employees). The training shall be conducted via Video Teleconference (VTC) (or its successor) in the smaller offices. The parties will jointly determine the content, mode and delivery of training. Management shall pay for one Union

trainer's travel and per diem for training in each of the offices with over 75 bargaining unit employees.



## ARTICLE 40

### STUDENT LOAN REPAYMENT PROGRAM (SLRP)

#### **SECTION 40.01: RECRUITMENT INCENTIVE.**

The Student Loan Repayment Program (SLRP) shall be used as a recruitment tool to fill an Agency position it would otherwise encounter difficulty filling with a highly qualified individual consistent with the standard operating procedures.

#### **SECTION 40.02: STUDENT LOAN VERIFICATION FORM.**

The employee shall provide the Department with the Student Loan Verification Form with the following information: qualifying loans and dates executed, loan account number identifier, lender Electronic Funds Transfer (EFT) routing number, current and outstanding balance for each loan, and status of loan, such as forbearance, deferment or default and the lender's company seal. In lieu of the lender's company seal/letterhead the employee may provide their most current billing statement from the lender and self-certification that the information is accurate.

#### **SECTION 40.03: APPLICANT STATEMENT.**

Management agrees to modify the electronic SLRP application to include the following language: "Upon submitting this application, I am informing the Department that I am considering seeking employment outside the Federal service, but would remain as an employee of the Department in consideration of a student loan repayment benefit."

#### **SECTION 40.04: APPLICATION WINDOW.**

The SLRP application window, when practicable, will be open for at least forty-five (45) days.

**SECTION 40.05: OVERALL BENEFIT.**

Funding allocation for the Student Loan Repayment Program will be determined by the Department's authorizing official on an annual basis. The result of this decision and/or status of the funding allocation will be discussed during the teleconference call with the union.

**SECTION 40.06: RETENTION INCENTIVE.**

Supervisors shall review and approve the application for appropriateness for participation in the SLRP. Employees may file an informal and/or formal grievance for denial of a SLRP application.

**SECTION 40.07: INFORMATION REQUEST.**

Management agrees to provide the Union with information on SLRP applications including whether the application is complete, accepted or rejected, benefit provided, program area, and duty station of the employee.

**SECTION 40.08: MEETINGS.**

Management will notify the Union when information is available on the SLRP each fiscal year. Management agrees to conduct a meeting via conference call, if requested by the Union, to exchange information on the SLRP.

**SECTION 40.09: TRAINING.**

Management agrees to provide information on the SLRP via the hud@work website (or successor site), which will be archived. All employees will be encouraged to view the website. Additionally, SLRP training will be provided during the New Supervisors Training.

**SECTION 40.10: Information Regarding Program.**

The Department agrees to maintain the most recent information on the SLRP via the hud@work website or successor. All employees and supervisors are encouraged to review this information.

**ARTICLE 41  
CHILD CARE SUBSIDY**

**SECTION 41.01: GENERAL**

The Department-wide Child Care Tuition Assistance Program will provide financial subsidies to lower income HUD employees to assist in their efforts to obtain quality, licensed day care and before and after school care for dependent children from birth through age 13, and disabled children through the age of 18.

The program will be available to HUD employees in all offices, who are full-time or part-time, and whose adjusted gross income does not exceed \$75,000. Qualified participants must use licensed child care providers, meet income requirements, and maintain full-time or part-time position status with HUD.

**SECTION 41.02: PROCEDURES.**

Subsidy payments will be paid directly to the child care provider after notification of approval. HUD employees may use any child care provider that is licensed and/or regulated by State and/or local authorities. HUD employees with children (as defined in OPM regulations) or legal dependents from birth through age 13 and disabled children through age 18 are eligible. In addition, the subsidy will be available to pay before or after school child care for children or legal dependents up to the age 13, subject to applicable laws and regulations.

**SECTION 41.03: ON SITE CENTERS.**

When a day care center is established by the Department, the Union will be invited to play an integral role in the governing structure. The Department will ensure that these sites give priority acceptance to the children of HUD employees. When a day care is established at a multi-agency or privately leased space, the Department will propose that the local union is involved in its governance.

**SECTION 41.04: NOTIFICATION.**

Should the Department decide to participate in a new or existing multi-agency day care center, the Department shall promptly notify the appropriate designated Local Union representative and the Union President of that intention. The employees of the Department shall also be given proper and timely notice of such participation by the Department so that they can place themselves on registration and/or waiting lists for the day care slots available.

**SECTION 41.05: CHILD CARE SUBSIDIES.**

Employees who meet the income limits specified below are eligible to receive a child care subsidy for their payment of the actual cost of child care or before/after school care for children, legal dependents; foster children; or guardian from birth through age 13 and disabled children. Employees may use any child care provider that is licensed and regulated by State and/or local authorities, whether located at a HUD site or elsewhere. Subject to the availability of funds, the subsidy amount is as follows:

Total Family Income	Maximum Percentage of Actual Child Care that can be Paid by HUD	Maximum Monthly Subsidy for 1 Child
\$0 -\$40,000.99	90%	\$700.00
\$40,001.00 — \$50,000.00	70%	\$550.00
\$50,001.00 — \$60,000.00	50%	\$525.00
\$60,001.00 — \$75,000.00	40%	\$475.00

For one additional child, the subsidy will be increased by \$125.00 per month.

**SECTION 41.06: ELDER CARE.**

The parties understand that at the current time there is no legislation supporting the expenditure of appropriated funds to subsidize elder care. Within 30 days of authorization of such funds the parties agree to negotiate a Supplement to this Agreement.

**SECTION 41.07: COST OF LIVING ADJUSTMENTS.**

The base maximum monthly payment shall be increased each year by 2.00%.

**ARTICLE 42**  
**CONTINUITY OF OPERATIONS (COOP), EMERGENCY EVENTS AND PANDEMIC INFLUENZA**  
**(PI)**

**SECTION 42.01: DEFINITIONS.**

**Emergency:** Emergency is defined as a condition threatening life or property or an event that limits the essential functions of the Agency.

**Consultation:** The act or process of consulting. A conference at which advice is given or views are exchanged.

**Continuity of Operations (COOP):** COOP is defined as the activities of individual departments and agencies and their sub-components to ensure that their essential functions are performed.

**Pandemic Influenza:** An influenza pandemic is a global outbreak of disease that occurs when a new influenza virus appears or “emerges” in the human population, causes serious illness, and then spreads easily from person to person worldwide.

**Essential Functions:** The limited set of agency-level Government functions that must be continued throughout, or resumed rapidly after, a disruption of normal activities. Mission Essential Functions are those functions that enable the Department to provide vital services, exercise civil authority, maintain the safety of the public, and sustain the industrial/economic base during a disruption of normal operations. Mission Essential Functions must be mandated by statute, Executive Order, or regulation, and have been identified in accordance with Federal Continuity Directive- 1 (updated April 2, 2013), Federal Executive Branch Mission Essential Function and Primary Mission Essential Function Identification and Submission Process, February 2008.

**SECTION 42.02: CONTINUITY OF OPERATIONS (COOP).**

- A. **Timekeeping:** Management agrees that the current time and attendance procedures in the Labor-Management Agreement will remain in effect during a COOP emergency, to the extent feasible. No new timekeeping systems/procedures will be implemented prior to completion of labor obligations.

- B. **Emergency Contact System:** Employees will be provided an opportunity to participate in an Emergency Contact System on a voluntary basis. Employees may provide their home phone number(s) and an emergency contact person's name and telephone numbers, etc., in the HUD Integrated Human Resources and Training System (HIHRTS), or its successor. This information will be strictly confidential and used only in the event of an emergency.
- C. **Notice to the Union:** The President of NFFE Local 1450 may provide the designation of an alternate Union Representative to be notified in each HUD Office during a COOP event if the local union representative is not available; or the local union representative may provide emergency contact information to the designated Labor Relations Specialist or Field Office Director for their Office; or the local union representative may provide emergency contact information in the HUD Emergency Contact System in HIHRTS, or its successor, so the Union can be notified of a COOP event and other matters by Management.
- D. **Time Limits:** Both parties recognize that emergency conditions may preclude full compliance with existing labor-management agreements during a COOP event, so extensions will automatically be considered for pending labor relations actions, such as grievances and bargaining, for the number of days that the Office is closed due to the COOP event.
- E. **Performance of Essential Functions for COOP:** Management agrees to consider using current qualified employees to perform essential functions during a COOP event. Each office in Region IX will maintain the listing of essential functions, and will provide to the Union, upon request.
- F. **Continuity Plans and Distribution:** Continuity Plans are developed for and provided to those who serve in COOP Emergency Relocation Groups (CERG). Plans include a list of mission essential functions, IT systems, records, alternate locations, and other items team members require to perform essential functions. The Union President can obtain a copy of the local HUD office Continuity Plan and agrees that these plans are designated as "For Official Use Only," and cannot be redistributed by the union.
- G. **Participation on Continuity Teams:** Participation in the CERG is voluntary. Bargaining unit members who accept the responsibility to serve on a Continuity Team are required to provide off-duty contact information. This information will be kept securely and only be utilized by Departmental employees to implement COOP procedures and shall not be provided to the public or to the media. Employees who serve on a team will be provided information related to their emergency duties. Team members will not suffer a loss of leave or pay, and will be reimbursed for travel expenses. All alternate work locations, commonly referred to as the Emergency Relocation Site, will be safe and secure for HUD employees.

- H. **Telework:** The Department will encourage all employees to be prepared for telework in the event of an emergency. In the event of an emergency, telework is an important tool to maintain operations. Situational and/or Emergency Telework shall be implemented in accordance with the Telework Article of this Agreement. (OPM refers to this as unscheduled telework.) Telework may be performed at home or at an alternate site. If an employee has an approved telework agreement in place, and the office or Federal government is closed, the employee is expected to continue to work from home or alternate work place, if feasible.
- I. **Employee Assistance Program (EAP):** EAP is an important benefit to assist employees. HUD should take steps to assure the availability of EAP after an emergency event. The contact number for the EAP shall be provided to employees.
- J. **Supplies and Cleaning:** The Department shall ensure that employees have available personal protective equipment (i.e. antiviral agents, cleansers, tissues, gloves, masks, and other supplies) as directed by the OPM. After an emergency event, the Department will engage commercial cleaning contractors to clean each affected HUD office, if required.
- K. **Dismissal or Closure Procedures:** Headquarters follows the "Washington, D.C. Area Dismissal or Closure Procedures" guidance from the OPM when various types of emergencies prevent large numbers of employees from reporting to work on time or which require Headquarters to close the office. Field Offices will follow local procedures for early dismissals or closures.

#### **SECTION 42.03: AGENCY DECLARED EMERGENCY EVENTS INCLUDING PANDEMIC FLU.**

- A. **Employee Safety:** Management agrees that the lives of its employees are valuable. The primary intent of this Section is to protect employees from hazardous conditions in the workplace in the event of a Pandemic outbreak or other Agency declared emergency event.
- B. **Absences of Staff:** If a pandemic influenza outbreak or other Agency declared emergency event has affected a local office, employees will be granted leave (including: annual leave, sick leave, leave without pay, pay consistent with the Family Medical Leave Act or Administrative Leave consistent with Office of Personnel Management (OPM) policy and this Agreement) at the time of the implementation/outbreak of Pandemic Influenza or other Agency declared emergency event due to the following situations:
  - 1. suffering from an illness;
  - 2. caring for a family member that is ill;

3. being under voluntary home quarantine due to an ill household member;
  4. caring for children dismissed from school; or
  5. being in the high risk group for having pandemic influenza.
- C. **Communications to Employees:** Management agrees to put into place specific Pandemic Influenza outbreak or other Agency declared emergency event web based, telephonic (e.g. the national toll-free number 866-463-6483), and/or other communications systems as necessary at the regional and local levels. Management will regularly test those systems. Information should be updated daily during a Pandemic Influenza outbreak or other Agency declared emergency event and/or as often as necessary to keep employees informed about the current status of the Pandemic Influenza outbreak or other Agency declared emergency event.
- D. **Work Hours:** Management agrees that during a Pandemic Influenza outbreak or other Agency declared emergency event, an employee's work schedule may be waived, adjusted and changed on a daily basis to meet the needs of both the employee and the Agency's mission. This will be done upon notification to the employee.
- E. **Declared COOP:** If a COOP event is declared due to a Pandemic Influenza outbreak or other Agency declared emergency event, the Pandemic Planning and Response Guidance (April 2009) (when applicable), HUD COOP Handbook (3205.1), and this Article, shall be implemented.
- F. **Delayed Arrivals:** Employees who experience a delayed arrival to work as a result of a documented incident from a declared Pandemic Influenza outbreak or other Agency declared emergency event will be allowed to request leave. The employee shall not be placed in an AWOL status. Administrative leave may be granted where approved by a designated management official in accordance with agency policy.
- G. **Off site Workers:** Employees working at an alternate HUD office at the time their official duty station is closed are expected to continue working through the duration of the temporary duty, even if the local employees are placed on administrative leave. Upon their return to their official duty station, if employees remain on administrative leave, the returning employee will then be granted the same leave status but will not be given retroactive leave for past administrative leave events.



- H. **Security:** Management will make every effort that HUD offices, including alternate locations used during a Pandemic Influenza outbreak or other Agency declared emergency event, will be safe and secure for HUD employees.
- I. **Prior Leave Requests:** Management agrees that leave requests received from employees prior to a Pandemic Influenza outbreak or other Agency declared emergency event that have already been approved may be rescinded only as allowed by statute and the LMA.
- J. **Work Status:** During a declared Pandemic Influenza outbreak or other Agency declared emergency event an employee shall contact his/her supervisor or designated agency official regarding his/her leave/work status. If a voice mail message is left, the employee must leave a contact number where he/she can be reached.
- K. **Duties:** Management agrees that out-stationed employees receive program work assignments from their remote supervisor. Other assignments may be given to out-stationed employees by an onsite supervisor or designated management official, in consultation with the remote supervisor.
- L. **Notice of Responsibilities:** Any employee assigned to perform an essential function during a Pandemic Influenza outbreak or other Agency declared emergency event will be made aware of his/her responsibilities.
- M. **Assignment of Work/No Adverse Impact:** The parties agree that Management has the right to assign work during a Pandemic outbreak or other Agency declared emergency event. Assignments under the Evacuation Pay Authority may include any work considered necessary or required to be performed during the period of the evacuation, without regard to an employee's grade level or title, provided the employee has the necessary knowledge and skills to perform the assigned work. Job functions may be limited to essential duties in order to maintain the continuity of operations during a Pandemic outbreak or other Agency declared emergency event. Employee goals and critical elements may or may not reflect changes. Employee ratings may reflect work performed during a Pandemic Influenza outbreak or other Agency declared emergency event. There will be no adverse impact on bargaining unit employees' career ladder promotions or EPPES evaluations, and no employee will be downgraded based solely on the implementation of the Pandemic Influenza Plan, except in the circumstances as referenced in the Pandemic Planning and Response Guidance (April 2009).

- N. **Performance of Essential Functions for PI:** Management agrees to consider using current qualified employees to perform essential functions during a Pandemic Influenza outbreak or other Agency declared emergency event. Each office in Region IX will maintain the listing of essential functions, and will provide to the Union, upon request.
- O. **Details:** Where management has determined that an area has been impacted or affected by pandemic influenza or other Agency declared emergency event, management agrees not to deploy employees without consultation with the union. Impacted or affected area means any community, office, or location within or outside of the agency where the agency has determined that pandemic influenza (PI) or other Agency declared emergency event is occurring. For purposes of this paragraph, community, office or location is presumed to be the general geographic area of the regional or field office where the PI or other Agency declared emergency event is occurring.
- P. **Alternative Operating Facilities:** Management agrees that alternative operating sites will meet minimum standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) Standards.
- Q. **Building or Location Changes:** Management agrees that, if changes to HUD facilities are required at any location as a result of a Pandemic Influenza outbreak or other Agency declared emergency event, the designated Field Office Union Representative and Union President will be notified in accordance with Article 38.
- R. **Telework and Remote Access:** Both parties agree that telework or remote access will be considered during a declared Pandemic Influenza outbreak or other Agency declared emergency event. Remote access or telework may be an option for responding to a Pandemic Influenza Outbreak or other Agency declared emergency event. HUD shall make every effort to ensure necessary work materials are available to employees to conduct their work from offsite locations if necessary.
- S. **Personnel Information/Data Security:** Management agrees that all employee information, data, and records will be safeguarded in accordance with the Privacy Act, OPM and applicable laws and regulations.
- T. **Plan Testing:** Management agrees that testing of the Region IX Pandemic Influenza plans may be in addition to the plan testing that is dictated by the White House.

- U. **Employee Assistance Program (EAP):** EAP is an essential support activity. Management will make EAP available at the onset of a Pandemic Influenza outbreak or other Agency declared emergency event, and will provide the contact number to assist employees with issues or stresses they may have as a result of the outbreak.
- V. **Immunizations:** The Department will provide flu shots to employees where existing Interagency Agreements are established with the Department of Health and Human Services (HHS), and/or Federal Occupational Health (FOH). Administration and distribution of the flu shots will be conducted in accordance with HHS guidelines.
- W. **Training:** Management shall provide emergency training to employees in Region IX, which shall include information on Pandemic Influenza outbreak or other Agency declared emergency event response.
- X. **Pandemic Flu Outbreak Issues:** Pandemic Influenza outbreak or other Agency declared emergency event subjects may be discussed at meetings with employees. Union will be invited to be present when Pandemic Influenza or other Agency declared emergency event subject matter is placed on the agenda.
- Y. **Outbreak Supplies:** Management shall ensure Region IX employees have available personnel protective equipment e.g., antiviral agents, cleansers, tissues, gloves and medical supplies. Management agrees to replenish these materials as they become obsolete or expire in accordance with HHS guidelines and/or other legislative and statutory requirements.
- Z. **Social Contact:** In the event of a declared Pandemic Influenza Outbreak or other Agency declared emergency event, Management will provide support of “social distancing” activities, as outlined in the Pandemic Planning and Response Guidance (April 2009).
- AA. **Reasonable Accommodation:** All reasonable accommodations will remain in full effect. New reasonable accommodation requests, which arise during the period of a Pandemic Influenza outbreak or other Agency declared emergency event, will be processed in accordance with the Department’s established policy, and Article 31 of this Agreement.
- BB. **Health and Safety Committees:** The Health and Safety Committees, as provided for in Article 27 of this Agreement, will be kept apprised of current information regarding a Pandemic Influenza outbreak or other Agency declared emergency event.

**CC. Overtime and Compensatory Time:** Management agrees that HUD and OPM policies regarding overtime and compensatory time will be observed.

**DD.IT Equipment:** Management recognizes the need for Information Technology (IT) equipment and its support during a Pandemic Influenza outbreak or other Agency declared emergency event.

**EE. Discipline:** Management will consider on a case-by-case basis delaying, adjusting or allowing a stay in proceeding with disciplinary/adverse actions consistent within regulations.

**FF. Freedom from Reprisal/Discrimination:** Management agrees that employees infected by Pandemic Influenza outbreak will be treated fairly and equitably and will not be unlawfully discriminated against based on their medical condition caused by Pandemic Influenza or other Agency declared emergency event.

**GG. Shelter-in-Place:** No employee will be forced to shelter-in-place. In the event a shelter-in-place occurs, the Occupant Emergency Plan (OEP) will guide the procedures. Employees who become ill will not be denied access to medical care. Shelter-In-Place protocols contained in the OEP will be used if a Shelter-In-Place event occurs. Shelter-in-Place is a voluntary action, unless mandated otherwise by law enforcement or public health officials. Management shall provide food and water in anticipation of a sustained shelter in place.

**HH. Union Representation:** Local union representatives may be considered for an additional amount of representational time wherever a Pandemic Influenza outbreak or other Agency declared emergency event has been declared in the general geographic area at the agency's discretion.

**II. Article 38 Requirement:** If more than de minimis changes occur to the HUD Pandemic Planning and Response Guidance Handbook, management will issue a new Article 38 notice to the Union. Changes in the handbook will be clearly highlighted for the Union. In the event that management is not able to outline the changes, management will authorize up to 8 hours of official time to review a new Pandemic Flu handbook issued by HUD Headquarters. The hours may be used by one union member or divided amongst more than one member as the union leadership deems necessary for a total collective time of no more than 8 hours. The official time will not come out of the Union's official time allotment. The Union may request additional time, if needed, per Section 4.02(b) of this Agreement.

- JJ. Union Notification of Designee(s):** The designated Union Representative in an affected office shall be given a copy of the Delegation of Authority that will be in effect in their office during a Pandemic Influenza outbreak or other Agency declared emergency event.
- KK.Subsequent Agreements:** The provisions of this Section will be considered in any future agreement relating to the subject of PI or other Agency declared emergency event.
- LL. Union Notification:** At the initiation of a Pandemic Influenza outbreak declaration or other Agency declared emergency event, Management will notify the NFFE Local 1450 President and affected local NFFE designated Union Representative as soon as reasonably possible.
- MM.Union Rights:** Management agrees that employees will not be denied access to the Union for representational purposes during Pandemic Influenza outbreaks or other Agency declared emergency event.
- NN.After a Pandemic Influenza Outbreak** or other Agency Declared Emergency Event: The parties recognize that following a Pandemic Influenza outbreak or other Agency declared emergency event, affected offices may need time to recover and re-establish local policies, processes, and workload needs.
- OO. Employee Rights:** The implementation of the Pandemic Influenza Plan or other Agency declared emergency event will not affect any statutory, regulatory, or contractual rights of employees.
- PP. Notification to the Union of Persons Affected:** Management shall notify the union at the affected Field Office level of any Pandemic Influenza incident or other Agency declared emergency event within an office in the most expedient manner possible, consistent with the Privacy Act and the Rehabilitation Act (1973).
- QQ.Medical Certifications:** During a PI outbreak or other Agency declared emergency event, employees shall be required to follow the procedures in Article 21, Section 21.07, "Sick leave in excess of 3 days shall be requested in webTA, including a medical certificate or other administratively acceptable evidence or a statement from the employee of the nature of the illness and why a medical certificate is not furnished." If the employee is taking care of a family member as set forth in Office of Personnel Management (OPM) regulations and is entitled to FMLA, the employee shall submit all required documentation as expeditiously as possible. The agency will endeavor to approve FMLA as quickly and reasonably as possible noting that difficulty may be encountered in obtaining medical certifications in a timely way due to pandemic outbreak or other Agency declared emergency event.

RR. **Local Coordination:** Management will coordinate with local GSA officials, private lessors, and co-located federal agencies and tenants to minimize the exposure of HUD employees, to the maximum extent possible.

SS. **Imminent Danger:** HUD recognizes that Article 27 - Safety and Health of this Agreement would apply during a Pandemic Outbreak or other Agency declared emergency event.

TT. **Reimbursement of Authorized Travel During a Pandemic Event or other Agency Declared Emergency Event:** If an employee is authorized to use his or her government credit card for travel, and the expense report is submitted untimely due to incapacitation as a result of Pandemic Influenza or other Agency declared emergency event, the employee will not be adversely impacted for late payment. Employees agree to submit expense reports as soon as physically possible.

**ARTICLE 43**  
**HOMELAND SECURITY PRESIDENTIAL DIRECTIVE (HSPD) 12**

**SECTION 43.01: VERIFICATION OF CURRENT EMPLOYEES.**

Current employees without a National Agency Check with written Inquiries (NACI) will continue to enjoy full rights and privileges as those employees with NACI including, but not limited to performance of their functions and duties retaining their pay status.

**SECTION 43.02: EVIDENCE OF BACKGROUND CHECK.**

If a current employee or applicant indicates that he/she has already been subject to a Federal background investigation without a subsequent break in Federal employment, or Federal contracting employment not exceeding two (2) years, or prior military service, the employee will be asked to furnish specific information that will be used to verify the background investigation.

**SECTION 43.03: WAIVERS.**

Pursuant to Office of Personnel Management (OPM) regulatory guidelines and procedures, waivers may be requested and granted for any process that HUD developed.

**SECTION 43.04: FACILITIES ACCESS.**

The parties agree that it is not the intention of Management to prevent an employee's physical access to Department/Governmental facilities, unless a determination is made that access must be restricted.

**SECTION 43.05: EMPLOYEE INTERVIEWS.**

No personal interviews shall be conducted upon submission and review of the initial forms. The only person allowed to interview an employee on the background investigation forms is an OPM authorized investigator or Departmental Personnel Security Officer/Adjudicator.

**SECTION 43.06: SUITABILITY DETERMINATION.**

All suitability determinations shall only be in accordance with 5 CFR Subpart 731.

**SECTION 43.07: BACKGROUND INVESTIGATION RECORDS.**

Sensitive background investigation records (for example, credit reports, arrests records, court documents and other details of the adjudication of criminal cases) must be secured against unauthorized access, accessed by only those whose official duties require such access and stored in a three-position combination safe or vault.

**SECTION 43.08: RETENTION OF BACKGROUND INVESTIGATION INFORMATION.**

The records will be maintained in accordance with National Archives and Records Administration (NARA) approved records disposition schedules.

**SECTION 43.09: EMPLOYEE REQUEST FOR REEXAMINATION.**

If the Adjudicator assigned to an employee makes a determination that an employee is unsuitable for federal service, the employee may appeal to the Agency Head per HUD Handbook 732.3 Personnel Security/Suitability.

**SECTION 43.10: EMPLOYEE APPEAL.**

If upon re-examination, the final recommendation of the adjudicator determines an employee unsuitable for federal service or is unable to verify the employee's identity and proposes the removal of the employee from federal service, the employee has the right to dispute this action using applicable grievances, appeal, and complaint procedures available under Federal regulations including but not limited to Title 5 CFR Subpart 731.401 and Subpart 731.501, Department directives, and this Agreement .

**SECTION 43.11: CONTINUED ACCESS.**

The employee will be allowed to maintain his/her current duties, functions, and entry to HUD space and access to logical systems while in a duty status, unless the employee is a valid threat to the Agency or its employees, or unless it is inconsistent with National Security.

**SECTION 43.12: ADMINISTRATIVE TIME.**

A reasonable amount of administrative time, but no less than 16 hours shall be provided to an employee to prepare for appeals.



**SECTION 43.13: UNION NOTIFICATION.**

The local Union Representative shall be immediately notified if the final recommendation of the Adjudicator would result in an adverse action.

**SECTION 43.14: UNION REPRESENTATION.**

In accordance with this Agreement, employees have the right to Union representation during any and all grievance, appeal or complaint procedures.

**SECTION 43.15: RELEASE OF INFORMATION.**

Upon an employee's written authorization, the employee or the employee's representative (i.e., Union Representative or Attorney) shall have access to the employee's personnel records, including all the information collected and maintained by the Agency by any and all sources. Information will be released in accordance with the Privacy Act and other applicable OPM requirements.

**SECTION 43.16: SOURCE LIMITATION.**

If any information is used in determining the verification of an employee's identity and/or the determination of an employee's suitability, the source of that information must be released to the employee, subject to applicable OPM requirements, should a preliminary recommendation be made for adverse action.

**SECTION 43.17: FINAL ADJUDICATION RECORDS.**

The Adjudicators are the only Departmental employees with access to the adjudication record received from OPM and are the only employees allowed to request additional information from an individual employee on cases requiring adjudication.

**SECTION 43.18: REINVESTIGATION.**

If an employees' identity has been authenticated and deemed suitable under Personal Identity Verification (PIV), there shall be no reinvestigation unless conditions change that require higher-level background investigations.

**SECTION 43.19: NEW EMPLOYEE ORIENTATION.**

Orientation information or training regarding the PIV process, including but not limited to the identification process at their initial in-processing or prior to arrival, will be provided to

employees. Employees will be provided information describing their responsibilities. Annual refresher training on the individual responsibilities of maintaining security for Federal systems and credentials will be provided.

**SECTION 43.20: REQUEST FOR UPDATED INFORMATION.**

If an employee has an approved NACI, he/she shall not be subject to an additional PIV background investigation process unless his/her position or the position responsibilities change. A change in duty station or a temporary duty assignment (TDY) is not considered a change in position.

**SECTION 43.21: CHANGE IN PROCESS.**

Changes in the Department's identification process of employees, changes in issuance of the cards and any additional uses of the information are subject to further bargaining and must be negotiated in accordance with Article 38 of this Agreement.

**SECTION 43.22: MERIT STAFFING.**

All future HUD Merit Staffing notices for NFFE Local 1450 bargaining unit positions shall advise potential candidates of the requirements for a security background check with sufficient detail of the actual requirements.

**SECTION 43.23: POSITION SENSITIVITY CODE.**

All positions within the bargaining unit shall be assigned a position sensitivity code discernable by the individual. The position sensitivity code shall be attached to the employees' position descriptions.

**SECTION 43.24: ROLES AND RESPONSIBILITIES.**

There must be a separation of duties in the PIV process.

**SECTION 43.25: INCOMPLETE IMPLEMENTATION.**

No bargaining unit employee shall be held accountable or responsible for any security requirements that cannot be met due to any agency inability to fully complete or implement all the regulatory requirements under HSPD 12.

**SECTION 43.26: SHORT TERM EMPLOYEES.**

An FBI National Criminal History Check (fingerprint check) may be performed on all employees with less than a six (6) month appointment based on a security risk determination. If an

employee's appointment is extended, the Department must perform a NACI. The FBI National Criminal History Check must be completed before the employee has unrestricted access to HUD space.

**SECTION 43.27: REASONABLE ACCOMMODATION.**

Reasonable Accommodations will not be used to determine the level of background investigation required for employees.

**SECTION 43.28: MEDICAL CONDITIONS.**

An increased risk level shall not be assigned to any employee based upon any known medical condition. Any medical condition that could increase the necessary background investigation shall be based upon verifiable relevant information.

**SECTION 43.29: REQUIREMENT FOR ADDITIONAL NEGOTIATIONS.**

The Parties agree that these negotiations do not cover the implementation of the use of the "Smartcards" or any Rules of Behavior associated with any process required by HSPD 12, which are subject to further bargaining and must be negotiated in accordance with Article 38 of this Agreement.

**SECTION 43.30: HOMELAND SECURITY MANDATED CHANGES.**

The Region IX HSPD 12 Coordinator will meet with the Union regarding any Homeland Security mandated changes.

**SECTION 43.31: LOCAL BARGAINING.**

In accordance with Article 38, bargaining will be conducted at the local level concerning local issues.

**SECTION 43.32: ELECTRONICALLY DISTINGUISHABLE.**

An identity credential issued to individuals without a completed NACI or equivalent must be electronically distinguishable from an identity credential issued to individuals who have a completed investigation.

**SECTION 43.33: PRIVACY ACT VIOLATIONS.**

Management will define consequences for violating privacy policies of the PIV system.

**SECTION 43.34: PRIVACY IMPACT ASSESSMENT.**

A copy of the annual OSEP HSPD-12 program compliance with the Privacy Act assessment shall be provided to the NFFE Local 1450 President no later than 60 days from completion.

**SECTION 43.35: CARD HOLDER REPRESENTATIVES.**

The Department plans to update the Personnel Security Handbook to include HSPD-12 requirements.

**SECTION 43.36: HOMELAND SECURITY PRESIDENTIAL DIRECTIVE (HSPD)-12 SECURITY BADGE SYSTEM**

- A. The HSPD-12 badge entry will not be used as a sign-in/sign-out system.

In the event the HSPD-12 badge entry system is used for purposes other than security, Management will issue an Art 38 notice to the Union as appropriate, and all employees will be provided a 30-day advance written notice.

- B. Management agrees that requests to HQ for security badge reports will be vetted with the Branch Chief of Labor and Employee Relations and the Region IX Regional Director prior to providing reports to local management. Reports of badge swipes in the HSPD-12 badge entry system will not be the sole factor to make a determination about whether an employee is absent or present.

**ARTICLE 44**  
**INFORMATION TECHNOLOGY SERVICES**

**SECTION 44.01: IT EQUIPMENT.**

HUD shall make every effort to provide portable, lightweight equipment to all employees to the extent practicable. Every person and program area will be treated fairly and equitably with regard to IT services.

For existing employees with approved moves, Management shall initiate a service order within 24 hours of the move being approved. Management shall confirm the date of the equipment move and ensure move is completed within five work days of initiating the service order.

For on-boarding employees (new hires, transferees, RA, Hardship), management shall initiate a service order within 24 hours of notification of the employee. Management shall ensure the equipment is placed within five work days of initiating the service order.

**SECTION 44.02: HELPDESK.**

The 1-800 help desk shall be made available to all employees via a toll free number 4 a.m. to 5 p.m. PST. Management will make every effort to extend the availability of the 1-800 help desk to 6 p.m. PST when transitioning to new IT servicers. Management will ensure that Help Desk personnel are considerate in providing service to employees, recognizing that many HUD employees are not qualified IT technicians. Employees may be requested, but not required, to check plugs or serial numbers, crawl on the floor, and move or lift any equipment.

**SECTION 44.03: SOFTWARE AND HARDWARE SUPPORT.**

All authorized HUD-issued software and hardware used by employees will be supported.

Management shall provide employees with hardware and software that supports remote access.

WebTA shall be accessible remotely. Employees who are teleworking or on leave on Friday and having trouble validating their timecard due to remote access issues shall be allowed to complete their WebTA through their assigned timekeepers, either telephonically or through electronic communication, or validate on Monday as an appropriate arrangement.

**SECTION 44.04: REMOTE ACCESS.**

- A. Employees on Telework shall have access to the 1-800 help desk number. Employees working via remote access from a non-HUD office shall have access to the same IT resources as employees at a HUD office.
- B. Employees on Telework shall bring their HUD-issued equipment into their duty stations when a technician needs to repair computer hardware or software in person. If other equipment is available for Telework, the equipment will be provided to the employee until his/her equipment is repaired or replaced. Recognizing that telecommuters need access to printer drivers, Management will ensure that required printer drivers are installed on personal printers used while on Telework status.
- C. Management and/or its agent shall ensure that management's remote access to employee equipment shall operate within the Department's access protocols.

**SECTION 44.05: COMPUTER MALFUNCTIONS.**

Employees shall be held harmless for loss and/or degradation of data or other work products that result from contractor, equipment, or software problems. Management will extend deadlines if appropriate to consider lost time and productivity due to time spent by an employee working with the IT service provider to resolve computer problems.

**SECTION 44.06: UNION COMPUTER SUPPORT.**

The IT service provider shall not reduce the level of support provided to onsite hardware and software used to conduct NFFE representational business.

**SECTION 44.07: IT SERVICE QUESTIONS.**

Management will provide an email address on the HUD intranet site where employees may send questions or concerns regarding IT services. Employees should copy their supervisors when sending such emails to ensure that they are aware of problems. This email address is on the hud@work page (or successor site).

**SECTION 44.08: CONFIDENTIALITY OF INFORMATION.**

The IT service provider will not have direct access to any personnel or payroll information through webTA. Management agrees to deny access to the IT service provider when personal identifiers are on the screen.

**SECTION 44.09: REMOTE SUPPORT ETIQUETTE.**

The HUD IT service provider will use remote support etiquette including announcing and asking before remotely accessing employee equipment during a service call.

**SECTION 44.10: TELEWORK.**

Authorized telework users will be provided with access to their HUD electronic mail, in accordance with Article 7, Section 7.17.D.1.

**SECTION 44.11: TIMELY ACCESS.**

Employees shall not have their performance ratings negatively affected for the lack of timely access.

**SECTION 44.12: OCIO MEETINGS**

OCIO will meet with NFFE 1450 as needed to answer questions and discuss IT service needs.

**ARTICLE 45**  
**LIMITED USE OF GOVERNMENT EQUIPMENT**

**SECTION 45.01: GENERAL.**

HUD employees may use Government office equipment for limited non-government purposes when such use: (1) does not interfere with official business or with the mission or operations of the Government; (2) involves minimal additional expense to the Government; (3) is performed on the employee's non-work time; and (4) does not violate the Standards of Ethical Conduct for Employees of the Executive Branch, and HUD's ethics standards, or is otherwise considered an "inappropriate" use.

**SECTION 45.02: INAPPROPRIATE PERSONAL USES**

Employees are not allowed to use Government equipment/information systems for non-governmental purposes when the use:

- A. Could cause congestion, delay, or disruption of service to any Government system or equipment. For example, large file attachments, such as greeting cards, video, and sound files, and the use of "push" technology on the Internet and other continuous data streams which can degrade the performance of the entire network.
- B. Is to gain unauthorized access to other systems.
- C. Is for the creation, copying, transmission, or retransmission of chain letters or other unauthorized mass mailings regardless of the subject matter.
- D. Is for the creation, downloading, viewing, storage, copying or transmission of sexually explicit or sexually oriented material.
- E. Is for activities that are illegal, inappropriate, or offensive to fellow employees or the public. Such activities include, but are not limited to: hate speech, or material that ridicules others on the basis of race, creed, religion, color, sex, disability, national origin, or sexual orientation; illegal gambling; illegal weapons and terrorist activities; and any other illegal activities.
- F. Is for commercial purposes or "for-profit" activities. The use of Government equipment, including IT resources, to generate personal income is prohibited.



- G. Is for the unauthorized acquisition, use, reproduction, transmission, or distribution of any controlled information, including computer software and data, that includes privacy information, copyrighted, trade marked or material with other intellectual property rights (beyond fair use), proprietary data, or export-controlled software or data.
- H. Is for engaging in any fund-raising activity (except for through the Combined Federal Campaign), endorsing any product or service, participating in any lobbying activity (except for Union communications with Congress concerning working conditions, as outlined in Article 4, Section 4.02(A)(11)), engaging in internal union business (except for matters concerning union board and membership meetings on non-duty time, e.g. communicating minutes and agendas), or engaging in any prohibited partisan political activity. Requests from committee members, as outlined in Article 30, Section 30.08(B), for voluntary donations to offset Special Emphasis Program function costs do not constitute fundraising.
- I. Is for posting agency information to external newsgroups and bulletin boards, or creates the perception that the communication was made in one's official capacity as a Federal Government employee, unless appropriate HUD approval has been obtained.

Any changes to working conditions, beyond de minimis, regarding unauthorized uses shall be bargained by the Parties according to Article 38.

**SECTION 45.03: PERSONAL USE.**

Appropriate use of HUD office equipment for personal needs includes activities that incur minimal additional expense to the Government in such areas as communications infrastructure costs; e.g., telephone charges, telecommunications traffic, etc. Limited use of HUD IT resources is authorized as long as only small amounts of paper, ink, toner, etc., are involved and as long as the use does not interfere with official business or result in the loss of employee productivity. Occasional, non-routine and brief personal use of the email and telephone during regular work hours does not constitute a misuse or violation of the Email Mail Policy (EMP) or limited personal use of government equipment policy. Management shall treat violations of the limited use of government equipment policy on a fair and equitable basis.

**SECTION 45.04: INTERNET AND ELECTRONIC MAIL.**

- A. Employees may access the Internet and Electronic Mail, including sites which are not HUD administered sites, via the HUD approved browser, so long as the sites are not considered to be unauthorized as described by Section 45.02. Management agrees that no employee's internet usage shall be monitored or reviewed without establishment of cause. Management agrees to apply internet usage policy on a fair and equitable basis.
- B. Employees agree to comply with HUD's Electronic Mail Policy, HUD Handbook 2400.1 REV-1, and HUD's Limited Personal Use Policy, as well as all other Department policies on the use of internet and email, and to complete the annual training on appropriate email and internet use. In accordance with Article 36, Section 36(A) of the Labor Management Agreement, if there is a conflict between any HUD Handbook or Agency policy and the Labor Management Agreement on internet use and electronic mail, the provisions of the Labor Management Agreement shall take precedence.
- C. Management agrees to apply the procedures of the electronic mail policy (EMP) fairly and equitably to all employees.
- D. Employees understand that there is no right to privacy on HUD internet and email and employees have no expectation of such. Management agrees that no employee's email shall be monitored or reviewed without establishment of cause. If email is monitored, any email used as evidence in a disciplinary or adverse action procedure shall be disclosed to the employee.
- E. Employees shall ensure that any personal mail sent via the HUD network does not give an erroneous impression to any recipient that the Department endorses, sanctions, or supports any personal view or activity of the employee. Further, employees shall not include official signature lines in personal email correspondence, or otherwise suggest that their personal email is being sent with the professional authority of their HUD position or the backing of the Department.
- F. Management agrees that recipients of email messages are not responsible for the content, attachments, or other mailing list recipients, and shall not be held liable for simple receipt of the message. However, employees who receive inappropriate emails from external email addresses are responsible for blocking the sender and notifying the Office of the Chief Information Officer immediately if possible, or as soon as practical.

- G. Management agrees that employees will not be responsible for unknowingly opening an email containing a virus, script or agent that the Department fails to detect.
- H. Management agrees that the Union is authorized the use of email to conduct representational activities. The Electronic Mail Policy will not adversely affect the Union's ability to perform representational activities. Management will not monitor, review, view, read, or intercept any email of a Union representative functioning in their official capacity as a Union representative, unless an overriding need has been established consistent with statutory rights and protections under the Federal Service Labor-Management Relations Statute.
- I. Management agrees that government email is not considered private in nature by HUD's Electronic Mail Policy and may be subject to discovery and Freedom of Information Act requests.

**ARTICLE 46**  
**OPERATING PROTOCOLS FOR OUTSTATIONED EMPLOYEES**

**SECTION 46.01: DEFINITION OF OUT-STATIONED EMPLOYEES.**

Employees in offices that do not have an onsite program supervisor position are “outstationed” within the meaning of the Enhanced Operating Protocols, which are posted on HUD@work website.

**SECTION 46.02: PROGRAM WORK ASSIGNMENTS.**

Management agrees that outstationed employees will receive program work assignments from the remote supervisor. Other assignments may be given to outstationed employees by the on-site supervisor in consultation with the remote supervisor. If an employee reasonably believes that an order or instruction conflicts with another supervisor’s order or instructions, he/she should follow procedures in Article 1, Section 1.05 of the Labor-Management Agreement.

**SECTION 46.03: SUPERVISION.**

Each outstationed employee shall be assigned an on-site supervisor for emergency awareness and emergency oversight. Management agrees that an individual who is not classified as a supervisor will not exercise supervision over outstationed staff (i.e. a bargaining-unit employee with Senior, Lead, Team Leader or Coordinator in his/her title is not a supervisor).

**SECTION 46.04: WORK PLAN DEVELOPMENT.**

Management agrees that the remote program supervisor of each outstationed employee will develop a work plan in accordance with the terms of the Enhanced Operating Protocols. Management agrees that outstationed employees shall be given the opportunity to provide input to their work plans.

**SECTION 46.05: SUPERVISORY ASSIGNMENTS.**

Management agrees to give advance notice to outstationed employees regarding changes of their on-site supervisors. This information will be communicated to the union within thirty (30) days of the change.

**SECTION 46.06: WORKPLACE REVISIONS.**

Management agrees that any significant changes to the employee's established workplan will be provided to the employee in writing by the remote program supervisor.

**SECTION 46.07: TIME AND ATTENDANCE.**

Remote program or on-site supervisors, as designated by management, shall be responsible for approving/disapproving leave requests and requests to work credit hours in accordance with the procedures in this Agreement, and for maintaining time and attendance records. Employees requesting leave and permission to work credit hours shall be required to submit their requests only to the remote program or on-site supervisor.

**SECTION 46.08: TRAVEL REQUESTS.**

For outstationed employees, travel authorizations and expense reports shall be submitted to the remote authorized program management officials or on-site supervisor, as designated by management.

**SECTION 46.09: TELEWORK.**

The remote program supervisor shall be the approving authority for telework requests for outstationed employees.

**ARTICLE 47**  
**FRONT OFFICE RECEPTION DESK PROCEDURES**

**SECTION 47.01: GENERAL.**

The purpose of this Article is to assure adequate coverage of the Front Office Reception Desk in NFFE Local 1450 represented HUD offices. The following provisions will be followed if help from program office staff is required:

- A. Quarterly, Management will send out emails to all HUD bargaining unit employees, as needed, requesting volunteers to provide reception desk coverage.
- B. Employees may request and be allowed to remove their names from any volunteer lists on a quarterly basis.
- C. Management will first consider employees on the volunteer list when assigning employees for reception desk coverage.
- D. Management shall distribute back-up reception desk coverage on a fair and equitable basis.
- E. Exceptional performance by a volunteer at the Reception Desk will be considered by management as the basis for an Award in accordance with Article 14 of the Labor Management Agreement, as well as OPM regulations and statutory requirements.
- F. The parties may negotiate additional office procedures and appropriate arrangements related to reception desk coverage at the local office level.

**ARTICLE 48**  
**TRANSIT AND TRANSPORTATION SUBSIDY**

**SECTION 48.01: TRANSIT SUBSIDY AMOUNT.**

- A. Employees must submit a HUD 80 form to apply for public transportation subsidy and recertify annually utilizing the HUD 80A form.
- B. Should the maximum monthly mass-transit subsidy amount be re-authorized, extended or changed by law, HUD shall provide NFFE Local 1450 an opportunity to bargain the subsidy amounts only. NFFE Local 1450 agrees to waive bargaining the mass-transit subsidy amount if HUD adopts the policy to provide the maximum subsidy amount allowed by law.
- C. Employees who work compressed work schedules or telecommute may receive monthly transit subsidies, according to the actual cost of their commute based on the number of days scheduled to work in the office, in accordance with the HUD-80 application, not to exceed the subsidy amount permitted by law and negotiated agreement.

**SECTION 48.02: COMMERCIAL VANPOOLS.**

NFFE Local 1450 bargaining unit employees may utilize their transit subsidy to pay for commercial vanpools of four or more employees, one of which must be a HUD employee. HUD will help coordinate parking spaces for employees who elect to ride in vanpools, provided the employee is personally responsible for the total cost of the parking space.

**SECTION 48.03: BICYCLES.**

NFFE Local 1450 bargaining unit employees who regularly use a bicycle for a substantial portion of their commute between the employee's residence and work may apply using the HUD-80 form to receive up to a \$20 monthly transportation subsidy. An employee receiving a bicycle transit subsidy may not receive any other transportation subsidy. The employee shall provide evidence of bicycle purchase, improvements, repair and/or storage for actual costs to be reimbursed, not to exceed \$20 transit subsidy per month for a calendar year. The employee must regularly use the bicycle for a substantial portion of their commute during the entire period of the reimbursement. If the employee stops regularly bicycling to work, the employee shall immediately notify management to stop the monthly bicycling reimbursement.

**SECTION 48.04: TRANSIT SUBSIDY DISBURSEMENT.**

Transit subsidies shall be disbursed through commuter checks/electronic pass. The employee can choose between receiving commuter checks or electronic pass (e.g. Commuter Check Personalized Mastercard, SMART card, etc.) Any issues with HUD's transit subsidy disbursement can be directed to the servicing Administrative Officer. In the event the transit check arrives after the first day of the quarter (October 1, January 1, April 1, July 1), NFFE Local 1450 bargaining unit employees shall receive reimbursement for the transit expenses incurred upon providing evidence of payment (e.g. receipts). Employees are encouraged to contact the servicing Administrative Officer if the transit pass does not arrive by the first of the month, and the local office may distribute replacement commuter checks at that time if the commuter checks were not received at no fault of the employee. Employees must return any commuter checks that are later received beyond the disbursement amount.



**ARTICLE 49**  
**WORKPLACE OF THE FUTURE**

**SECTION 49.01: WORKPLACE OF THE FUTURE.**

The Workplace of the Future shall be a modern work environment that supports the Department's current and future business requirements in a more productive, efficient, humane, and cost effective manner. The Department should endeavor to incorporate new ideas, innovation, and technologies to meet the needs of HUD's evolving workforce. The success of the Department in the future hinges on how effectively it can restructure its cost profile, streamline business practices, and more effectively utilize limited resources.

The ultimate goals of the Workplace of the Future are:

- A. Improve employee morale and productivity.
- B. Better alignment of technology investments.
- C. Lower physical and technology infrastructure costs.
- D. Improving the work environment.
- E. Reducing carbon footprint.
- F. Enhancing the ability to meet business needs.
- G. Improve job training and career opportunities.

**SECTION 49.02: MORALE/QUALITY OF WORK LIFE.**

The Department and the Union recognize an important goal is to improve the morale and quality of work life for all employees and this goal is important for the success of the Department in the future. In order to facilitate, the Department and the Union will endeavor to work together to improve the following:

- A. Consistency in high quality communication and civility among employees and between employees and managers.
- B. A high degree of positivity and dedication to mission.
- C. Improvement in working methods, training, procedures, conditions, and productivity, including evaluation and recommendations surrounding the telework program.
- D. Demonstrated appreciation for the employee's accomplishments and innovation.
- E. Respect for persons and property.
- F. A commitment to human and administrative services for the benefit of employees.

**SECTION 49.03: WORKPLACE OF THE FUTURE COMMITTEE.**

- A. Committee representatives shall be identified and included in the committee's activities from the onset. This inclusion of the parties will ensure the success of any pilot or program that is created with the workplace of the future in mind.
- B. The parties agree to the creation of a Workplace of the Future committee which will include two (2) representatives from both management and HUD NFFE Local 1450. The parties agree that the committee can be expanded to include additional labor and management representatives under a supplement to this article.
- C. The committee will meet at least quarterly to discuss and make recommendations on new ways or avenues of doing business that have a beneficial effect on our customers and our employees. Meetings may be conducted by teleconference or other available technological methods.
- D. Initiatives. The Department and the Union support initiatives that improve morale, job satisfaction, internal and external work products, and provide enhanced service to our customers. The best resource for many of these initiative ideas are our current employees. In order to ensure bargaining unit employees participate in the creation and innovation of the Workplace of the Future, the Department will create a mechanism, such as a website link or mailbox, in order for the employee to communicate their ideas to the Workplace of the Future Committee.
- E. The committee through current internal evaluation systems will assess the Department's activities in improving the quality of work life.

**ARTICLE 50**  
**MANAGEMENT DIRECTED REASSIGNMENTS TO NEW LOCATION**

**SECTION 50.01: GENERAL.**

This Article sets forth the guidelines for the implementation of management directed reassignments of bargaining unit employees to locations outside of their commuting area. This is not applicable to reductions in force (RIFs). All relocations shall be effected in accordance with law, rule, regulation, and the current collective bargaining agreement.

**SECTION 50.02: EMPLOYEE RIGHTS.**

This Article shall not diminish or waive any rights that bargaining unit employees have under the current collective bargaining agreement, law, rule or regulation. The Department shall not impose any prohibitions or limitations on employee rights, entitlements, or benefits unless expressly prohibited or limited under law or government-wide regulations.

**SECTION 50.03: UNION NOTIFICATION.**

Prior to issuing notices to employees of a management directed reassignment to a location outside of the commuting area covered in this article, management will provide the Union a copy of present and planned organizational charts showing the actual employees' relocation, including but not limited to organizational assignment, current position title, new position title, current position pay grade, new position pay grade, and current and planned geographic location of the employees' office(s). The Department shall provide notice according to Article 38 for impact and implementation negotiations for matters not directly addressed in this article.

**SECTION 50.04: REGULATORY GOVERNANCE AND FINANCIAL POLICIES.**

The Department will notify the Union of any changes to the provisions of this article required by applicable statutes. This shall include, but not be limited to the following entitlements:

- A. In addition to relocation allowances required under the Federal Travel Regulations (FTR), the Department will also approve the following up to the maximum allowed by the FTR:
1. House-hunting per diem and transportation for the employee and spouse;
  2. Temporary quarters subsistence expense;
  3. Shipment of up to two (2) privately owned vehicles, if determined to be cost effective in accordance with FTR 302-9.301 and 302.

- B. The Department will approve all relocation allowances required under the FTR up to the maximum allowed under the regulations. The Department is not obligated to hire relocation services companies, home marketing and property management services. The Department may negotiate with the Union regarding these services in the future.
- C. The Department recognizes that affected employees may be “under water” on their mortgages (i.e., owe more on a mortgage than the value of the residence at the time of sale). The Department agrees that employees shall suffer no adverse employment impact within the Department, including but not limited to systems access, official travel access, or ethics/conduct for activities outside of the workplace related to the employee’s failure to meet his/her mortgage obligation.
- D. Service agreements shall not exceed twelve (12) months.

**SECTION 50.05: TIMING OF RELOCATIONS/RETIREMENT.**

- A. Any employee being reassigned to a duty station greater than 50 miles from their current duty station will be provided at least 60 days’ notice before being required to report for duty at the new location. If the Department determines that there is a need to relocate an employee in a lesser period of time, then they will renegotiate the employee notice timeframe with the Union.
- B. Retirement in lieu of acceptance of a directed reassignment to a location outside of the commuting area.
  - 1. The Department agrees that if an employee requests and is eligible for retirement within 60 days of the report to duty date to another location, the employee will receive a directed reassignment report date for 61 days after the notice. The subject employee may work from his/her current duty station, or telework in accordance with the current telework policy and LMA, until the report date provided in the notice.
  - 2. The Department agrees that if an employee is eligible for retirement within 60 days of a reassignment to another location/report-to-duty date, the employee may use their accrued and earned leave to extend their report date for an additional 30 days.
  - 3. Upon request, the Department shall notify all affected employees if they are retirement eligible and their options if they receive notice of a reassignment.
  - 4. The Department will consider reasonable requests for relocation extensions from employees who are soon to be retirement eligible.

**SECTION 50.06: RELOCATION DELAYS.**

The Department shall not require any employee to relocate while the employee is on annual or sick leave, whether short-term or extended, including any leave used under the Family and Medical Leave Act. Leave requests shall be approved following normal procedures.

**SECTION 50.07: HARDSHIP REASSIGNMENTS.**

Affected bargaining unit employees' hardship reassignment requests shall be processed in accordance with the Hardship Reassignment Article. Hardship Requests will be prioritized for a response and all hardship processing shall be completed prior to any employee being relocated.

**SECTION 50.08: ALTERNATIVE WORK SCHEDULES, TELEWORK, AND REASONABLE ACCOMMODATIONS.**

- A. Relocating employees will keep previously approved alternative work schedules unless a work-related need to change the schedule is established. Any changes to a relocating employee's alternative work schedule shall be in accordance with the current collective bargaining agreement.
- B. Relocating employees reporting to a new location shall keep their existing telework agreements. Any change in an employee's telework agreement shall be in accordance with the current collective bargaining agreement and if applicable, the HUD Telework Policy.
- C. All employees teleworking from their new duty stations shall receive appropriate equipment and supplies in a timely manner. Affected employees shall not be required to live within the "normal commuting area" of any reassigned duty station.
- D. Approved reasonable accommodations will remain in effect based on continual interactive process, including discussions, when an employee relocates to their duty location. If a modification is requested by the employee as a result of the relocation, the proposed modification will be processed in accordance with the Departmental Reasonable Accommodation Policy.

**SECTION 50.09: MISCELLANEOUS.**

- A. The Department agrees that employees who are relocating to a non-NFFE-affiliated office will retain their bargaining unit affiliation with NFFE and their current NFFE Local until the effective date of reassignment. NFFE bargaining unit employees will be granted all provisions subsequently negotiated into and including the actual physical report date to the non-NFFE-affiliated office.

- B. If an employee is relocating to a non-NFFE affiliated office, the Department will discontinue deduction of union dues from employee paychecks on the date the employee is reassigned to another office, including for employees who are members for less than one year, in accordance with Article 5 (Dues Withholding) of the HUD/NFFE Agreement.
- C. For each employee who is notified of a directed reassignment to a new location outside the commuting area, the Department will identify the appropriate specialist who will assist them through the steps of the relevant process.
- D. The Department agrees that errors in locality pay are beyond an employee's control. However, it is the responsibility of the employees to review their Personnel Actions and earnings and leave statements. The Department will take immediate and appropriate action to resolve/correct errors. The Department will notify the employee of any applicable waiver process.

**SECTION 50.10: NO ADVERSE IMPACT.**

There shall be no adverse impact on existing EEO settlement agreements or grievance awards as a result of this directed reassignment.

**ARTICLE 51**  
**ELECTRONIC MAIL & SOCIAL MEDIA**

**SECTION 51.01: GENERAL.**

- A. Electronic mail/social media is an integral part of doing business in HUD, enabling more rapid delivery of vital programs, services, and information. Increasing dependence on and use of email results in a compelling need to protect these critical resources through constant and improved monitoring, administration, user training, and awareness.
- B. The primary purpose of the email system is to enable users to exchange work-related communications, exchange ideas related to government business, coordinate meetings and appointments, and allow other communications that are in pursuit of the Department's mission.
- C. Social media is a tool for the Department to share information with employees and the communities it serves. As social media usage has grown among our employees and constituents, the Department's use of social media, such as, blogs, forums, clouds, mash-ups, podcasts, RSS Feed, social networking services, etc., is important in order to pursue HUD's mission.

**SECTION 51.02: TRAINING AND ORIENTATION.**

- A. Management will provide training and orientation to employees regarding Electronic Mail/Social Media Policy and Procedures and any subsequent policy, procedures, guidance, or regulations regarding Electronic Mail/Social Media within 30 days of the implementation of these policies. Management will provide orientation to new employees within 30 days of their start date with the Department.
- B. Management agrees to provide access to training for all employees on the use of social media, such as, but not limited to, the use of Social Media intranet platforms, guidelines for Social Media use, responsible use of Social Media, acceptable uses for official business purposes and personal use of Social Media Sites.

- C. Management agrees to provide access to training for all employees on electronic mail/social media topics, such as, but not limited to, archiving email messages and accessing archived email messages, use of electronic mail/social media tools, such as calendars, attachments, appointments, and tasks.
- D. Management will post the Office of Special Counsel's "Frequently Asked Questions Regarding Social Media and the Hatch Act" on its intranet site, and provide employees with periodic reminders to consult that advice and will approve appropriate requests for official time for a union officer or steward to attend a union or Office of Special Counsel training on the Hatch Act.
- E. Management agrees to supply regional or local Hatch Act training, which includes covering social media and Hatch Act implications, separate from the annual ethics training requirements.

**SECTION 51.03: ELECTRONIC MAIL SOCIAL MEDIA ADDRESSES.**

Management agrees that employees will not be required to change their email address as a result of the implementation of new electronic policy or procedures.

**SECTION 51.04: EMAIL RIGHTS.**

Email messages will be treated like hard copy documents. Employees will be provided email access through Outlook Express or its successor as well as through the Virtual Private Network (VPN)/HUDMobile or its successor. Authorized telework users will be provided with access to their HUD electronic mail/social media. Management agrees to apply the procedures of the Electronic Mail/Social Media Policy or any subsequent policy, procedures, or regulations fairly and equitably to all employees. Management agrees that the Electronic Mail/Social Media Policy will not affect any statutory, regulatory, contractual, or any rights of the employees.

**SECTION 51.05: PERSONAL USE.**

Management agrees that appropriate limited personal use of email/social media during regular duty hours does not constitute a misuse or violations of law, regulation or policy. Employees are not permitted to use government computers in a manner that violates any law, including the Hatch Act.



**SECTION 51.06: UNAUTHORIZED USE.**

Unauthorized use of HUD's electronic mail/social media system includes, but is not limited to, the sending of email messages or file attachments that contain illegal, inappropriate, or offensive messages to fellow employees or the public. Such activities include, but are not limited to: hate speech, or material that is patently offensive on the basis of race, creed, religion, color, sex, disability, national origin, or sexual orientation.

**SECTION 51.07: EMAIL ACCESS RESTRICTIONS.**

Management agrees to notify the employee, but reserves the right to temporarily deny access to email or internal social media in order to protect the Information Technology infrastructure. Management agrees that denying an employee access to email is not an adverse action. During the time of a temporary restriction, the employee will be instructed as to alternative means of completing work assignments, and when necessary the employee's performance standards will be adjusted.

**SECTION 51.08: DISCIPLINE.**

1. Management agrees that any disciplinary action taken to correct an employee's misuse or unauthorized use of email/HUD social media platforms will be in accordance with the HUD/NFFE Agreement.
2. Violations of the HUD Social Media Policy may warrant additional training and/or progressive discipline.
3. Management agrees that a reasonable amount of time spent by bargaining unit employees using HUD Social Media will not be used against them.

**SECTION 51.09: MONITORING EMAIL.**

Management agrees that no employee's email will be monitored or reviewed without establishment of cause.

**SECTION 51.10: RECEIPT OF MESSAGES.**

Management agrees that recipients of email messages are not responsible for the content, attachments, or other mailing list recipients, and shall not be held liable for simple receipt of the message.

**SECTION 51.11: VIRUS.**

Management agrees that employees will not be responsible for unknowingly opening an email/social media containing a virus, script, or agent that the Management fails to detect or any content of shared social media messages.

**SECTION 51.12: UNION EMAIL.**

- A. Management agrees that the Union is authorized the use of email to conduct representational activities, in accordance with the HUD/NFFE 1450 Agreement, Article 6. In no way will the Electronic Mail/Social Media Policy or any subsequent policy, procedures, guidance, or regulations adversely affect the Union's abilities to perform all activities in accordance with the Federal Labor Management Relations Statute.
- B. Union representational emails and its contents will be treated as confidential, private and union-privileged communication. Union representational emails will not be monitored by Management.

**SECTION 51.13: FREEDOM OF INFORMATION ACT.**

The use of the government email system is not considered private. HUD's electronic mail and internal social media platforms may be subject to discovery and Freedom of Information Act (FOIA) requests.

**SECTION 51.14: DEPARTMENT SOCIAL MEDIA SITES.**

- 1. Employees who are assigned to post material on the Department's social media sites must have the material approved by a supervisor or management official prior to its being posted. Employees may not be disciplined or have performance ratings affected where a supervisor has not approved the timely posting of material to a social media site.
- 2. Employees who utilize public social media sites as part of performing their normal work duties are recommended not to use their personal social media account.
- 3. Employees are encouraged to use social media to further the mission of HUD.

**SECTION 51.15: RECEIPT OF SOCIAL MEDIA.**

Management agrees that recipients of any type of social media are not responsible for the content, images, links, attachments, entries, comments, other recipients, etc., and shall not be held liable for simple receipt of the social media.

**SECTION 51.16: EMPLOYEES' PERSONAL SOCIAL MEDIA SITES.**

- A. Management will not require employees to provide passwords or other access to an employee's personal social media sites.
- B. If employees state their place of employment and/or official title on social media, then the following disclaimer is suggested: "Any opinions expressed are my own, and do not reflect the official positions of the Department of Housing and Urban Development or the United States Government."
- C. Provided employees do not use their official position/title, employees are free to engage alone or with others in personal activities and make personal comments about the operations of the Government in general and the Department, so long as such comments are otherwise lawful.
- D. If Management becomes aware of any postings on an employee's social media site that are a violation of this section or any other rule, regulation, law, or policy, Management will bring that to the employee's attention immediately in writing and provide a reasonable amount of time after receipt of the written request to remove the offending post. Management will consider voluntary removal of any such posting a mitigating factor in any disciplinary action.

**SECTION 51.17: UNION USE OF SOCIAL MEDIA.**

- A. Management agrees that the Union is authorized the use of social media platforms to conduct representational activities, in accordance with the HUD/NFFE 1450 agreement. Any changes in social media access will be bargained as appropriate, in accordance with Article 38.
- B. Union officials, when acting in their capacity as Union representatives using HUD facilities, are entitled to the latitude in speech and action in accordance with prevailing case law. Postings using government equipment shall not contain material that is pornographic,

racist, bigoted, sexist, libelous, or in violation of the Hatch Act. If Management believes any posting on the Union's social media pages exceeds the boundary of protected activity, it will contact the Union and the Parties will discuss the Agency's concerns.

- C. If Management becomes aware of any postings on the Union's social media site that are a violation of this section or any other rule, regulation, law, or policy, Management will bring that to the Union's attention immediately and provide a reasonable amount of official time after receipt of the written request to remove the offending post. This official time will be over and above any grant of official time provided elsewhere in this agreement.

**SECTION 51.18: PRESS RELEASES.**

Management agrees that the Office of Public Affairs (OPA) will, prior to releasing any press releases to the media or posting any location specific information, provide an advance copy of the release to the Regional Administrator and Field Office Director for the office affected by the new release or social media posting.

**SECTION 51.19: INTRANET HOME PAGE.**

Management agrees to engage NFFE 1450 in Predecisional Involvement prior to implementing major changes to HUD@work or successor.

**SECTION 51.20: POLICY COMMUNICATIONS.**

- 1) The Office of Public Affairs will provide the Region IX Public Affairs Officer with a copy of the updated Social Media Policy and will also include the policy in an issue of HUD Happenings, at least once per year. This will ensure all employees are aware of the updated social media policy.
- 2) Management agrees to designate a specific official within OPA to respond to inquiries about HUD's Social Media Policy. Management further agrees to post a copy of this policy and the names and contact information at the top of HUDConnect landing page.
- 3) Management agrees that any further modifications to the HUD Social Media Policy will be addressed first by pre-decisional involvement.

**SECTION 51.21: INSTANT MESSENGER/OFFICE COMMUNICATOR.**

Management will not use Instant Messenger (IM) or Office Communicator as a time tracking tool.

**ARTICLE 52  
DETAILS AND TEMPORARY PROMOTIONS**

**SECTION 52.01: DEFINITIONS.**

- A. Detail - A detail is the temporary assignment of an employee to a different position or a different set of duties for a specified period, with the employee returning to his/her regular duties at the end of the detail, as the employee continues to be the incumbent of the position from which detailed.
- B. Temporary Promotion - A temporary promotion is a temporary assignment to a different position or a different set of duties for a specified period at a higher grade with higher pay than that of the employee's permanent position.

**SECTION 52.02: DOCUMENTATION:**

Details in excess of thirty (30) days shall be documented and maintained as a permanent record in the employee's Official Personnel Folder (OPF). In order for an employee to be recognized for the work they perform, the employee's performance in a detail or temporary promotion shall be considered in the employee's annual performance assessment in accordance with performance regulations and guidance.

**SECTION 52.03: APPROPRIATE USE OF DETAIL OR TEMPORARY PROMOTION.**

- A. Details or temporary promotions shall be used to meet temporary needs of the Department's work program when necessary services cannot be obtained by other means. This includes, but is not limited to:
  - 1. Meeting unusual workload demands;
  - 2. Special projects or studies;
  - 3. Change in mission or organization;
  - 4. Employee absences;
  - 5. Cross-training or other skill-training objectives;
  - 6. Succession planning; and
  - 7. Emergency response or preparedness
- B. Management shall consider employees who indicate an interest in a detail. Where management determines that a detail may best be accomplished by utilizing volunteers,

management shall announce the detail by electronic notice and consider those who express an interest.

- C. Management may rotate all eligible employees if there are multiple volunteers for details or temporary promotions, where practicable.

**SECTION 52.04: DETAILS TO HIGHER GRADE POSITIONS /TEMPORARY PROMOTIONS.**

A. When qualified bargaining unit employees are detailed into a higher grade for a period in excess of sixty (60) consecutive days, the assignment may become a temporary promotion. Should the detail continue beyond the 60<sup>th</sup> day, either the detail will end, or a temporary promotion via a personnel action will be processed. Employees who are temporarily promoted must meet all qualifications for the promotion and for the position.

B. A temporary promotion exceeding one hundred twenty (120) days to a higher grade position or to a position with known promotion potential shall be made under competitive placement procedures as provided by law.

**SECTION 52.05: UNION OFFICIALS.**

Legitimate business reasons must exist for the Department to detail or temporarily promote a union official to another position when it creates a conflict with their official representational duties.

**ARTICLE 53  
HARDSHIP REASSIGNMENT**

**SECTION 53.01: HARDSHIP REASSIGNMENTS.**

The Department and the Union recognize that there are situations that arise during an employee's career where a personal hardship exists that could be alleviated if the employee relocated to another office and/or program area. A Hardship Reassignment is not an employee entitlement and is at the discretion of management. However, if an employee requests a hardship reassignment, the Department will consider a change of duty station which may include a change of the work assignment. The employee must demonstrate a hardship that can be relieved by a relocation of duty station.

It is incumbent upon the employee to search for positions in locations that meet their hardship needs, and not rely on these provisions alone. Management will work with the employee to identify available positions that meet an employee's hardship needs.

These procedures are intended to accommodate the employee, if possible, due to family difficulties and issues which would necessitate the permanent relocation of the employee. These procedures do not impede the program office's ability to make employee assignments.

Upon awareness of a hardship request, management will search for vacant positions within their respective program office for which the employee qualifies. If no vacancies are identified for which the employee qualifies, the Department's Hardship Coordinator will conduct a Department-wide search and provide a memorandum for the employee to attach to their job application. If qualified, the employee will receive noncompetitive consideration in compliance with Departmental policy for those positions in which a tentative selection has not been made.

**SECTION 53.02: DEFINITIONS.**

- A. Hardship: Serious health condition or circumstance as described in Section 53.03 that affects the health and/or welfare of the employee and/or a family member, and requires the employee to permanently relocate to a vacant position in another geographical area or remain in place at the same grade or through a voluntary change to lower grade, as specified in Section 53.08. For either type of request (to same or a lower grade), the employee must be qualified for the new position and the new position cannot have promotion potential higher than that of the position the employee currently occupies (even if the employee previously held the higher grade).



- B. Vacant Position: A position in which management has an interest and an authorization to fill. A position is considered vacant even if management has not posted a notice or announcement seeking applications for that position.
- C. Family Member: An individual with any of the following relationships to the employee:
  - 1. Spouse or domestic partner: A domestic partner is considered a partner for which the employee is in a committed (same sex or opposite sex) relationship.
  - 2. Sons and daughters. This includes biological, adoptive, step or any child for which the employee, spouse or domestic partner raised under a foster care or legal guardian situation.
  - 3. Parents, grandparents and grandchildren. This includes biological, adoptive, step or foster parents, or legal guardian of the employee, spouse or domestic partner.
  - 4. Brothers and sisters. This includes biological, adoptive, step or foster brothers or sisters of the employee, spouse, or domestic partner.
  - 5. Aunts, uncles or any other blood relation for whom a close bond may exist of the employee, spouse, or domestic partner. Living with an aunt or uncle could be considered as an example of a close bond.

**SECTION 53.03: EXAMPLES OF HARDSHIP.**

Examples of hardship situations or circumstances may include, but not be limited to:

- 1. The employee's family member is unable to care for him/herself and permanent relocation is needed to assist in routine daily care and assistance.
- 2. The employee's family member who is under the care of the employee requires specialized care for a disability or illness in another location.
- 3. The employee demonstrates that their current location creates a burden due to the relocation of a spouse or domestic partner.
- 4. The medical condition of the employee or the employee's family member residing in the employee's household requires relocation to a geographical area deemed medically necessary to improve or maintain health or receive health services.

5. Access to a medical care facility that specializes in treatment of a specific life threatening disease or condition would qualify as a hardship, even though there is a general medical care facility in the employee's current location.
6. The employee is endangered due to personal issues (e.g., domestic violence, divorce, etc.).

**SECTION 53.04: HARDSHIP REASSIGNMENT REQUESTS.**

- A. The request must be in writing using the Hardship Reassignment Application and Agreement HUD Form 25060(Appendix A).
  1. An employee may submit a request for reassignment to the Assistant Secretary for the Program Office to which he/she wants to be reassigned. The employee will ensure all appropriate documents are included and forward the request to the Assistant Secretary or designee, with a courtesy notification to the supervisor; OR
  2. Alternatively; The application package may be submitted, complete with the appropriate documentation, to the immediate supervisor for submission to the Assistant Secretary or designee for the Program Office.
- B. The hardship package for both hardship reassignment to another location and hardship request to remain in place will consist of:
  1. A letter which explains the need for a permanent reassignment to a vacant position in another geographical location, or to remain in place, and describes the hardship. It also includes a summary of his/her attempts to alleviate the hardship without permanently relocating to another geographical location or remaining in place.
  2. A Hardship Application and Agreement HUD Form 25060.
  3. A current resume.
  4. Other documentation that supports the request. Requests based on a serious health condition of a family member will require medical documentation from a health care professional which includes, at a minimum, the medical reasons why the requested permanent reassignment to another geographical location is expected to resolve or alleviate the hardship.

- C. Acknowledging that it is management's right to enact reassignments, the Union retains the right to grieve violations of the Hardship Reassignment Policy and Procedures as set forth in HUD Handbook 650-1. Decisions on Hardship Reassignments will be based on legitimate business reasons and in accordance with Merit Systems principles. Explanations for non-selections of qualified Hardship applicants will be provided in accordance with Section 53.01.
- D. The Labor Management Agreement (LMA) is the governing agreement for Hardship Reassignments for NFFE Local 1450 employees. The Hardship Reassignment Policy and Procedure Handbook may be used for clarification and guidance where not inconsistent with the LMA.
- E. A sibling, aunt, uncle and [any] other blood relation for whom a close bond may exist are included in the definition of a family member for an employee to be eligible for the Hardship Reassignment Policy and Procedures.
- F. Management shall give careful thought and consideration to qualified hardship applicants when making a selection where the hardship applicant has applied for a position. Selecting officials will consider the needs of the organization and skill requirements and Hardship Certificate of Eligibility when making a selection decision. In an effort at informal resolution for grievances, if a selection is made from a merit promotion announcement and a qualified hardship applicant is not selected and reasonably believes that he or she was more qualified, upon request within 30 days of the hardship applicant's request, Management shall provide an explanation either verbally or in writing to the employee as to why he or she was not selected. If the explanation is provided verbally, the Union shall be invited to attend the meeting; if the explanation is provided in writing, a copy shall be provided to the Union.
- G. Management shall conduct a webcast training session to explain the Hardship Reassignment Policy and Procedures, which shall be archived for employee viewing. The Hardship Reassignment Coordinator (or designee) will also be available to answer questions for interested employees on an as needed basis.
- H. The Hardship Reassignment Policy and Procedures Handbook shall be permanently maintained on the hud@work Region IX intranet web site, or successor site. Management will provide the Union and post on the hud@work intranet website the name and contact information for the HUD Hardship Reassignment Coordinator or designee.

- I. **HARDSHIP REQUEST TO REMAIN IN PLACE.** An employee who receives a directed reassignment to another location may request a hardship to remain in place at their current location. The employee must meet the same criteria for a Hardship required under Sections 53.02 and 53.03. The employee will submit all necessary hardship application documentation and the same hardship procedures and timeframes shall apply. Employees who are approved hardship to stay in place shall receive the same consideration as other hardship applicants as outlined in Sections 53.06 and 53.07. Application under the Hardship Reassignment process does not extend any deadlines to comply with a directed reassignment. Employees facing a directed reassignment may contact the Hardship Reassignment Coordinator to facilitate an expedited review and decision.

**SECTION 53.05: PROCEDURES FOR HARDSHIP REASSIGNMENT REQUEST.**

- A. The Department will consider all requests to non-competitively reassign employees to a vacant position in another location due to hardship. The Department will review and process requests for hardship reassignments in a fair and expeditious manner. Any employee may request consideration for reassignment due to personal hardship. Employees shall be treated fairly and equitably in considering hardship reassignments. These negotiated Departmental hardship reassignment procedures do not guarantee placement. Employees will follow the procedures of the Departmental policy dated July 2010 on Hardship Reassignment, except in those instances where the provisions of the Departmental policy on Hardship Reassignment are inconsistent with this Agreement, in which case this Agreement will govern.
- B. If a hardship reassignment cannot be accomplished by the employee's assigned program area, the employee may utilize the Department's established procedures to allow the employee to apply for vacant positions within the Department and if qualified, their application will be considered under a noncompetitive referral process.
- C. Employees Hardship Reassignment Request. The Employee's request for Hardship Reassignment shall be submitted on HUD 25060, Hardship Reassignment Application and Agreement", and include the following:
1. An attached letter which explains the need for a permanent reassignment to a vacant position in another geographical location, and describes the hardship. It also includes a summary of his/her attempts to alleviate the hardship without permanently relocating to another geographical location.
  2. A current resume, no standard format required.

3. Other documentation that supports the request. Requests based on a serious health condition of a family member will require medical documentation from a health care professional which includes, at a minimum, the medical reasons why the requested permanent reassignment to another duty station is expected to resolve or alleviate the hardship. Employees shall be permitted to use the Department's Hardship Policy to seek relocation to another duty station to address issues that cannot be covered under the Reasonable Accommodation Policy.
- D. If Management requests additional information or documentation, the employee will be advised in writing of the specific information needed. The Department must obtain a release signed by the employee and/or the employee's family member before contacting appropriate sources, when such release is required by law and/or the Privacy Act, for the purpose of clarifying any supplied documentation.

**SECTION 53.06: TIMEFRAMES FOR PROCESSING HARDSHIP REQUESTS.**

- A. Absent exigent circumstances, when the employee submits the hardship request to the immediate supervisor, the immediate supervisor will ensure all appropriate documents are included and forward the request to the Assistant Secretary or equivalent, or designee within 3 workdays. A 10 workday extension may be granted by the Union if the management official is out of the office on extended official business, in travel status, or on leave.
- B. The Assistant Secretary or equivalent, or designee shall review the request and approve/disapprove within ten (10) work days. A 5 workday extension may be granted by the Union if the Assistant Secretary is out of the office on extended official business, in travel status, or on leave. If additional information is required, the employee will be advised in writing and will have 7 workdays to obtain and submit the additional information. If not submitted, the Hardship request will be disapproved and the decision will be provided to the employee and the Departmental Hardship Reassignment Coordinator.
- C. Upon approval the Assistant Secretary or designee shall determine if there is a vacancy in the requested geographical location for which the employee is requesting a reassignment. If there is such a vacant position, the employee will have seven (7) workdays or a mutually agreed upon timeframe to accept or decline the offered reassignment to a vacant position. If the employee declines the placement, further consideration under hardship is forfeited. Upon declination of a position, the approved hardship application is forfeited and the employee will not receive consideration for any other positions within the program office

under the Hardship Reassignment policy. Reapplication can only be considered for changes in conditions or the expiration date of one (1) year.

- D. If the hardship is approved but a vacant position does not exist in the program area, their application will be considered under the non-competitive referral process, as described in the Hardship Policy and Procedures Handbook 650.1 and outlined as follows:
1. A copy of the agreement will be sent to the Department Hardship Reassignment Coordinator within five (5) workdays of the decision. The Coordinator will issue the employee a Notification of Eligibility within five (5) workdays.
  2. The employee then initiates the job search, and must submit the Notification of Eligibility along with the application package for any HUD vacancy announcement.
  3. For a period of one year, the employee who meets the qualifications and submits the appropriate documentation will be placed onto a separate referral list (Noncompetitive Eligible-Hardship Reassignment) to the selecting official for consideration. They will be identified and set apart from other applicants on a separate certificate, and evaluated based on merit principles.

#### **SECTION 53.07: DISAPPROVAL.**

- A. If there is a final decision of disapproval the employee shall be notified within ten (10) workdays of the decision and a copy of the decision with an explanation will be provided to the employee. Should circumstances change, the employee may reapply.
- B. If a hardship is approved but the reassignment cannot be accommodated, Management may consider valid options including, but not limited to, the possibility of out-stationing.
- C. If a position to reassign the hardship employee is not available, Management shall consider the possibility of a detail at no travel and per diem expense to the Department with a mutually agreed upon term. If a detail is approved, Management shall periodically review the circumstances of the denial to determine if permanent reassignment or if another option is possible. Extension of the detail may be done on a case by case basis. Examples include:
1. Within the program office. Offer the employee a 120 day detail to the appropriate office as an interim measure.
  2. To other program offices. Offer the employee a 120 day detail to the appropriate office as an interim measure, on a reimbursable basis.

3. A temporary reassignment or temporary change-to-lower grade for non-competitive short-term organizational needs, and the duration is less than one year within the program office. These assignments are accomplished through a noncompetitive process outside of this policy.

**SECTION 53.08: VOLUNTARY CHANGE TO LOWER GRADE.**

A reasonable effort shall be made to reassign the employee to the same grade, series and rate of pay that the employee holds upon approval of the hardship reassignment. In the event the offered position results in a voluntary change to lower grade, a signed statement from the employee will be required acknowledging the agreement. Hardship reassignments shall not involve the loss of grade unless voluntarily requested by the employee.

The Department has determined that employees who accept a voluntary change to lower grade in order to receive a hardship reassignment will be assigned work commensurate with their grade level in the new position. In the event a like position at the same grade is not available, and the employee agrees to accept a voluntary change to lower grade, the employee's pay will be set using the highest previous rate rule as outlined in 5 CFR 531.

**SECTION 53.09: POSITION DESCRIPTION AND PERFORMANCE STANDARDS.**

An employee who is reassigned due to a hardship will be provided a position description of the newly assigned position. New performance standards will be provided to match the employee's duties in the new position.

**SECTION 53.10: TRAINING FOR NEWLY ASSIGNED POSITION.**

When appropriate, the employee will be given a reasonable training period in which to become proficient in performing the new duties. A reasonable amount of training time will be determined on a case-by-case basis.

**SECTION 53.11: TRAVEL AND RELOCATION EXPENSES.**

Where the decision to effect a hardship reassignment is based upon an employee's application for a vacancy announcement and the position announcement states that relocation funds will be provided, the employee will not be denied relocation funds based upon the hardship reassignment. If management requests to meet the hardship reassignment employee in person, the Department will pay all costs associated with the meeting. The Department may consider reassigning the FTE between locations or program areas for a hardship reassignment request.

**SECTION 53.12: EXPIRATION OF CONSIDERATION.**

Hardship reassignment applications expire one (1) year after the Hardship Reassignment request is made, or when a hardship reassignment is accepted or declined by the employee. An employee may reapply for a hardship reassignment upon the expiration of the application.

**SECTION 53.13: EMPLOYEE ASSISTANCE.**

The Department shall support employees experiencing hardship with empathy and understanding. The employee may request assistance and advice through the Employee Assistance Program, and may authorize them to share information regarding the hardship situation with Management. The Department's career counseling services through the Employee Assistance Program shall also be made available to the employee if needed.

**SECTION 53.14: CONFIDENTIALITY.**

Pursuant to the Privacy Act, all information in support of a hardship reassignment or disapproval shall be confidential. All documentation obtained in connection with a request for a hardship reassignment shall be kept in files separate from the electronic Official Personnel Files (eOPFs).

**SECTION 53.15: EXCLUSION FROM HARDSHIP REASSIGNMENTS.**

It is always at Management's discretion to reassign an employee outside of the hardship reassignment policy process. This may be the case in an emergency situation where an expeditious reassignment may be necessary. The Department's procedures for considering Hardship Reassignment requests is not intended to circumvent the Department's Procedures for Reasonable Accommodations for Individuals with Disabilities, or any employee's opportunity to apply for vacant positions with promotion or promotion potential opportunities under merit promotion.

**SECTION 53.16: INFORMATION.**

Upon request, Management shall provide the Union with a redacted list of all hardship reassignment requests, effective with the signing of this Agreement.



**ARTICLE 54**  
**AGENCY BREACH OF HUD EMPLOYEES' PII**

**SECTION 54.01: GENERAL.**

**BACKGROUND/SCOPE:** This Article is put in place to address the effects on NFFE 1450 Bargaining Unit Employees (BUE) of any Agency data breach of Personally Identifiable Information (PII).

**SECTION 54.02: DEFINITIONS.**

- A. OPM defines PII as information that:
  - 1. Can be used to discern or trace a person's identity; and
  - 2. Alone, or combined with other information, can be used to compromise the integrity of records relating to a person by permitting unauthorized access to or unauthorized disclosure of these records.
- B. A data breach is the intentional or unintentional release of secure information to an untrusted environment. Other terms for this phenomenon include unintentional information disclosure, data leak and also data spill. Incidents range from concerted attack by hackers who violate computer security to careless disposal of used computer equipment or data storage media.

**SECTION 54.03: TERMS AND CONDITIONS**

- A. If an agency data breach occurs, Management will engage the Union in discussions surrounding free credit reporting and monitoring for employees. The Union will have an opportunity to bargain over the number of years, the nature of the coverage, and the effective date.
- B. Management will maintain a protocol to make every effort to prevent an unauthorized disclosure or breach of PII.
- C. If an employee has an identity theft issue and can provide evidence that it is directly tied to a HUD security breach, the employee may submit a request for administrative leave to his/her supervisor or show leave that has been taken to address the issue, the employee will provide supporting documentation, and his/her supervisor will review

the request on a case by case basis and may approve up to 4 hours of administrative leave to address matters resulting from this data breach.

- D. Management will provide a point of contact for breach affected employees to receive assistance in resolving problems and answering questions that arise due to a breach. The name of the point of contact will be advertised in the HUD@work site. HUD will also post relevant guidance regarding the service guarantee and insurance, if applicable.
- E. If a future breach occurs, Management will provide live or webcast training on how to protect against identity theft and how to respond when affected. This will include information about monitoring your own bank and credit card statements, setting up bank alerts for debits or purchases, etc. Examples of identity theft scams and best practice scenarios will be included, and the following tips will be provided during the training:

Summary of steps to take if you are affected by identify theft:

1. Contact service guarantee and insurance provider, if applicable.
2. File fraud alert with all 3 credit bureaus (Experian, Equifax and TransUnion);
3. File a police report (local city police);
4. Keep a copy of the police report for yourself; and,
5. Submit all documents required by the service guarantee and insurance policy, if applicable.

**ARTICLE 55**  
**ROTATIONAL ASSIGNMENT AND PERSONNEL CLEARINGHOUSE PROGRAMS**

**SECTION 55.01: Rotational Assignment Program.**

**Definition:** The Rotational Assignment Program (RAP) is designed to serve a dual advantage by providing developmental opportunities to our employees while providing program offices with assistance while filling gaps in resources.

**General:** The Department shall permit employees to take temporary assignments that provide them an opportunity to rotate through different positions for the sake of employee development, and cross-training in accordance with Departmental policy and procedure. The Department will administer a rotational assignment program.

- A. Management agrees that the RAP Program applies only to Bargaining Unit employees who volunteer for participation and is not intended to be a vehicle for directed reassignments for non-volunteers.
  
- B. Management agrees that under this program, volunteer Bargaining Unit Employees will only be assigned to the position to which they volunteered. Rotational assignments under this program are limited to the duty station of the employee unless management and the Union/employee mutually agree with a non-duty station rotation.
  
- C. Management agrees that there will be no non-volunteer directed reassignments under this program.
  
- D. Under this program, rotations to higher graded positions or positions with known promotion potential higher than what the employee holds may not exceed 30 days under any circumstances.

**SECTION 55.02: PERSONNEL CLEARINGHOUSE.**

**General:** The Personnel Clearinghouse is a program that assists employees in obtaining other positions within the Department by way of a lateral reassignment. The Clearinghouse will benefit

both employees and management. Additional procedures are described in HUD Handbook 334.1 dated September 2015. The Union reserves its right to bargain any future policy changes.

A. General Clearinghouse:

1. Description: The General Clearinghouse provides an applicant pool to managers and is another resource to fill jobs within their organizations quickly with qualified candidates without the need to advertise reassignment opportunities to attract candidates. Essentially, the General Clearinghouse is a database with employee resumes that may be searched.
2. Requirements: In order to be considered for lateral positions, employees must submit a resume, through the online HUD Clearinghouse site. To ensure the protection of Personally Identifiable Information (PII), employees are encouraged to not disclose personal information such as home address, home phone number, personal email address or social security number. The employee must meet the qualifications for the position. Employees must identify/select Program Offices for which they wish to receive consideration.
3. Procedures: A Manager will review resumes and identify potential candidates for their vacant positions. Once a manager has identified potential candidates, the Clearinghouse Program Manager will review each employee's resume, assess qualifications, and inform the manager which, if any, of the candidates are qualified for their vacant position.

B. Position Specific Clearinghouse:

1. Description: A non-competitive posting job will identify a specific reassignment opportunity for which management has indicated they would consider internal qualified candidates. These job opportunities will be posted on the HUD Clearinghouse website, as they become available.
2. Requirements: Each Position Specific reassignment opportunity posting will include the following:

- The title, series and grade;
- The Program Office;
- A synopsis of the duties;
- Statements regarding the required qualifications and that the position has no known promotion potential;
- Email address for applications;
- Any other relevant information; and
- Opening and Closing Dates of the Reassignment Opportunity.

3. Procedures: The Clearinghouse Program Manager or HR Specialist will review all resumes submitted for qualifications determinations for the specific reassignment opportunity after the position has closed. The potential list of qualified applicants will then be forwarded to the selecting official for consideration.

**SECTION 55.03: LATERAL MOVEMENT.**

**General:** The Parties recognize the value of implementing a program that will facilitate succession planning, improve workforce flexibility, and create a positive relationship between management and employees. The parties agree that flexibility, which may result in changing duties of employees through rotations, details, or permanent reassignments, further accomplishes the Department's mission. The Department and the Union recognize that lateral movement may be used as one option to facilitate resolution of workplace disputes.

**A. INTERNAL ANNOUNCEMENTS:**

Prior to a Merit Staffing announcement, the Department may choose to advertise positions within the Department which could result in the lateral reassignment of employees to positions with no greater promotion potential than the employee currently holds. This program is not to be confused with the Merit Staffing Handbook requirements. The assignments covered by this article are lateral assignments that do not require competition and do not lead to promotions, except promotions as permitted by law.

**B. EMPLOYEE REFERRALS:**

The Department shall refer to hiring supervisors, each employee who responds to a specific announcement as long as the employee meets the stated minimum qualifications without rating and ranking. Employees may not be limited based solely on their occupational series as long as they otherwise meet all requirements. An employee cannot be placed in a different interval series, from a single grade series to a two-grade interval series unless

allowed by law, rule or regulation. Employees may be detailed or temporarily assigned to another position at a higher grade in accordance with statutes, laws, regulations, Departmental policies, and the collective bargaining agreement.

**C. EFFECTIVE DATE OF REASSIGNMENTS:**

Supervisors and managers may delay the effective date of a reassignment so that the selected employee may complete previously assigned work, and may not veto a permanent reassignment. Delays for reassignments shall not exceed 2 pay periods from the date of selection.

**D. LIMITATIONS ON LATERAL MOVEMENTS:**

There shall be no limitation, other than the employee's qualifications on reassignments to different program offices. The employee's current supervisor may not hinder an employee's permanent placement.

**E. NO ADVERSE ACTIONS:**

There shall be no adverse actions taken against employees on the basis of their reasonable participation or expressed interest in any aspect of lateral movement activities.

**F. WORK SCHEDULES:**

Employees who are reassigned through lateral movement shall have the same rights to telework and alternative work schedules as other employees in their new office, except in the case where an employee's mutually agreed upon training plan requires the employee's presence in the office for a specific time period.

**SECTION 55.04. IMPLEMENTATION.**

The Department shall provide the Union with any new proposed guidance for implementing and administering lateral movements, including rotational assignments. The guidance will be consistent with the terms of the Agreement. Management will solicit comments on any new proposed guidance from the Union and incorporate as appropriate.

- A. Management in partnership with the Union shall market the programs in a manner that ensures that all employees and supervisors are aware of its existence.

- B. Management shall provide guidance about participating in the programs as an employee or hiring supervisor accessible through the HUD@Work site and any successor websites, including under the OCHCO and A-Z Tools pages.
- C. The Department shall encourage and enlist supervisory participation in the lateral movement program, including rotational assignments.

**SECTION 55.05. REPORTS.**

The Department shall provide participation reports to the union regarding programs governed by this article upon the Union's request.

**ARTICLE 56**  
**EMPLOYEE VOLUNTEER ACTIVITIES**

**SECTION 56.01: GENERAL.**

This Article encompasses the procedures and conditions for employees to request and use leave for volunteer services, including volunteer activities under the Adopt-A-School program in accordance with OPM guidance.

**SECTION 56.02: ALLOWANCE OF TIME.**

Supervisors may approve up to 96 hours of administrative leave for volunteer purposes per twelve (12) month period.

**SECTION 56.03: REQUIRED CRITERIA.**

The volunteer activity must meet one of the following four (4) criteria:

1. The absence will enhance the professional development or skills of the employee in his/her current position;
2. The absence is brief and is determined to be in the interest of the Department;
3. The absence is due to emergencies, disasters or any other situation officially sponsored or sanctioned by the Department;
4. The volunteer activity is directly related to the Department's mission.

The volunteer activity is not limited by location. Any costs regarding a volunteer activity is solely the responsibility of the employee.

**SECTION 56.04: REQUEST/APPROVAL PROCEDURES.**

Requests for administrative leave must be made in writing using the Administrative Leave for Volunteerism Form (Appendix E/HUD 71) subject to the provisions in HUD Handbook 610.01, in most cases three (3) weeks in advance. The request should include the name of the



organization sponsoring the volunteer activity, the location, the date(s), detailed information describing the volunteer activity, and which of the required criteria apply to the activity in question. The supervisor shall respond promptly, but no later than one (1) workweek after receipt of the written request. If circumstances preclude an advance written request for administrative leave, an employee may request approval of annual leave in accordance with established procedures. Upon approval of the absence for volunteer activity, the employee may subsequently have the leave changed to Administrative Leave.

**SECTION 56.05: ETHICS.**

All volunteer activities shall comply with current government wide and Agency standards of ethical conduct. Employees may not participate in volunteer activities that would create a conflict of interest with their official duties. Compliance with the standards of ethical conduct is the responsibility of the employee. Employees must obtain approval on the "Leave Request for Volunteer Activities" form from an Agency Ethics Official if the employee serving in the volunteer position has a potential conflict of interest. Volunteer activity may be performed for faith based organizations provided it does not involve inherently religious activities. If the employee is not sure if the voluntary activity would create a conflict or an appearance of a conflict of interest, the employee should consult with an Agency Ethics Official.

## **ARTICLE 57 WELLNESS**

### **SECTION 57.01: GENERAL.**

The Parties agree that promoting employee wellness, health, and fitness, may benefit HUD in terms of improved productivity, reduced health care costs, and reduced use of leave. Management will support a variety of programs that promote employee health, fitness and wellness, consistent with law, rule, and/or regulation.

### **SECTION 57.02: COMMITTEES.**

A function of the Labor Management Forums, is to encourage wellness programs. The forum shall form a subcommittee to address wellness issues in coordination with the OCHCO Health and Wellness Division. This committee is encouraged to develop/sponsor educational programs, conduct surveys to assess the needs and interests of the employees, promote healthy food choices in the cafeterias and vending machines, and pursue health club discounts. The committee may also explore partnerships with other agencies for fitness and wellness opportunities. The committee shall receive no more than 3 hours per quarter of official time. A charter will be developed to identify the parameters of this committee and to distinguish its goals from the Health and Safety Committee.

### **SECTION 57.03: EDUCATION PROGRAMS.**

The Department will provide access to and encourage employees to participate in educational programs such as but not limited to: nutrition, weight reduction, stress reduction, smoking cessation, heart health, and cancer prevention to educate employees on how they may achieve optimal health. The Department shall also provide training programs, where available, related to first aid, cardio-pulmonary resuscitation (CPR) and the use of automatic external defibrillators (AEDs).

**SECTION 57.04: IMMUNIZATION PROGRAMS.**

- A. The Department will provide immunizations, where available, through its existing Health Unit or Public Health Service facilities.
  
- B. When the Department provides immunizations for contagious diseases such as the flu or H1 N1 employees not located at a participating facility may use a reasonable amount of administrative time, up to two (2) hours, to secure vaccination for these contagious diseases.

**SECTION 57.05: HEALTH SCREENINGS.**

Subject to available funds, health screenings shall be offered to bargaining unit employees within the prorated allocation, if any, made available by the Department within that office.

**SECTION 57.06: FACILITIES.**

Local Wellness Committees may explore the possibility of using existing space in HUD facilities for exercise classes, yoga, and/or other low impact physical fitness activities during employee non-duty hours. The details of such programs and procedures for utilization of space will be a topic of discussion for the local LW, irrespective of scheduled fitness activities, the business needs of the Department shall always take precedence.

**SECTION 57.07: FITNESS.**

- A. Subject to available funds, Management may provide a subsidy for gym, health club, or fitness center memberships, either at an on-site fitness center located in a HUD facility, or, when no on-site facility is available, for local gyms, health clubs, or fitness centers.
  
- B. If subsidies become available, the National LMF committee will make recommendations regarding the program under applicable law, rule, or regulation.
  
- C. Local LMF wellness committees are encouraged to make recommendations that support employee fitness efforts.

**SECTION 57.08: VOLUNTARY PARTICIPATION.**

- A. Employee participation in any health program, including but not limited to education programs, immunization programs, health examinations, and fitness programs, shall be voluntary.
  
- B. Employees will not be penalized on the basis of their choosing to participate or not participate in such programs, nor will any distinction shall be made among employees on the basis of the hours of participation.
  
- C. If the Department tracks program outcomes, the Department shall track only total or general results of the program. Program outcome information will be shared at the national Labor Management Forum. The Department shall not identify individual participants, or use identifying information in any way.

**SECTION 57.09: VENDING.**

Where vending is available, the Department will make a good faith effort to ensure that healthy choices are available to employees such as: fruits and vegetables, fruit juices, unsweetened waters, low calorie, and other healthy choices.

**ARTICLE 58**  
**COLLABORATIVE CONFLICT RESOLUTION (CCR)**

**SECTION 58.01 - GENERAL.**

The Department and the Union recognize the beneficial effects to be achieved by embracing non-adversarial procedures that may facilitate resolution of workplace disputes and other matters between employees and Management. The Collaborative Conflict Resolution (CCR) process demonstrates a commitment to a positive approach and joint ownership of concerns and solutions. The CCR processes described in this Article may be used for any informal dispute resolution step described in this Agreement and may be utilized at any time in any formal adversarial process. It is intended to resolve disputes more quickly, effectively, informally, and comprehensively than traditional processes. CCR includes mediation, but is not limited to mediation. Parties may suggest different modes of CCR, including neutral evaluation, shared neutrals programs, interest-based problem solving, peer review, conciliation, facilitation, and neutral fact-finding. The intent is to keep the process as informal as possible.

**SECTION 58.02 - PROMOTION AND TRAINING.**

The Department and the Union will promote and encourage the use of CCR. The Department shall provide an initial training program for employees and supervisors on CCR, and shall provide annual online training for Department and Union representatives in the use of CCR principles and methods. The Department will provide opportunities for periodic Union input and suggestions on training programs, curriculum, and pilot tests in the Labor Management Forums. The Labor Management Forums may evaluate CCR programs and activities, identify subjects and situations appropriate for CCR, and advise the Department on CCR programs, training, and other resources.

**SECTION 58.03 - DEFINITIONS.**

- (a) **The Parties** are usually those affected employee(s) and affected management who will be significantly involved in the CCR process and who participate in a proceeding. In these proceedings, the Parties may be represented (usually by the Union and the Employee/Labor Relations Specialist).
- (b) **Shared Neutrals Programs** consist of disinterested third parties that are not involved in the conflict and the neutrals are shared between organizations.
- (c) **Mediation** is a process where a mediator helps the parties who are in conflict attempt to reach a resolution that is acceptable to them.

- (d) **Settlement** is a mutually agreed upon resolution between disputing parties.
- (e) **Settlement Agreement** is a written document signed by the employee and/or employee's representative and management representative that identifies the dispute and specifies the terms of the Settlement.

#### **SECTION 58.04 - MEDIATION.**

- A. Generally, CCR will take the form of mediation.
- B. Normally mediation sessions will be short in duration, typically not to exceed 1 day.
- C. Mediation shall be conducted by mutual agreement of the Parties.
- D. All notes will be destroyed at the close of the process.
- E. The management representative must have authority to sign the Settlement Agreement and bind the Department in the Settlement, subject to a legal sufficiency review.
- F. The Settlement Agreement may be used as evidence in any subsequent third party proceeding to enforce the terms of the settlement.
- G. If the mediation fails to result in a Settlement, the employee or Union shall have the right to move the matter to the grievance or arbitration process or other statutory proceeding before a third party in accordance with this Agreement.
- H. It is understood and agreed that mediators will not be called as witnesses in any subsequent proceedings.
- I. If the parties agree to mediation, the Employee/Labor Relations (ELR) Specialist shall promptly contact the Federal Mediation and Conciliation Service (FMCS) or other appropriate source(s). The ELR Specialist shall provide the FMCS or other provider with the name, organization, and phone number of the employee and the Union representative representing the employee, if any, and the management official(s) who will represent the Department in the mediation. If the employee is self-represented, the ELR Specialist will notify the appropriate Union official of the meeting in accordance with this Agreement. The ELR Specialist shall provide the mediator a copy of this article. The parties to the mediation may mutually agree to use a mediator who is an employee of the Department.

#### **SECTION 58.05 - INFORMAL RESOLUTION OF GRIEVANCES.**

- A. The CCR process can be used to prevent or accelerate the process of resolving an employee grievance. The scope of CCR may extend beyond the range of grievable subjects as defined in this Agreement.
- B. The initiation of the formal CCR process under this Article suspends any deadlines or other timeframes in the grievance process until completion. The CCR can be initiated either before a grievance is filed or at any step during the grievance process. However, the time that has elapsed before initiating the CCR shall count against the grievance time limits should CCR be unsuccessful.

C. The Union may initiate the CCR process in any party grievance.

**SECTION 58.06 - CCR IN THE DISCIPLINE PROCESS.**

The CCR can be initiated before a disciplinary action is completed. The initiation of the formal CCR process under this Article suspends any deadlines or other timeframes in the discipline process until completion.

**SECTION 58.07 - CCR IN CONFLICTS BETWEEN EMPLOYEES.**

The parties may utilize the CCR process for employees to resolve workplace conflicts with other employees.

**SECTION 58.08 - CCR IN UNFAIR LABOR PRACTICES.**

The parties may utilize the CCR process for resolving allegations of Unfair Labor Practices.

**SECTION 58.09 - REPORTING.**

Management shall furnish any statistical reports developed regarding CCR to the Union.

**ARTICLE 59**  
**PHASED RETIREMENT PROGRAM (PRP)**

**SECTION 59.01 – REQUIREMENTS.**

Non-temporary, retirement eligible BUES who meet all of the following CSRS or FERS requirements for retirement benefits may request to enter the phased retirement program:

- A. Must have been employed, on a full-time basis at HUD for not less than the 3-year period preceding the effective date of his or her entry into phased retirement status as stated in 5 CFR §848.201.
  
- B. Must be an employee in the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), who is eligible for immediate retirement AND meet the provisions of the implementing regulations. This program limits participation to:
  - 1. CSRS employees who have at least 30 years of service and have attained at least age 55 or have at least 20 years of service and have attained at least age 60 (5 U.S.C. 8336a(a)(9)).
  - 2. FERS employees who have at least 30 years of service and have attained at least their Minimum Retirement Age (MRA), between ages 55-57, or have at least 20 years of service and have attained at least age 60 5 U.S.C. 8412a(a)(9).

**SECTION 59.02 – DENIAL.**

A denial of an employee's application for phased retirement may be grieved under Article 9 of the LMA.

**SECTION 59.03 – APPROVAL AUTHORITY.**

Approval authority is delegated to the General Deputy Assistant Secretary (GDAS) or equivalent position for the program office. However, all requests must be submitted to the immediate supervisor. Approval is determined individually according to the facts of the particular situation. The approving official will approve or disapprove the employee's participation in the program in



writing, within 10 business days of receipt of a complete application package, unless extenuating circumstances preclude processing within this period. An employee will be notified in writing of any delay in processing due to extenuating circumstances (e.g., the supervisor is on leave, travel, and/or higher management level approval of the request is required). Provide written explanation to the employee, if the request to participate is denied.

#### **SECTION 59.04 - APPROVAL CRITERIA.**

Consideration of an employee's request to enter the phased retirement program will be based on the merits of the application. The criteria for approval for the PRP are as follows:

- A. The employee must have achieved a minimum rating of fully successful on their most recent annual performance evaluation.
- B. The requesting employee must submit a completed, signed agency time limit and mentoring agreement.
- C. The operational needs of the unit do not require the employee to work in excess of a part-time (50%) work schedule.
- D. The staffing level is sufficient to accommodate the part-time work schedule of the phased retiree.
- E. The employee has expert knowledge and/or skills essential to the organization and mission that need to be conveyed to others.
- F. The employee is capable and willing to be a mentor.
- G. The employee has not previously entered phased retirement. (**Note:** An individual may only enter phased retirement once.)

If more participants in the program area apply for the PRP than can be accommodated, applications will be considered in the order they are received. In the case where employees in a program area apply to participate in the PRP at the same time, and not all employees can be accommodated, then the Federal SCD seniority shall determine the order of consideration.

**SECTION 59.05 – WORK SCHEDULES.**

- A. Employees in PRP may be eligible for flexitour or maxiflex work schedules as per Article 20. Employees in PRP are eligible to work compressed work schedules and may earn credit hours, subject to the statutory limit of  $\frac{1}{4}$  of the work schedule (10 hours per pay period).
- B. It is the responsibility of the supervisor to confer with the employee and establish the official work schedule, which may include telework as per Article 7.

**SECTION 59.06 – PERFORMANCE STANDARDS.**

- A. Mentoring activities must be clearly defined in the employee’s performance standards.
- B. Performance requirements must be measurable and results-oriented based on a PRP work schedule. Employees’ EPES must be adjusted to reflect their half-time tour of duty.

**SECTION 59.07 – UNION DUES.**

Union dues will be withheld in accordance with Article 5 of the LMA.

**SECTION 59.08 – PRP POLICIES AND PROCEDURES HANDBOOK.**

The PRP policies and procedures handbook shall be the information and procedures guide for the PRP where not inconsistent with this article.

**ARTICLE 60**  
**VERA/VSIP (BUYOUTS)**

**SECTION 60.01: GENERAL.**

- A. Voluntary Separation Incentive Payments (VSIP) and Voluntary Early Retirement Authority (VERA) are two (2) provisions authorized by OPM that an agency may request for the purpose of: VERA – substantial restructuring, reshaping, downsizing, transfer of function or reorganization of an agency to temporarily lower the age and service requirements in order to increase the number of employees who are eligible to retire; VSIP - provides a lump sum payment of up to \$25,000 to employees as an incentive to voluntarily separate from federal service.
- B. Buyouts are voluntary. No adverse action will be taken against an employee for not accepting a buyout offer. The identity of any employee applying for a buyout will be held confidential. The Office of Human Resources (OHR) is the only office authorized to have access to the buyout applications and the identity of any employee requesting a buyout. The employee's identity will be released to Management, only after the employee has submitted a retirement package to the Bureau of Fiscal Service (BFS).

**SECTION 60.02: UNION RIGHTS.**

The parties agree that this agreement does not constitute a waiver of any union rights under the HUD/NFFE Agreement, law, rule, or regulation.

**SECTION 60.03. LOCAL NEGOTIATIONS.**

The Agency agrees to provide the union notification and the opportunity to bargain, as appropriate, of any subsequent changes to the bargaining unit employees' working condition, i.e., moves, details, and reassignments that may occur as a result of buyouts.

**SECTION 60.04: BUYOUT/EARLY OUT INFORMATION TO THE UNION.**

Management agrees to provide the Union, within 30 days of the closing of the application window, an electronic list of the names of the bargaining unit employees who accepted the buyout and early outs. Upon request, the agency agrees to provide a final list of employees within 15 business days following the official separation date.

**SECTION 60.05: USE OF BUY-OUT ELIGIBILITY LISTS.**

Management agrees that the buyout eligibility list will be used solely for buyout purposes.

**SECTION 60.06: BUYOUTS/EARLY-OUTS COVERAGE.**

Buyout offers and Early outs will be extended to all eligible employees duty stationed in the affected offices within the NFFE 1450 Bargaining Unit.

**SECTION 60.07: EMPLOYEE RIGHTS AND NOTIFICATION.**

- A. **Non-Discrimination:** All decisions regarding the buyout application process will not be based on any discriminatory factors or other violation of law, rule, regulation, or the HUD/NFFE Agreement.
- B. **Telecommuting:** This agreement will have no adverse impact on any telecommuting arrangement(s).
- C. **Reasonable Accommodation:** This agreement will have no adverse impact on an employee's Reasonable Accommodation.
- D. **Waiver of Agency Restrictions:** The Agency agrees to consider each waiver request independently. Each waiver request shall meet the required statutory and/or regulatory waiver standards.

**SECTION 60.08: APPLICATION PROCESS.**

- A. **Announcement:** All employees being offered the buyout within the specific program area will receive simultaneous electronic notification, which includes the buyout plan that will outline the parameters of eligibility and the process for application.
- B. **Application Window:** The application window will be no less than fourteen (14) calendar days, unless extended by the Agency.
- C. **Submission:** Employees must submit buyout applications by electronic mail. All applications must be submitted within the appropriate consideration period. Applicants are authorized to use an appropriate amount of time and government equipment to prepare and submit the application. Employees unable to submit applications via email will

contact the Policy Buyout Team, identified by Management, for immediate assistance/support. Employees will be notified by electronic mail after the window closes if additional information is needed, and the information must be provided to the OCHCO, Policy Development Branch (PDB) within the specified timeframe identified by management.

- D. **Notification of Receipt:** Employees will receive notification of receipt of the application by Policy and Development Branch (PDB) within one (1) business day by electronic mail.
- E. **Application Corrections:** Employees will be notified by electronic mail within two (2) business days if their application can be processed. If the application is incorrect and/or incomplete, the employee will be notified of the reason(s), and will be given an opportunity to submit a corrected application.
- F. **Approval Period:** Within five (5) business days after receipt of the application, Management will advise each applicant if:
  - a) the application is approved or disapproved and the reason(s); or
  - b) Application will be temporarily deferred, upon the determination of other eligible employees applying for the buyout and the approval of a buyout.
- G. **Competing Applicants:** In the event that more than one eligible employee applies for a single buyout, the employee with the earliest service computation date (SCD) will receive the buyout. In the event that two or more employees have the same SCD, the employee with the earliest entrance on- duty (EOD) date with the Department will be used. In the instance where an additional tiebreaker is needed, the largest digit of the last digit of the employee social security number will be offered the buyout. The date and time of application submission will not be a factor in the selection process.
- H. **Approved Applicants:** Approved applicants have the right to change their departure date, provided the date is within the established buyout separation window.
- I. **Employee Decision Period:** Employees will have three (3) business days to accept or reject a buyout offer. The exception would be that employees might have less than three (3) business days to accept or reject the buyout offer to meet the required separation date stated in the buyout plan.

J. **Acceptance of Buyout/Rescission Process:** Employees may rescind their acceptance of a buyout at any time prior to the effective date of separation stated in the buyout plan.

K. **Applications in Abeyance:** PDB shall hold applications from employees who are not selected in abeyance pending decisions. Applications held in abeyance must be kept private, not be used for further actions (such as reassignments, furloughs, etc.) but, only for the use originally intended.

**SECTION 60.09: VSIP REPAYMENT REQUIREMENT.**

An executive branch employee who received a VSIP and accepts employment for compensation with the Government of the United States within 5 years of the date of the separation on which the VSIP is based, including work under a personal services contract or other direct contract, must repay the entire amount of the VSIP to the agency that paid it before the individual's first day of reemployment. However, employees may request a waiver of repayment subject to approval by the director of OPM, in accordance with 5 CFR 576.203.

APPROVAL OF AGREEMENT:

FOR MANAGEMENT:

FOR THE UNION:

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Ginger Richardson  
Chief Negotiator

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Kenneth Einbinder  
Chief Negotiator

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Joseph Sullivan  
Director  
Employee and Labor Relations Division

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Elizabeth McDargh  
President, Local 1450  
National Federation of  
Federal Employees  
Federal District 1, IAMAW

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Towanda Brooks  
Chief Human Capital Officer

Date Signed: July 27, 2016

NEGOTIATING TEAMS:

MANAGEMENT:

Ginger Richardson (Chief Negotiator)  
Wayne Sauseda  
Mona Fandel  
Barbara Gallegos

UNION:

Ken Einbinder (Chief Negotiator)  
Charron Alfonso  
Lisa Barnard  
Dennis Murakami  
Sheryl Ryan Wood