

# **AGREEMENT**

*Between*

**ALCOHOL AND TOBACCO TAX  
AND TRADE BUREAU**

*and*

**NATIONAL TREASURY  
EMPLOYEES UNION**

\* TO GO DIRECTLY TO A SPECIFIC ARTICLE, CLICK ONCE WITH CURSOR; Note: page numbering may vary depending upon print settings.

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## **PREAMBLE**

The Parties agree that the public interest requires high standards of employee performance and continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency.

The well being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment.

The participation of employees is improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials.

This Agreement is made and entered into by and between the Alcohol and Tobacco Tax and Trade Bureau (TTB), hereinafter referred to as "the Employer" or "the Bureau", and the National Treasury Employees Union (NTEU), hereinafter referred to as "the Union."

# **ARTICLE 1**

## **COVERAGE**

### **Section 1 Unit Description**

The following employees are covered by this Agreement:

A. INCLUDED: All professional employees (those employees in occupations requiring positive education requirements) of the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, including field employees and employees assigned to the Headquarters Office.

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

B. INCLUDED: All non-professional employees of the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, including field employees and employees assigned to the Headquarters Office.

EXCLUDED: All non-professional employees who are management officials, supervisors, or employees described in 5 U.S.C. 7112 (b)(2), (3), (4), (6), and (7).

### **Section 2 Definitions and Contract Rights**

A. This Agreement applies to bargaining unit employees and positions only. Whenever the term employee is used in this Agreement, it is understood by the parties to mean a bargaining unit employee. It grants no rights to employees not in bargaining unit positions and does not apply to actions involving non-bargaining unit positions.

B. The parties agree that wherever the phrase, "The Employer has determined," Management has determined," or "TTB has determined," appears in this collective bargaining agreement, it denotes a unilateral management determination that has been placed in the agreement for information purposes only. The parties understand that the Employer may unilaterally change such determinations at any time to the extent consistent with law, after any notification to the Union and negotiations required by law. The parties further understand that the Employer fully retains all management rights accorded by 5 U.S.C. 7106 (a), and that nothing in this

agreement shall constitute a waiver of the Union's right to negotiate over the employer's rules and regulations to the extent permitted by law.

### **Section 3    New Units**

If the Union attains certification as the exclusive collective bargaining representative for any TTB unit of employees not covered by this Agreement, then the provisions of this Agreement will automatically extend to and apply to such unit of employees until such time as this Agreement expires or terminates pursuant to its terms.

## **ARTICLE 2**

### **PRECEDENCE OF LAWS AND REGULATIONS**

#### **Section 1    Laws, Regulations and TTB Directives/Orders**

A. In the administration of all matters covered by this Agreement, all management officials and employees are governed by existing and future laws. Should any conflict arise, statute will govern.

B. In the administration of all matters covered by this Agreement, all management officials and employees are also governed by Government-wide and Treasury Department rules and regulations in effect upon the effective date of the Agreement. Should any conflict arise in the administration of this Agreement between the terms of this Agreement and any Government-wide rule or regulation, Agency rule or regulation, or the Treasury Personnel Manual, issued after the effective date of this Agreement, the terms of this Agreement will supersede and govern. However, any government-wide rule or regulation issued after the effective date of this Agreement which concerns or affects: (1) the exercise of a management right pursuant to 5 U.S.C. 7106 (a); or (2) a prohibited personnel practice pursuant to 5 U.S.C. 2302 shall supersede and govern.

C. The Parties agree that if the Employer implements any regulation, instruction, or policy within its discretion that conflicts with this Agreement, the provisions of the Agreement shall control. In any conflict between the terms of this Agreement and any provision of the TTB Directive or Order or previously negotiated agreement, regardless of date of issuance, the terms of the Agreement will govern.

#### **Section 2    Contract Severability**

Invalidation of any provision of this Agreement shall have no effect on any other provision.

#### **Section 3    Reopening Invalidated Articles**

Invalidation of any portion of this Agreement will permit either party to reopen negotiations over the invalidated topic in accordance with Article 39, Mid-Term Bargaining.



#### **Section 4 Termination of Other Negotiated Agreements**

With the exception of the below listed agreements, all other previously negotiated agreements, national or local, are hereby terminated. The "surviving" agreements are:

A. TTB and the National Treasury Employees Union (NTEU) Flexi-place Program (11/09/2004)

B. TTB/NTEU National Revenue Center Memorandum of Understanding (06/13/2007)

The parties recognize, however, that the Employer remains obligated to provide the Union notice and the opportunity to bargain over any changes to conditions of employment.

## **ARTICLE 3**

### **EMPLOYEE RIGHTS**

#### **Section 1 Participation in a Labor Organization**

A. Employees covered by this Agreement shall have the right to form, join or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided by Federal law and regulation, such rights include the right—

1. To act for a labor organization in the capacity of a representative and, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the Executive Branch of the Government, the Congress, or other appropriated authorities; and
2. To engage in collective bargaining with respect to conditions of employment through the Union as provided by law and this Agreement.

B. Although management officials, confidential employees and supervisors are, as required by law, excluded from the bargaining unit, they may become dues paying members of the Union. However, such official cannot pay dues through payroll deduction.

C. A bargaining unit employee may become or remain a member of a labor organization or pay money to the organization pursuant to a voluntary written authorization for the payment of dues through payroll deductions. An employee may also make voluntary cash dues payments.

#### **Section 2 Retaliation**

Employees shall be free from coercion, restraint, discipline or discrimination in the exercise of any rights granted by this Agreement, including their right to initiate grievances in good faith, to designate a representative and provide information concerning any matter for which remedial relief is sought under this Agreement.

### **Section 3 Employee Privacy**

Any discussions with employees concerning counseling, evaluations, workload review, or disciplinary actions will be conducted so as to ensure the reasonable privacy of the employee.

### **Section 4 Changes in Policies**

Present and future personnel policies and practices, will continue to reflect progressive work practices to facilitate improved performance and efficiency.

### **Section 5 Dignity**

The Employer and the Union will recognize and respect each other's dignity in day to day operations and the dignity of all employees in the formation and the implementation of personnel policies and practices.

### **Section 6 Investigatory Interviews**

A. An employee who is the subject of an investigation/examination, who reasonably believes that an interview may result in disciplinary action, may request that a representative from the Union be present during any interview. Such statutory language can be found in the Appendix C.

B. No employee will be required to answer any question of a manager, or other management representative in connection with an investigation/examination that could possibly lead to disciplinary, adverse or unacceptable performance action against an employee without first being afforded a reasonable opportunity to obtain representation, if the employee so requests.

C. When an employee who is the subject of an investigation is interviewed, the employee will be informed of the general nature of the matter, and whether it concerns criminal or administrative misconduct. If in cases involving solely administrative misconduct, the employee refuses to respond to questions, the employee shall be advised of any legal requirement to respond.

D. Where the subject of the investigation is being interviewed regarding possible criminal misconduct, the employee shall be entitled to all rights and protections provided/afforded by law (e.g. Miranda and Kalkines warnings). See Appendices A and B.

E. When the person being interviewed is accompanied by a representative furnished by the Union, in both criminal and administrative cases, the role of the representative is to advise the employee and not to transform the interview into an adversarial contest. Generally, the role of the representative includes, but is not limited to the following:

1. To clarify the questions;
2. To clarify the answers;
3. To assist the employee in providing favorable or extenuating facts; and
4. To suggest other employees who have knowledge of relevant facts.

## **Section 7    Resignation**

A. When an employee is faced with an Employer-initiated adverse action, the employee shall have the right to resign his or her position with the Employer. Such resignation may be made effective at any time prior to the effective date of the adverse action.

B. Any resignation shall not be secured by coercion.

C. An employee may withdraw a resignation at any time prior to its effective date, provided the withdrawal is communicated to the Employer in writing and is received by the Employer prior to its having made a commitment to fill the position of the resigning employee.

## **Section 8    Official Time for Grievance Related Matters**

A. A directly affected employee will be granted travel and per diem, in accordance with Federal Travel Regulations, reasonable official time to travel, and official time to participate in the following activities:

1. Attending grievance meetings where the employee is the grievant;
2. Attending arbitration hearings where the employee is the grievant;
3. Attending meetings for the purpose of presenting an oral reply to a proposed notice of disciplinary action, adverse

action, unacceptable performance action, or step increase reconsideration;

4. Attending statutory or regulatory appeals hearings, including appeals before the Merit Systems Protection Board (MSPB), where the employee is still on the rolls of the Employer; and
5. Attending an examination by a representative of the agency in connection with an investigation.

B. An employee will be entitled to a reasonable amount of official time when:

1. Discussing with a Steward, Chief Steward, Chapter President or a National Representative of the Union using time under Article 6, matters for which remedial relief may be sought under terms of the Agreement; and
2. Preparing responses to those actions set forth in Section 8(A), 1-5 above.

## **Section 9 Employee/Union Meetings**

A. If an employee wishes to meet with a Union representative(s), the employee will request permission from his/her supervisor. Such request will normally be granted, if workload permits. If the request is denied, the supervisor and the employee will endeavor to reach a mutually agreeable time for the meeting and management will provide an explanation describing why the employee could not be released. Upon request by the employee, Management will provide the explanation in writing.

B. It is the employee's responsibility to make arrangements for such meetings with the supervisor as far in advance as possible. However, if the meeting must be held on short notice, and the supervisor is not at the worksite and is not expected to return, or cannot be reached within a reasonable amount of time, the employee should seek permission from any individual designated to act on behalf of the supervisor for such matters. If no such person has been designated, the employee should seek permission from the next higher-level supervisor.

## **Section 10 Equal Employment Opportunity**

A. The Parties shall adhere to all Federal laws, regulations, and Department of the Treasury policies with respect to equal employment

opportunity and will not discriminate for or against any employee on the basis of any classification protected by those laws and policies.

B. Reasonable accommodation shall be provided to qualified employees with disabilities under the provisions of the Rehabilitation Act and case law interpreting the Act, and other appropriate laws, (e.g., Americans with Disabilities Act) and regulations.

## **Section 11 Prohibited Personnel Practices**

A. The Parties hereby incorporate by reference the provisions of 5 U.S.C. 2302, which sets forth various prohibited personnel practices.

B. Should a grievance arise under this section, reference should be made to the various judicial and administrative decisions interpreting 5 U.S.C. 2302 for guidance.

## **ARTICLE 4**

### **UNION RIGHTS AND RESPONSIBILITIES**

#### **Section 1 Exclusivity of Representation**

The National Treasury Employees Union has been accorded recognition as the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the bargaining unit it represents without discrimination and without regard to labor organization membership, in matters covered only by this Agreement.

#### **Section 2 Bargaining Rights**

A. The Union has the right to engage in collective bargaining in a good-faith effort to reach agreement with respect to conditions of employment for bargaining unit employees. Changes in conditions of employment that are not otherwise covered by the Terms of this Agreement must be negotiated pursuant to the terms of Article 39 of this Agreement.

B. Pursuant to 5 U.S.C. 7106(b), nothing shall preclude the Employer and the Union from negotiating:

1. At the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
2. Procedures which management officials of the Agency will observe in exercising any authority under 5 U.S.C. 7106(a)[see Article 5, Section 1] or 7106(b)(1) [subsection 1, above]; or
3. Appropriate arrangements for employees adversely affected by the exercise of any authority under 5 U.S.C. 7106(a) or (b)(1) by management officials.

### **Section 3    Formal Discussions**

A.    An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy, practices or other general condition of employment. The Employer must acknowledge the NTEU representative at the beginning of all said meetings. The NTEU representative is entitled to ask questions and make a brief statement regarding the NTEU position on the issue and, at the conclusion of the meeting, to meet with interested bargaining unit employees for a reasonable period of time (up to one hour).

B.    The Employer agrees to provide the Union with reasonable advance notice of all formal discussions. The Parties agree that notice to the Union of a formal discussion will be sufficient if provided to either the Chief Steward or Chapter President.

### **Section 4    Bargaining Unit Employee Roster**

On a quarterly basis the Employer will provide the Union with an electronic listing of all bargaining unit employees, identifying them by name, grade/band, step/zone, position title, organizational component, duty station and dues withholding status.



## **ARTICLE 5**

### **EMPLOYER RIGHTS**

#### **Section 1    Management Rights**

Subject to the provisions of 5 U.S.C. 7106(b) [see Article 4, Section 2B], nothing shall affect the authority of the Employer:-

- A. To determine the mission, budget, organization, number of employees, and internal security practices of the Bureau; and
- B. In accordance with applicable laws to:
  - 1. Hire, assign, direct, layoff, and retain employees in the Bureau, or to suspend, remove, reduce in grade or pay, or to take other disciplinary action against such employees;
  - 2. Assign work, make determinations with respect to contracting out, and determine the personnel by which the Bureau's operations shall be conducted;
  - 3. With respect to filling positions to make selections from:
    - a. Properly ranked and certified candidates for promotion; or
    - b. Any other appropriate source; and
  - 4. Take whatever actions might be necessary to carry out the missions of the Bureau during emergencies.

#### **Section 2    Limitation by Contract**

In addition to the rights set forth in Section 1 above, the Employer, in accordance with applicable laws and regulations retains all other rights, except as may be specifically modified by this Agreement.

## ARTICLE 6

### UNION STEWARDS

#### Section 1 Definitions

A. **Official Time** is duty time used by officers of the Union for representational purposes. Official time will be permitted in accordance with the applicable law.

1. **Bank Time** is the amount of official time allotted under the terms of the contract for officers of the Union to represent employees under the contract.
2. **Reasonable Time** is that amount of official time necessary to accomplish various representation functions of the officers of the Union that is not subject to the bank.

B. **Steward:** unless otherwise expressly stated, shall include Chief Stewards, Chapter Presidents, and individuals authorized pursuant to Section 2 below, whereby temporary Stewards can be designated by the Union. The Union may designate one (1) Steward for each office location of five (5) or more employees. The Union may also designate an additional Steward for every twenty-five (25) employees. For example, an office of 5-25 employees = 1 Steward. An office of 26-50 employees = 2 Stewards.

#### Section 2 Seeking Union Assistance

When seeking assistance from a Union Steward under the terms of this Agreement, employees shall seek such assistance from the Steward designated for the employee's representational area. When that Steward is not available, the employee shall seek assistance from the Chief Steward or President in the same Chapter. The employee will be granted a reasonable amount of official time for discussions with the Union representative who is utilizing official time under the terms of the contract. When accessing employer premises, all security requirements of the Employer must be complied with.

### **Section 3                      Non-Interference by Management**

The Employer will not restrain, interfere, coerce or discriminate against employees who exercise their right to designate a Union Steward to represent to the Employer, any matter of concern over the interpretation or application of this Agreement.

### **Section 4      Bank Time**

A. Upon Management's receipt of the names of representatives as required in Section 9 of this Article, the chapter shall receive a bank of official time equal in hours to the total of the number of bargaining unit employees multiplied by four(4). While not required, the Parties agree to a goal of sharing employee representation responsibilities equitably among the designated union representatives. The Employer will provide a quarterly report to the Union of bank time utilization under this Article.

B. A Steward may request official time from the Union Bank in order to:

1. Confer with an official, employee, National Staff Representative or with each other with respect to any matter for which remedial relief may be sought pursuant to the terms of this Agreement;
2. Prepare grievances;
3. Interview witnesses;
4. Review documents;
5. Prepare a written reply to a notice of proposed disciplinary action, adverse action, or unacceptable performance action, if requested by the employee;
6. Prepare for arbitration;
7. Prepare a reconsideration statement in connection with a denied step increase, if requested by the employee;
8. Preparation for an Authority investigation or hearing as the TTB Union representative;
9. Travel to and from meetings for which the Steward receives bank time, when travel is necessary;

10. Up to four (4) hours of preparation time for the Union representative involved in local midterm negotiations and up to two (2) hours of preparation time for a Union representative participating in labor/management relations meetings (i.e., Article 38); or
11. Participation in Union sponsored training that is of mutual benefit to both parties, e.g. designed to improve representational skills or otherwise improve the labor-management relationship, to the extent not covered under Section 7.

## **Section 5 Reasonable Time for Representational Duties**

A. At the Union's option, a Steward, Chief Steward, or Chapter President will receive reasonable official time (not subject to bank time) to be present at discussions with the Employer concerning conditions of employment related to employees of the unit. Such discussions are limited to:

1. Formal meetings between the Union and Management;
2. Presenting grievances or 3<sup>rd</sup> party reply meetings;
3. Other meetings with Management in the administration of this agreement and representation of employees;
4. Meetings to discuss or present ULP's or unit clarification petitions;
5. Oral replies to notices of proposed disciplinary, adverse, or unacceptable performance action, if requested by the employee;
6. Meetings to present appeals in connection with statutory or regulatory appeal procedures for which the Union is the designated representative;
7. Meetings for the purpose of presenting reconsideration replies in connection with the denial of a step increase, if requested by the employee;
8. Any examination of an employee in the unit by a representative of the agency in connection with an investigation (Weingarten Rights) if:

a. The employee reasonably believes that the examination may result in disciplinary action against the employee; and

b. The employee requests representation; and

9. Attendance at safety meetings or space discussions.

B. A Steward will receive a reasonable amount of official time to prepare an adverse action appeal to MSPB, a formal EEO complaint, an appeal of an unacceptable performance decision by MSPB, and for other statutory appeal matters not processed through the grievance procedure, if requested by the employee.

C. Union Stewards authorized official time to attend any of the above, will also receive a reasonable amount of official time to travel to any of these meetings.

## **Section 6 Notification Procedures to Employer**

A. A Steward will inform his/her supervisor of the approximate time he/she will be away from the work area, the reason for the time and where he/she will be. Reasons for denial of official time and when official time can be used will be provided. If requested by the representative, these reasons will be provided in writing.

B. Upon arrival, a Steward who enters a work area for representation purposes will inform the supervisor in that work area. Management retains the right to deny access if work needs dictate. Reasons for denial of access and when access can be granted will be provided. If requested by the representative, these reasons will be provided in writing.

C. When a Steward or employee has completed the use of official time he/she will advise the supervisor of the type and amount of official time used under this Article in the official time and attendance system.

D. Union Stewards shall not conduct internal Union business on official time.

E. TTB Union Stewards shall not represent employees of Agencies outside of TTB on official time.

## **Section 7    Training**

During each year of this Agreement up to 416 hours total of official time will be granted to Union representatives for travel and attendance at Union sponsored training. This training will not cover matters commonly referred to as "internal Union business." The employee will be released, workload permitting. If a request is denied due to work requirements, the Employer will explain the reasons in writing.

## **Section 8    Expenses Provided**

A. The Employer agrees to pay necessary travel and per diem expenses for at least one (1) TTB union representative, if a TTB employee, to attend the following activities:

1. Grievance meetings with the Employer based upon a suspension of fifteen (15) days or more, a demotion or a (non-probationary) removal;
2. Meetings with the Employer for the purpose of presenting a reply to a notice of a proposed suspension of fifteen (15) days or more, a demotion or a (non-probationary) removal, if requested by the employee;
3. To attend arbitration hearings as the designated representative of the employee;
4. Formal discussion with the Employer on issues national in scope when there is no local representative; and
5. Other meetings with management officials where the parties have attempted to resolve the issue telephonically or by video-conferencing; and mutually agreed that an in-person meeting is appropriate.

B. The Employer agrees to pay one-half the necessary travel and per diem expenses for one (1) TTB union representative, if a TTB employee, to attend a meeting with the Employer for the purpose of presenting a grievance or reply to a notice of a proposed suspension or suspension of fourteen (14) days or less.

C. For other meetings with the Employer where travel and per diem are not provided under A or B, above (including grievance meetings not covered by A.1.), the Employer agrees to make its videoconferencing facilities

available to the Union for the meeting, and will pay up to \$150.00 necessary travel and per diem expenses for the Union and/or grievant to travel to the nearest videoconference facility.

D. The Union shall make every effort to utilize the services of its representatives closest to the meeting site. If a representative is on-site and available and the Union elects to choose another representative who has to travel, the Union will bear the entire expense.

## **Section 9     Notifications and Lists to Employer**

The Union will provide to the Human Resources Service Provider a roster of the names of the Chapter President and designated Stewards, within thirty (30) days of the effective date of this Agreement and annually thereafter no later than the end of Pay Period 25. The Union will provide written notice of any changes in representation at least forty-eight (48) hours prior to the effective date of the change. If this would result in denying employees representation, the notice shall be given at any time prior to the representational activity. Nothing in this section would preclude an NTEU national representative from representing the Union or an employee.

## ARTICLE 7

### EVALUATIONS OF PERFORMANCE

#### Section 1 Definitions

The terms used in this article are defined as follows:

A. **Appraisal** means the process under which performance is reviewed and evaluated;

B. **Appraisal period** means the established period of time for which performance will be reviewed and a rating of record will be prepared. The appraisal period will be no less than 90 days;

C. **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;

D. **Employee** refers to a person employed by the TTB who occupies a bargaining unit position;

E. **Performance** means accomplishment of work assignments or responsibilities;

F. **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;

G. **Progress review** means communicating with the employee about performance compared to the performance standards of critical elements. It is not a formal performance review for purposes of rating and should not be confused with a rating of record. Its completion must be documented as a required procedural component of the annual evaluation process; however, it is considered a counseling session and is not grievable;

H. **Standardized position** is any position where the types of duties performed and/or expected to be performed in the future are similar for various positions existing throughout the Bureau;



I. **Supervisor**, as it is used in this Article, is any non-bargaining unit employee who assigns work and/or is responsible for reviewing the work of one or more employees, including program managers and coordinators, work leaders, etc. (Although some "supervisors" under this definition may not actually be immediate supervisors under OPM classification guidelines, and will not be the official supervisor who develops critical elements or signs an employee's performance appraisal, they will be responsible for providing feedback and input to the appraisals of employees to whom they assign work.); and

J. **Unacceptable performance** will be assigned if, and only if, performance on one or more critical elements is appraised as unacceptable/unsatisfactory.

## **Section 2    Developing Elements and Standards**

A. The Employer has determined that in identifying critical elements, it will take into consideration such factors including, but not limited to, whether or not the element is:

1. A regular, recurring part of the job;
2. Directly related to mission accomplishment;
3. A primary responsibility of the employee;
4. One that accounts for a significant amount of the employee's time on the job;
5. Performance that is related to a statutory or regulatory requirement; or
6. Important to successful performance for some other reason.

B. The Employer has determined that, to the maximum extent feasible, it will develop performance standards including, but not limited to:

1. Standards that will permit the accurate evaluation of job performance based on objective criteria related to the job for each employee or position, including:
  - a. Quantity, quality, timeliness, costs, accuracy and/or expected results;

- b. Position descriptions; and
  - c. Bureau orders setting forth operating instructions and pertinent regulations.
- 2. Standards that will permit the accurate evaluation of job performance and may be characterized as objective, realistic and reasonable;
  - 3. Standards that are written in clear and simple language;
  - 4. Standards that are attainable and can be exceeded;
  - 5. Standards that reflect at least 3 levels for each critical element; and
  - 6. Standards that reflect adequate performance to produce required results.

### **Section 3 Finalizing Elements and Standards**

A. Prior to finalization of critical elements and performance standards, copies of the performance standards and critical elements developed in Section 2 above will be sent to the NTEU National Office.

B. Copies of the proposed critical elements and performance standards will be sent to affected employees for comments. A notice of the right to request a meeting to explain the language in the new elements and standards will be attached. Employees will be reminded that they have a right to submit written comments on the proposed critical elements and performance standards. (Upon request, a group meeting will be held to answer all relevant questions posed by the employees in the work group.) Supervisors of work groups composed of field employees may opt to have individual, rather than group meetings. Employees will be granted up to two (2) hours of administrative time to prepare written comments. Employees shall submit their comments to their immediate supervisors within fifteen (15) calendar days of the meeting.

C. Supervisors shall submit employee comments, along with their own comments, on positions under their supervision, to the HR Service Provider.

D. Management officials will review comments submitted under B and C above and provide notice to the National Office of NTEU of the final performance standards and critical elements, along with copies of

employee comments. Such notice shall be provided consistent with the requirement of Article 39, Mid-Term Bargaining.

E. NTEU may request a meeting to be held within five (5) days of their receipt of the material in D above with the HR Service Provider to voice their concerns, if any, on behalf of the employees.

#### **Section 4 Issuance of Performance Plan**

A. The Employer, at least once a year, must provide each employee with a written appraisal of his/her performance relative to each critical element. Performance reviews shall be used periodically to provide employees with information on their performance and how it may be improved.

Each supervisor will hold an annual discussion with his/her employees. At this meeting the employee will be provided with a written copy of the approved performance standards and critical elements by his/her supervisor. The supervisor will explain how the employee is expected to perform in order to achieve a specific rating level. This discussion should occur at the same time that the supervisor and the employee meet to discuss the rating for the prior evaluation period (see Section 9D, below). Supervisors will provide a copy or otherwise notify employees of the performance standards and critical elements prior to holding an employee responsible for performing under them and have employees sign a copy of the performance standards and critical elements.

B. Succeeding annual appraisals shall be due on the date established in Section 8 of this article.

C. Any changes in a supervisor's performance expectations (including those established by a new supervisor) must be communicated to the employee prior to the employee's being held accountable for the new responsibilities. Substantive changes to critical elements or performance standards must be communicated pursuant to the requirements of Section 3, above.

D. The employee will be provided performance standards and critical elements within thirty (30) days upon entering a new position.

E. A new supervisor will communicate performance expectations as soon as possible, normally within thirty (30) days.

F. The employee will be provided a revised set of performance standards and critical elements within thirty (30) days if changes occur.

## **Section 5    Progress Review**

A. Progress reviews are supervisory reviews of an employee's progress towards achieving the performance standards and can serve as a valuable communication tool to be used by both the employee and the supervisor. On-going communication between the manager and employee is encouraged, in order to monitor and improve performance. Employees are encouraged to actively participate in this process by asking questions relating to their performance. Progress reviews may include a discussion of ways employees may enhance their performance.

B. By approximately the mid-point in the appraisal period, management will schedule a meeting with the employee for the purpose of discussing the employee's performance. At a minimum, the employee shall be informed of his or her level of performance by comparison with the performance plan. The employee shall have the opportunity to respond to the mid-year review in writing. A progress review, in and of itself, is not a rating. The progress review will be documented in writing.

## **Section 6    Performance Feedback and Counseling**

A. Performance monitoring is an on-going process. Therefore, the Employer will provide feedback to employees regarding their overall performance on a regular basis.

B. Performance-related documentation prepared or used by the rating official for performance management purposes should be shared with the employee in a timely manner. This includes documentation related to strengths, areas needing improvement, and/or training or experience that would make the employee more valuable to the organization. This documentation will be provided to the employee as soon as possible. The employee will be provided the opportunity to respond orally or in writing to any information included in such documentation.

C. An employee's performance is appraised independently during each successive appraisal period so that his/her performance rating does not carry over to the next performance rating period. However, counseling will normally take place when a manager notices a decrease in performance in any critical element. Supervisors will make a concerted effort to apprise an employee of his/her failure to meet the standards and critical elements previously set for him/her. Supervisors will document discussions with employees about their failure to meet performance standards and critical elements.

D. Counseling sessions may consist of the following:

1. Identification of performance standards which are not being achieved; and
2. Identification of training and/or developmental activities which would assist the employee in attaining a fully successful level of performance.

## **Section 7     Opportunity to Improve Performance**

Prior to issuing a notice of proposed adverse action based on unacceptable performance the Employer will meet with the employee, fully discuss the performance problems, and provide him/her the following, in writing:

A. Identification of the critical elements and performance standards for which the performance is unacceptable;

B. Advice as to what the employee must do to bring the performance above the unacceptable/unsatisfactory level;

C. Notification that the employee will be afforded a reasonable period of time (specified in calendar days) in which to bring performance above the unacceptable level; and

D. Identification of training and/or developmental activities which would assist the employee in attaining performance above the unacceptable performance level, and a description of assistance the Employer shall offer to assist the employee to improve the unacceptable performance during the opportunity period.

## **Section 8     Issuance of the Appraisal**

The annual performance appraisal shall be issued within forty-five (45) calendar days from the end of the performance period.

## **Section 9     Assessing Performance**

A. Management has determined, appraisals will be made in a fair and objective manner and will reflect actual performance against established written standards, without any predetermined distribution of expected levels of performance. Consideration should be given to the priorities of work assignments, unforeseen obstacles, significant changes in the work and workload, other job-related factors, and mitigating circumstances.

B. Only time spent performing work related to an employee's elements and standards will be considered in evaluating performance. Authorized time spent away from an employee's normal job responsibilities will not be considered as a negative factor when evaluating an employee's performance (e.g. EEO Counselors and NTEU representatives). For example, if an employee has spent 30 percent of a work period on approved leave (annual, sick or LWOP) or on official time performing Union duties, this fact will be considered in the application of expected performance standards. If any employee is performing such authorized activities, collateral duties, or NTEU representational functions that result in interruptions of normal work, such factors will be taken into account when evaluating the employee.

C. Appraisals must contain a written narrative, as well as a rating for all critical elements. The supervisor will develop a narrative. The narrative will be a general summary of the employee's accomplishments during the appraisal period that accurately reflect the employee's performance in relation to the elements and standards.

D. Before the supervisor prepares the evaluation, the employee shall be provided the opportunity to submit a report of their accomplishments, or other input, which will be considered by the supervisor during development of the evaluation.

E. The supervisor will discuss the draft performance appraisal with the employee and will give the employee five (5) work days to present information. The supervisor will take the information into consideration prior to finalizing the appraisal and sending it to the next level supervisor.

F. The Employer, in appraising critical elements for GS employees has determined as follows:

1. Outstanding is performance of the highest quality. For example, an Outstanding performer produces an exceptional quality or quantity of work with very little supervision. Where

appropriate, work is completed significantly ahead of established schedules or deadlines. A rating of "O" means that the actual performance meets the level of outstanding performance specified for that job element.

2. Exceeds Objectives is performance of unusually good or excellent quality. For example, an Exceeds Objectives performer produces work of a very high quality or quantity of work with less than normal supervision, and where appropriate, work is completed ahead of established schedules or deadlines. A rating of "EO" means that the actual performance exceeds the Meets Objectives standard of performance in the job element but does not meet the standard established for outstanding performance.
3. Meets Objectives is performance which is of good quality. The Meets Objectives performer produces the expected quality and quantity of work with normal supervision and, when appropriate, meets deadlines or schedules for completion of work. A rating of "MO" means that the actual performance of the employee in all respects meets the level of performance required under the Meets Objectives standard for the element.
4. Needs Improvement is performance which is not "unacceptable," but needs improvement to achieve the "Meets Objectives" level. This may be evidenced by the need for close supervisory review, discussion, and correction of work products. When performance falls below "Meets Objectives" it is necessary to take remedial action. If the employee receives a Needs Improvement rating on any one critical element, any pending within-range increase must be withheld. A rating of "NI" means that the employee's actual performance does not meet the requirements of the Meets Objectives standard but, similarly, does not constitute unacceptable performance as described in the elements.
5. Unacceptable is performance which is Unacceptable in one or more critical elements of the employee's position. When performance is unacceptable in any one critical element, corrective action must be taken consistent with established Bureau policy and procedures and an overall rating of "U" must be given. A rating of "U" means that the employee's actual performance is at or below the performance described in the unacceptable performance standard. Unacceptable

performance shall be the basis for denial of a within-range increase, and may be a basis for reassignment, demotion, or removal from the Bureau.

G. The Employer has determined that in appraising overall performance, the following criteria shall apply:

1. A rating of Unacceptable (U) in any one critical element automatically results in an overall Unacceptable rating; and
2. The supervisor will rate each critical element as either Outstanding, Exceeds Objectives, Meets Objectives, Needs Improvement, or Unacceptable. The overall average of the critical element ratings will determine the overall performance rating.

## **Section 10 Role of the Second Level Supervisor**

A. The Employer has determined that prior to issuing the annual performance appraisal to the employee the immediate supervisor will forward the performance appraisal form to the next higher-level supervisor for review and approval.

B. The appraisal must have the appraisal narrative and assigned ratings completed when it is forwarded to the second level supervisor. The second level supervisor must approve the ratings before the appraisal can be issued to an employee. Ratings may not be revealed to an employee prior to approval by the next higher-level supervisor.

## **Section 11 Communicating the Annual Appraisal to the Employee**

The Employer has determined that once the performance appraisal has been approved by the next higher-level supervisor and signed off by both supervisory levels, the immediate supervisor will give the performance appraisal to the employee and discuss the employee's achievements and/or deficiencies. The employee will sign and date the appraisal form, which only indicates that the appraisal has been communicated to the employee and does not necessarily indicate agreement with the appraisal. A copy of the signed appraisal will be given to the employee. Upon request, the second level supervisor or his/her designee, will discuss the appraisal with the employee. Such discussions may take place over the phone.



## **Section 12 Use of Ratings**

A. Performance appraisals with an overall rating of Meets Objectives (MO), Exceeds Objectives (EO), or Outstanding (O) will be used as a consideration in decisions to provide training, grant awards, promotions, within-range increases, and to retain employees impacted by a reduction-in-force.

B. Performance appraisals with an overall rating of Needs Improvement (NI) may be used as a basis for decisions to provide training or reassignments, and will be used to deny within-range increases. (See Article 8, Acceptable Level of Competence Determinations).

C. Performance appraisals with an overall rating of Unacceptable (U) will also be used as a basis for decisions to deny within-range increases (See Article 8) or may be used as a basis to reduce in grade or remove an employee (See Article 33, Unacceptable Performance Actions).

## **Section 13 Grieving the Application of Elements and Standards**

A. In accordance with this Agreement, grievances under this Article include the right to grieve a performance appraisal; that is, the right to grieve the application of critical elements and performance standards. Progress Reviews are not performance appraisals and, as such, are not grievable. While the contents of a Performance Improvement Plan are not grievable, the performance determination that led to the initiation of the Performance Improvement Plan is grievable.

B. If an employee is dissatisfied with the performance appraisal, the employee may grieve the appraisal within twenty-one (21) days of receipt. Except as indicated in C below, any appraisal not grieved within the specified time limits shall not be the subject of further review.

C. Where the grievance has already been filed under B above and a final decision has been rendered, (including the results of any appeals which may have been filed in connection with the decision) the parties to any further grievances or appeals agree to accept that decision and will so stipulate for the record.

D. Grievances will be filed under the terms and conditions of Article 34.

## **Section 14 Interim Appraisal**

The Employer has determined that if the immediate supervisor is an acting supervisor or a supervisor who has not been supervising the employee for at least ninety (90) days, the appraisal will be made by the next higher-level supervisor. This appraisal should contain input from any current or previous supervisor the employee may have had during the appraisal period. Employees in new positions will receive feedback on their performance, ninety (90) days after entering their position, regardless of the effective date of their performance appraisal and in addition to any other progress reviews that they may receive.

## **Section 15 Details**

The Employer has determined that the following provisions will apply to employees on detail:

A. When an employee has been on detail for less than three (3) months at the time a performance appraisal due date occurs, the employee's regular supervisor will prepare the official performance appraisal;

B. When an employee is detailed or temporarily promoted to a position that is expected to last one hundred and twenty (120) days or longer, the employee will be provided a revised set of performance standards and critical elements within thirty (30) days. When the employee has been working under these standards and on detail for more than ninety (90) days, the supervisor controlling the detailed employee's activities will prepare a written statement at the time of the performance appraisal due date and state whether the employee's work performance is or is not fully successful. The written statement will be forwarded to the regular supervisor, who will endorse or supplement the statement and consider the input in the annual appraisal;

C. When the employee has been on detail for the entire appraisal period, the written performance appraisal of the supervisor controlling the activities of the detailed employee establishes the performance appraisal. This appraisal is used by the regular supervisor to certify that the employee has been rated for the specific appraisal period; and

D. Where it is known that the detail is for more than one-hundred twenty (120) days, the supervisor of the position to which an employee is detailed will verify whether standards of performance and critical elements have been established for the position to which detailed. If standards and

critical elements exist for either the position to which detailed or for identical positions within the Bureau, those will be applied in evaluating the detailee's performance. The supervisor will initially explain the standards of performance and critical elements of the position to the detailee. In situations involving details to positions for which no standards of performance or critical elements exist, the supervisor evaluating the employee will explain the skills and duties required by the job, as if they were formalized elements and standards. The supervisor will identify the actions required to attain the Meets Objectives, Exceeds Objectives, and Outstanding ratings.

## **ARTICLE 8**

### **ACCEPTABLE LEVEL OF COMPETENCE (ALOC) DETERMINATIONS AND CAREER LADDER PROMOTIONS**

#### **Section 1 ALOC Policy**

A. Acceptable level of competence determinations are made for the purpose of determining whether an otherwise eligible employee is entitled to a within-range increase. Such determinations shall be based on the employee's most recent rating of record.

B. A within-range increase (previously known as a within-grade increase) will be granted to an employee when he or she satisfies the time in grade service requirement and has not received an equivalent increase when the Employer has determined that the employee's overall performance is at an acceptable level of competence (i.e. the employee's performance is "Meets Objectives" or higher). A within-range increase will not be granted to an employee whose performance is "Needs Improvement" or "Unacceptable" in any one critical element.

#### **Section 2 ALOC Denial Procedures**

A. Where an ALOC determination leads to a proposed denial of a within-range increase, the Employer will provide the employee with advance written notice. This notice will be given at least thirty (30) days before the employee is eligible for a within-range increase. However, this notice may be given at any time during the rating cycle and the written notice may be provided to the employee in a variety of formats, to include counseling letters etc., and the notice(s) shall advise the employee of the following:

1. An explanation of those aspects of performance in which the employee's performance falls below the Meets Objectives level;
2. Advice as to what the employee must do to bring his/her performance up to the Meets Objectives level;
3. A statement that his/her performance may be determined as being below the Meets Objectives level for purposes of the within-range increase, unless improvement is shown; and

4. A statement that his/her performance during the remainder of the waiting period will be an important factor and will be considered in conjunction with his/her performance during the entire waiting period.

B. The employee will be notified in writing of the Employer's determination. If the employee's performance is Meets Objectives, the determination should be made as soon as possible and the warning notice specified in section (2)(A) will be canceled. If the employee's performance is not at an acceptable level of competence, the Employer will notify the employee in writing as soon as possible after the end of the waiting period that the within-range increase will be withheld.

C. A negative determination letter as provided for in section 2(B) will:

1. Include reasons for the action and the respects in which the employee must improve performance in order to be granted a within-range increase;
2. Inform the employee of his/her right to request administrative reconsideration in writing within fifteen (15) calendar days of the receipt of the negative determination;
3. Inform the employee as to whom the request for reconsideration should be made; and
4. Provide a statement that if the within-range increase has been denied, action may be taken to effect his/her removal, demotion or reassignment. This does not preclude the Employer from initiating such action prior to the end of this additional period.

D. An employee may request reconsideration of a negative determination by filing, within the specified time limits in section 2(C), a written response to the negative determination setting forth the reasons why the employer shall reconsider the determination.

E. The time limits to request reconsideration may be extended when the employee shows he/she was not notified of the time limit and was not otherwise aware of it, or the employee was prevented by circumstances beyond his/her control from requesting reconsideration within the time limit. A failure to receive an extension shall be grievable as it relates to the requirements for providing a reasonable time for reply.

F. An employee in a duty status shall be granted a reasonable amount of official time to review the material relied upon to support the negative determination and to prepare a response to the determination, as soon as workload permits.

G. The Employer shall provide the employee with a prompt written final decision. When a negative determination is sustained after reconsideration, an employee shall be informed in writing of the reasons for the decision and of his/her appeal rights.

### **Section 3 ALOC Effective Dates**

A. When an employee's work is determined to be of an acceptable level of competence in accordance with the requirements of this Article, the effective date of the within-range increase will be the first day of the first pay period following completion of the waiting period.

B. If an unacceptable level of competence determination is changed upon reconsideration or appeal, the effective date for the within-range increase is the date on which it would have been due.

C. When an acceptable level of competence determination is not made on a timely basis through administrative error, oversight or delay, the determination shall be made based upon the employee's performance during the period that would have been covered had the determination been made in a timely manner. The effective date for the within-range increase is the date on which it would have been due.

### **Section 4 Reinstating the Within-Range Increase**

After a within-range increase has been withheld the supervisor will review the employee's performance every 90 calendar days until they have determined to grant the within-range increase because the employee has demonstrated sustained performance at an acceptable level of competence.

### **Section 5 Career Ladder Promotion**

A. Upon request, an employee occupying a career ladder position who is not yet at the full performance level will be provided reasonable advance notice about what is expected for advancing to the next level. All employees in career ladder positions will normally be promoted after one (1) year, or whatever lesser period may be applicable, provided the employee is performing at least at the Meets Objectives level and is capable of performing at the next level; such promotion may be delayed if

the Employer lacks available funding for the promotion (e.g., funding the promotion would result in the need for a reduction-in-force).

B. The fact that an employee is the subject of a conduct investigation will not prevent or delay his/her promotion that would otherwise be made, unless the Employer judges that such delay is necessary to protect the integrity of the Bureau.

## **Section 6    Performance Determinations**

A determination on qualifying performance for either an ALOC or career ladder promotion will be made after completion of the one (1) year or other relevant period.

## **ARTICLE 9**

### **MERIT PROMOTION AND LATERAL REASSIGNMENT OPPORTUNITIES**

#### **Section 1    General**

A. It is the purpose of this Article to provide a systematic and equitable procedure for filling positions through competitive procedures based upon merit principles. It is the intent of the Merit Promotion regulations that employees compete through an established procedure for those opportunities that will enhance their career prospects. The Parties agree that the selection and advancement of employees should be determined solely on the basis of relative ability, knowledge, and skills after fair and open competition that assures that all receive equal opportunity.

B. This Article establishes procedures for competitive promotion and lateral reassignment opportunities for all career and career-conditional employees to positions within the bargaining unit as defined within this Agreement.

#### **Section 2    Procedures**

A. The terms of this Article will apply to the following placement actions:

1. Filling of a position by promotion;
2. Filling by reassignment to or demotion to a position with a higher-graded full performance level than the candidate's last position, except as permitted by reduction-in-force regulations;
3. Filling a position by transfer to or re-promotion to a higher-graded full performance level than the candidate's last position, except as permitted by reduction-in-force regulations;
4. Selection for a training program when such a program is a criterion for promotion or reassignment to a position with known promotion potential;



5. Filling a position by temporary promotion for more than one-hundred twenty (120) calendar days;
6. Filling a bargaining unit position with a non-unit employee except as provided in 2(B) below; and
7. Details over one-hundred twenty (120) days to a higher graded position or a position with higher promotion potential.

B. The terms of this Article will not apply to the filling of bargaining unit vacancies by demotion or reinstatement, except as set forth in (A) above. They will also not apply to:

1. Promotions to positions which have 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;
2. Re-promotion to grades or positions in accordance with applicable regulations from which an employee was demoted within the Bureau without personal cause, that is, without misconduct or inefficiency on the part of the employee and not at his/her request;
3. Promotion of occupants of career ladder positions to the full performance level; and
4. Any other mandatory exceptions provided in regulation.

C. If permitted by the automated personnel system, on a yearly basis, the Employer will provide the NTEU National Office with a breakdown of in-house employees who have been promoted, reassigned or changed to a lower grade, within that year, to a bargaining unit position. The report will be identified by location, series and grade.

### **Section 3    Vacancy Announcements**

A. Vacancy announcements will be posted and remain open for a minimum of ten (10) workdays, however, if the announcement will be open for only ten workdays, it will not be posted on a Monday. Each vacancy announcement will initially be broadcast to all employees and will remain posted on the TTB intranet for the life of the announcement.

- B. Vacancy announcements will comply with regulatory requirements for information that must be included in vacancy announcements:
1. Announcement number;
  2. Opening date;
  3. Title, series, and grade of the position;
  4. Geographic and office location of the position;
  5. Brief summary of the duties of the position, together with an indication of where additional information may be obtained.
  6. Minimum qualifications required;
  7. Selective placement factors, if any;
  8. Evaluation methods to be used;
  9. Closing date;
  10. Statement of equal employment opportunity;
  11. The following statement; "to be considered, applications must be received by the HR Service Provider by the stated closing date of the announcement;" and
  12. Bargaining unit status.

C. Each vacancy will be announced separately. Multiple vacancies in the same series may be announced on the same announcement.

D. Employees applying for positions in response to specific posted vacancy announcements under this Article shall submit appropriate documentation consistent with the vacancy announcement.

E. Applicants must meet all qualifications and time-in-grade requirements by the closing date of the announcement in order to receive consideration.

F. If there is a change in any of the requisite knowledge, skills and abilities in a posted vacancy, the Bureau must post the vacancy again for at least the number of days required by the original posting.

G. If a vacancy announcement is canceled, the reason for the cancellation will be stated on the cancellation notice.

#### **Section 4     Rating Process**

A rating process must be conducted to determine which competitive applicants are best qualified.

A. The rating process distinguishes the best-qualified applicants from those who are minimally qualified through an evaluation of each eligible applicant's qualifications against a set of job-related criteria (commonly called knowledge, skills, and abilities (KSAs) or competencies) that have been predetermined through an analysis of the vacant position.

B. Subject matter experts develop the rating criteria, i.e., questions, with assistance from the Human Resources (HR) service provider. Subject matter experts weigh the criteria according to their importance to the vacancy; however, the maximum rating is 100 points. Due weight must be given to performance appraisals and awards to the extent they are relevant to the vacancy.

C. The automated Career Connector System scores applicants' answers to the questions based upon the pre-determined value of each response. The HR service provider will forward applications with scores above the logical break to a single rater or a panel of raters. Management will determine whether to use a single rater or a panel of raters. The selecting official cannot be a rater. The rater(s) must be the same grade or a higher grade than the vacant position and must be familiar with the requirements of the vacant position.

D. The logical break in scores is determined on a case-by-case basis by the HR service provider after looking at all the scores of the qualified applicants above an overall score of sixty-nine (69). The HR service provider looks for a significant gap in scores, keeping in mind that the selecting official should have sufficient applicants from which to select. TTB's Human Resources Division will resolve any questions relative to the logical break in scores.

E. The rater(s) will review the answers to the questions submitted by the applicants and will insure the applicants' application materials support the answers given. After this review, the HR service provider, with the assistance of the rater(s), will adjust applicants' scores downward if the application materials submitted for consideration do not support their answers to the questions.

F. The HR service provider will distribute all rating materials to the raters so they can evaluate the applications. The HR service provider works closely with the rater(s) and provides guidance if questions arise or there is difficulty in evaluating applicants.

G. The rater(s) will complete their review of all qualified applications within five (5) workdays following receipt of the package. If it is not possible to meet this deadline, they will request an extension in writing from TTB's HR Division explaining the reason for the delay and the date they will return the completed package.

H. Criteria for ratings will be applied fairly and objectively, and in a non-discriminatory manner.-

## **Section 5 Referral and Selection**

A. Employees involved in the selection process (including rating and interviewing) are prohibited from participating in the process if a relative is under consideration. Supervisors and managers must not advocate the selection of a relative.

B. Management must give an applicant special priority consideration when it is determined that an applicant was not given proper consideration in a prior competitive promotion action. The HR service provider must ensure Management gives an applicant a one-time priority consideration for the next available position that is the same title, series, and grade and which is in the same division and geographic location. Management must consider the person before other applicants. The HR service provider will maintain documentation of consideration as part of the official file.

C. The HR service provider will ensure Management gives special selection priority to those eligible under the Department of the Treasury's Career Transition Assistance Plan (CTAP) and Reemployment Priority List (RPL) and those eligible under the Interagency Career Transition Plan (ICTAP). The order of selection is listed in Treasury Personnel Policy Manual (TPPM) 330 and 5 CFR 330. Additionally, the HR service provider will maintain a list of all TTB employees who are on grade and/or pay retention, and will ensure Management gives these employees special selection priority for vacancies for which they qualify.

D. The HR service provider will refer the best-qualified competitive applicants to Management on a list in alphabetical order without scores. The HR service provider will refer the best qualified applicants based on the logical break in scores, which usually will be three to five candidates and

one additional candidate for each additional open position. Additional names will be certified if tied scores exist.

E. The HR service provider will also separately refer any qualified noncompetitive applicants to Management. The referral will be made at a time of Management's request, which may be any time up until a selection is made.

F. If Management interviews one competitive applicant, they must interview all competitive applicants from the same merit promotion certificate. (If the HR service provider advertises a position at multiple grade levels, the HR service provider will issue a separate selection certificate for each grade level.) If Management interviews one noncompetitive applicant, they do not have to interview other noncompetitive applicants. The HR service provider will give advice on interview questions and procedures, if requested. Management will develop the interview questions which must be job related and asked consistently of all applicants. Management may interview applicants over the phone, in person, or through a video conference and should keep the interview notes for two (2) years.

G. Management may select any referred applicant. Selection criteria will be applied fairly and objectively, free of discrimination. The selection must be based on an assessment and comparison of the qualifications of the applicants in relation to the requirements of the job to be filled. Management should conduct reference checks with current and former supervisors prior to selection unless the applicant has indicated in his/her application material not to contact the current supervisor.

H. An employee's accumulation of earned annual or sick leave may not be considered by the selecting official as a basis for selection.

I. Management will document selection(s) on the merit promotion certificate before returning it to the HR service provider. If a position is advertised at more than one grade level, selection(s) may be made at any of the advertised grade levels. If Management does not select any of the applicants, they must note that decision on the certificate(s). Management has the right to non-select any applicant referred.

J. The HR service provider will issue each merit promotion certificate for fifteen (15) workdays. If Management has not completed the selection process within this time frame, they will request an extension in writing from TTB's Human Resources Division explaining the reason for the delay and the date they will return the completed package.

## **Section 6     Documentation and Records**

The HR service provider will maintain all records for a merit promotion announcement sufficient to allow reconstruction of the promotion or placement action. The HR service provider may destroy these records after two years from the selection date or after the Office of Personnel Management has formally evaluated the program (whichever comes first). When there is a complaint or grievance, the HR service provider will maintain cases until the controlling authority renders a final decision as determined by the Office of Chief Counsel.

## **Section 7     Demotions within One Year of Promotion**

The Employer agrees to make reasonable efforts to assign an employee to his/her former or like position, when the employee, within the last year, was promoted and subsequently demoted for inability to perform at the higher level. The Employer retains the right to decide whether or not to fill a vacancy and will consider its legitimate mission-related needs in doing so.

## **Section 8     Promotion Date**

In the case of a promotion of a TTB employee, the release date will be no later than the end of the first full pay period after the offer made by the HR service provider is accepted and any required investigation is completed satisfactorily unless the selectee requests additional time as in the case of a geographic move. A release date for a reassignment or change to lower grade of a TTB employee will normally be no later than the end of the second full pay period after the offer is accepted and any required investigation is favorably adjudicated.

## **Section 9     Counseling for Non-Selectees**

A. An employee who applies for a position who is not found basically qualified, or who does not make the Best Qualified (BQ) list will be notified of that fact in writing within thirty (30) calendar days of the date a selection is made.

B. Upon request, a candidate who is not selected will be entitled to a written explanation and/or counseling as to the reason(s) for non-selection. The Employer has determined that the employee's immediate supervisor will normally conduct the counseling. An employee may, upon request, obtain additional counseling from the selecting official. Where deemed appropriate by the Employer such counseling may be conducted by telephone.

C. Where the Employer considers employees who have priority consideration pursuant to this Agreement and does not select that employee, or from among the priority consideration candidates, the Employer will put reasons for non-selection in writing and make them available to the employee.

## **Section 10 Evaluative Material**

A. An employee who has been involved in a competitive action governed by the terms of this Article (or the employee's Union representative designated by the employee in writing) may, upon request, obtain the score assigned him/her as well as the cut off score for the Best Qualified list.

B. In processing grievances related to actions taken under the terms of this Article, the Steward designated in writing to represent an employee will, upon request, be furnished the evaluative material in accordance with applicable laws and regulations-generated or utilized by Management in assessing the qualifications of the eligible candidates in regard to a grieved promotion action subject to the following criteria:

1. The aforementioned material will be provided to the grieving employee's Steward subject to the Employer's legal responsibility and obligation to protect the privacy of the eligible candidate(s) involved in the promotion in question;
2. If the grievance is confined to 'Best Qualified' candidates, only the evaluative material of such candidates will be provided;
3. If the grievance involves a candidate not on the Best Qualified list, only the evaluative material of all qualified candidates will be provided; and
4. If the grievance involves questions of basic eligibility, evaluative material of all candidates will be provided.

## ARTICLE 10

### DETAILS

#### Section 1 General

The Parties recognize that details are necessary to meet the staffing needs of TTB and to provide training, experience and career development opportunities for employees. Likewise, special work assignments, including the completion of special projects, contribute to the accomplishment of mission related objectives and provide opportunities for professional growth and development.

In order to fairly distribute detail assignment opportunities to all qualified and interested employees, selections for details will be made on a rotational basis.

#### Section 2 Definitions

A. For purposes of this article, a **detail** is the temporary assignment of an employee to a different position or to different duties for a specified period with the employee returning to his/her regular duties at the end of the detail. Typically, the purpose of a detail is to fill-in for employees who are away from their assigned duties or to meet short-term workload needs (including special projects) or staffing imbalances.

B. **Special assignments** are for a specified period of time, but do not involve assignment to an established grade-specific position.

#### Section 3 Detail to Lower Graded Positions

A. The Employer may use such details under circumstances such as the following:

1. When a temporary personnel shortage exists;
2. Where an exceptional volume of work suddenly develops; and
3. Other business exigencies.

B. The Employer agrees that the act alone of assigning personnel to lower-graded positions under the circumstances enumerated above will not have a negative impact on the employee's annual performance appraisal.



## **Section 4     Pay for Details**

A. The Employer agrees that a qualified employee who is assigned to a position with a higher grade for more than thirty (30) consecutive calendar days will be temporarily promoted to that position and receive the rate of pay for the position to which he or she is temporarily promoted retroactively effective on the day the detail began. Such temporary promotion will be granted provided the employee meets the minimum Office of Personnel Management (OPM) qualification standards of the position and any selective factors and time in grade requirements and is performing the duties of the higher-graded position.

B. The Parties agree that when an employee is detailed to a higher graded position for thirty (30) consecutive calendar days or more, but he/she is not eligible for a temporary promotion, and the employee's performance is at an acceptable level of competence in a higher graded position, a special act or special achievement award may be recommended under this Section unless the employee has already received an award which would preclude it.

C. Details to higher graded positions of more than thirty (30) calendar days, where a temporary promotion cannot occur because an employee is not fully qualified, will be documented through HR Connect. All special assignments expected to last longer than thirty (30) days shall be documented in writing.

D. Selections of employees detailed to higher-graded positions for more than thirty (30) calendar days but less than one-hundred twenty (120) calendar days will be made in accordance with the procedures of paragraph 5(C). of this Article.

## **Section 5     Selection Procedures**

A. The following procedures will be used for selections for details or special assignments outside of the commuting area for more than ten (10) workdays and/or assignments for more than thirty (30) calendar days inside the commuting area:

1. On a semi-annual basis, the Employer will send a "VOLUNTEER FOR DETAIL QUESTIONNAIRE" to all bargaining unit employees by the most expedient means possible (e.g. via e-mail or other broadcast message). This questionnaire/form shall be used to solicit employees' interest in details, as well as their availability, their current job title and time spent in that position, their area(s) of interest and any

specific skills they may possess. The Employer agrees to fully inform managers and employees about the Volunteer for Detail program;

2. For each such detail assignment opportunity, the Employer shall first identify the relevant qualification criteria necessary for successful performance of the duties associated with a particular detail. The qualifications and availability of employees responding to the detail questionnaire will then be evaluated in relation to the qualification criteria for a particular detail;
3. From among a group of interested employees, who are essentially equally qualified, the Employer will select the most senior bargaining unit employee who is qualified and available to serve on a detail. The Parties recognize, however, that within a group of available employees that meet the qualifications required for the detail, there may be some employees who are clearly better qualified; in this case, selection will be made from among such candidates on the basis of seniority; and
4. In order to fairly distribute detail assignment opportunities to all qualified employees, all selections for details will be made on a rotational basis, so that each employee who has previously served on a detail will then go to the bottom of the volunteer list, seniority notwithstanding.

B. The Employer will make every reasonable attempt to first use the volunteers solicited by the questionnaire described in Section A above to make personnel selections for detail and special assignments.

C. The Parties agree that there may be legitimate business related reasons for not using the volunteer lists described above for selecting volunteers for every detail and/or special assignment. There may also be situations when the volunteer list described above does not have a sufficient number of employees with the needed skills to appropriately staff the detail. Under such circumstances, the Employer shall use the following procedures to select employees for details and special assignments.

1. In accordance with the Employer's workload, staffing and mission requirements, the Employer will solicit volunteers from qualified bargaining unit employees for all details and special assignments within the appropriate Field Divisions and/or offices. However, supervisors are encouraged to go

beyond Field Division/office boundaries in the solicitation for qualified volunteers for all details and special assignments.

2. For each such detail or special assignment opportunity, the Employer shall first identify the relevant qualifications criteria necessary for successful performance of the duties associated with that particular detail or special assignment. The Employer will also describe such details or special assignments with as much specificity as possible including the anticipated geographic location and anticipated duration of the detail or special assignment.
3. Employees willing to serve on such details or special assignments will file an expression of interest with the issuing Division or office. In addition, employees may specify both the locations and the period of time for which they are willing to consider assignments.
4. The qualifications and availability of employees responding to the detail solicitation will then be evaluated in relation to the qualification criteria for the particular detail or special assignment.
5. In assigning employees to details and special assignments, the Employer will apply qualification criteria in a fair, equitable and non-discriminatory manner, emphasizing maximum rotation among qualified employees. When application of these factors yields two or more candidates who are equally qualified, preference will be given to the employee with the most years of continuous TTB/ATF service.
6. If there are an insufficient number of qualified volunteers, selection shall be on a rotational basis by inverse seniority from among equally qualified employees and in accordance with the procedures set forth in Article 27 of this Agreement.

## **Section 6     Competitive Details**

Details of more than one-hundred twenty (120) calendar days to bargaining unit positions that enhance promotability will be filled competitively.

## **ARTICLE 11**

### **REASONABLE ACCOMODATION AND ASSIGNMENTS OF ILL OR INJURED EMPLOYEES (Light Duty)**

#### **Section 1    General**

The Employer recognizes its responsibility to aid and assist employees who, through illness or injury, are temporarily unable to perform their regularly assigned duties and agrees to the following provisions and conditions for temporary reassignment or detail to work with less strenuous physical or mental demands.

#### **Section 2    Employee Request**

A. Any employee recuperating from a serious illness or injury and temporarily unable to perform his/her assigned duties may voluntarily submit a written request to his/her immediate supervisor for temporary assignment or detail to work with less strenuous physical or mental demands, if such work is available.

B. The request shall be supported by a medical certificate from a doctor on letterhead providing the employee's name, period of medical care, and a statement explaining the reasons why the employee should be reassigned and the anticipated duration of the convalescence period. Such employee agrees to submit to a further examination by a Public Health Service physician or a physician designated by the Employer, if that official so requests. In the interests of enhanced privacy, if the employee so chooses, he or she may submit the supporting medical documentation directly to the Human Resources Division for review. Employee medical information should only be shared with other agency officials on a need to know basis.

#### **Section 3    Reassignment**

A. Efforts shall be made to reassign or detail the employee concerned to a different duty assignment within his/her post of duty for which the employee meets qualification requirements.

B. After efforts regarding Subsection A of this section are exhausted, consideration will be given to reassigning or detailing the employee concerned to a different post of duty.

#### **Section 4    Office of Worker's Compensation Program (OWCP)**

Employees injured on the job will be granted sick leave in accordance with the Federal Employees' Compensation Act.

## **ARTICLE 12**

### **TRAINING**

#### **Section 1 Commitment to Training**

The Employer and the Union agree that the training and development of unit employees is of significant importance. In conjunction with this goal, the Employer will, as funds permit, consider making the training necessary for the performance of the employee's presently assigned duties or proposed assignment available to all employees. The Employer agrees to encourage a plan of self-development.

#### **Section 2 Lists of Resources**

The Employer will maintain information and furnish counseling and guidance about suitable and available in-Bureau or Bureau sponsored educational resources. The Union, on its part, will encourage employees to take advantage of suitable self-development opportunities. The Employer will make available current listings of courses to employees. Employees will have timely notice and access to all available training opportunities through the agency's intranet. Employees are encouraged to contact the Office of Training and Professional Development and other sources to learn about training opportunities.

#### **Section 3 Training for New Positions**

When an employee is reassigned to a position as a result of his/her former position being eliminated, the Employer agrees to give training to enable the employee to perform the duties of the new position, if deemed necessary by the Employer.

#### **Section 4 Lack of Training as Defense**

An employee may raise lack of adequate training in an adverse, disciplinary or performance-based action. However, the determination of what training is necessary in order to perform particular duties or assignments is a reserved management right and left to the sole discretion of the Employer.

#### **Section 5 Reimbursable Training**

Employees will be reimbursed for non-TTB training for all authorized and reasonable expenses when the following criteria are met:

A. Training will increase the employee's present job performance or training will increase future job performance for a position the employee has been selected to fill under the Merit Promotion Plan;

B. Reasonable inquiry has failed to disclose suitable, adequate, and timely programs being offered by other Government agencies within the commuting area of the employee's residence or post of duty;

C. Management determines the course meets the need of the employee and the Bureau, as well as or better than other courses of its nature which are available;

D. The course is not being taken solely for the purpose of obtaining a degree;

E. Comparable training is not available through Bureau-developed courses; and

F. Funds are available to pay for the training without deferring or canceling higher or previous priority commitments.

## **Section 6 Training for Advancement**

When training is given primarily to prepare employees for advancement, selection for the training will be made under the competitive promotion procedures including those contained in this Agreement and 5 CFR 335.103(c)(iii).

## **Section 7 Joint Meetings on Training**

Upon request by the Union, the Employer agrees that a representative of TTB and the Union designee will meet twice a year at mutually agreeable times for the purpose of discussing training needs, such as the following:

A. Present training;

B. Suggestions for additional training;

C. Training needs as a result of reassignment, changes in law, and type of inspections assigned; and

D. Need for refresher training.



Any recommendations resulting from these meetings will be presented by the two (2) designees to the Union and the Employer.

#### **Section 8     Notification for Required Travel for Training**

The Employer shall notify affected bargaining unit employees as far in advance as possible, of the location, purpose, and schedule of any training which would require travel outside the employee's assigned official duty station, or would require the employee to spend one or more nights away from home.

#### **Section 9     Individual Development Plans (IDP's)**

Each employee will be provided with an opportunity to submit an individual development plan to his/her supervisor. The Employer will meet annually with each employee to discuss these plans and assist in obtaining training for the employee that the Employer determines to be appropriate.

## **ARTICLE 13**

### **POSITION CLASSIFICATION**

#### **Section 1 Request for Review**

The Union may make recommendations and present supporting evidence concerning the adequacy and equity of a standardized position description or position classification standard. The Employer agrees to review the presentation and advise the Union of the results of its review.

#### **Section 2 Union Notification**

The Employer agrees to inform the Union as soon as possible when significant changes will be made in the duties and responsibilities of positions held by employees in the Unit due to reorganization, when changes in position classification standards result in classification changes, or, when changes are made in position classification standards which could result in classification changes. The Employer further agrees to furnish the Union copies of proposed classification standards for bargaining unit jobs referred to the Employer by the Office of Personnel Management for comment.

#### **Section 3 Accuracy of Position Description**

The Employer agrees that the position description for each position will accurately reflect the principle duties of the employee filling that position.

#### **Section 4 Equal Pay for Equal Work**

The Employer recognizes that the statutory principle of equal pay for substantially equal work will be applied to all position classification actions.

#### **Section 5 Notice of Desk Audits**

The Union will receive advance notice of Bureau-conducted desk audits.

## **ARTICLE 14**

### **FACILITIES**

#### **Section 1 Granting Space to the Union**

A. The Employer, upon appropriate advance request (normally at least two (2) work days notice), will provide the Union, when available, at the Employer's facility, a meeting room for the following purposes:

1. Preparing for, or discussing, a grievance;
2. Preparing for meetings with the Employer; and
3. Conducting informal discussions to carry out the objectives of the Civil Service Reform Act.

B. The advance request from the Union should contain the date, time, duration, relevant section of the contract, and the estimated number of employees expected to attend. When such space is made available, and meetings are conducted during normal duty hours, employees wishing to attend such meetings, if not on their own time, must comply with applicable rules and regulations regarding the taking of leave.

C. It is agreed that the Union will comply with all security and housekeeping rules in effect at that time and place.

#### **Section 2 TTB Intranet and Email**

A. The Union will be permitted use of the Employer's email systems to distribute materials or to communicate with employees concerning representational matters. The Union is permitted to submit material for the inclusion on the intranet with prior TTB Management approval subject to any applicable security and information requirements. Upon receipt of a current list of stewards, the Employer agrees to provide the Union with an e-mail group listing of all bargaining unit employees.

B. The TTB/NTEU Master Labor Agreement will be available on the TTB Intranet. Each employee will be allowed to print out a copy of the agreement and will be allowed to use an appropriate binder.

C. The Employer agrees to list the name and office telephone number of each Union official and steward on the TTB Intranet.

### **Section 3     Posting and Distributing Materials**

A. The Employer will provide one bulletin board in every post of duty, one-third (1/3) of which will be granted to the Union for its exclusive use.

B. The Union shall provide the Employer with at least one (1) full work day's notice prior to posting or distributing materials generally to bargaining unit employees using Employer facilities/resources. The Employer will approve posting or distribution of such material within the advance notice period unless the information negatively reflects on the integrity or motives of any individuals, other labor organizations, government agencies, or activities of the Federal government.

C. Subject to security requirements, the Union may distribute material on the Employer's premises to an employee before and after scheduled work hours or in the non-work areas during scheduled work hours provided that both the employee distributing and the employee receiving such material are on their own time. Non-work areas are: cafeteria or any other commercial enterprise located on the Employer's premises (with approval of lessor or operating agency), space set aside as snack bars or break areas and restrooms.

### **Section 4     Information Availability**

Subject to security requirements, published TTB directives will be available on the TTB Intranet. Other applicable directives will be available on the TTB Intranet or other electronic media.

### **Section 5     National Representatives**

A. Subject to security requirements, a NTEU national representative, normally with two (2) work days advance notice, may visit the Employer's premises to discuss appropriate Union business and matters relating to this Agreement with unit employees during non-work time.

B. Subject to security requirements, the Employer agrees to provide an NTEU national representative with a meeting room, if available, at the Employer's facility, when it is necessary to discuss any potential grievances, disciplinary actions, adverse action, or other appeal action.

## **Section 6    Space and Equipment**

A. The Union will be granted priority access to available conference room space with telephone and internet access and a filing cabinet at Headquarters and the National Revenue Center (NRC) for performance of duties on official or bank time.

B. Stewards may use agency office equipment when performing representational activities under this Agreement. The agency's information security procedures must be followed.

## **ARTICLE 15**

### **EQUAL EMPLOYMENT OPPORTUNITY**

#### **Section 1    Selection Qualifications for EEO Counselors**

A. Equal Employment Opportunity Counselors shall be selected by the Employer without regard to race, color, sex, religion, national origin, age, marital status, political affiliation, physical handicap, or Union membership.

B. Nomination for prospective counselors may be submitted by the Union, employees, or other interested persons or organizations. Union membership, or lack thereof, shall not provide a basis for nomination or failure to nominate an employee.

#### **Section 2    Yearly Notification**

NTEU headquarters will be furnished a copy of the annual report required by Equal Employment Opportunity Commission Management Directive 715 or equivalent.

#### **Section 3    EEO Claims**

EEO claims may be raised through the EEO statutory procedure or through the negotiated grievance procedure under Article 34, but not both.

## **ARTICLE 16**

### **ANNUAL LEAVE**

#### **Section 1    General**

Annual leave will be granted, workload permitting, in accordance with applicable laws and regulations. The Employer agrees to honor requests for annual leave by applying these criteria in a fair, equitable and non-discriminatory manner.

#### **Section 2    Extended Leave**

A. The Employer agrees to grant annual leave in a manner which permits each employee, if he/she wishes, to take at least two (2) consecutive weeks of accrued annual leave each year unless such leave interferes with work requirements. If leave is denied, and the employee requests an explanation, the Employer will provide the reasons for the denial in writing. The Employer will work with the employee to try to schedule a mutually acceptable time for the leave.

B. Conflicts of annual leave requests among the employees in the same position at a given post of duty will be decided in favor of the employee with the earliest Service Computation Date.

C. The Employer may approve a change in the selection of leave time at an employee's request provided that another employee's choice is not affected.

#### **Section 3    Use or Lose Leave**

Employees faced with the possibility of loss of annual leave shall notify the Employer of their leave requests for the balance of the leave year by October 1. The Employer will approve such leave requests unless the leave interferes with work requirements. If the leave is denied, and the employee requests an explanation, the Employer will provide the reasons for the denial in writing. The Employer will work with the employee to try to schedule a mutually acceptable time for the leave.

#### **Section 4 Tardiness**

If an employee is unavoidably or necessarily absent from or late to work for less than one (1) hour, the supervisor has the discretion to excuse the employee without charge to leave.

#### **Section 5 Callback**

Any employee on scheduled annual leave may be called back to work if the workload requires. However, before calling an employee back, the Employer shall endeavor to use other qualified employees to meet its workload needs. If called back, and the employee requests it, Management will provide the employee with its reasons in writing. The Employer will work with the employee to try to schedule a mutually acceptable time for the remainder of the leave.

#### **Section 6 Leave for Death of Immediate Relative**

An employee will be entitled to the appropriate type and amount of leave in the case of the death of a family member.

#### **Section 7 Leave for Union-Related Issues**

A. The Employer agrees to authorize annual leave or leave without pay to Union officers and to any national officer of the Union for attendance at any Union-sponsored conventions or meeting unless authorization would interfere with work requirements. Before such leave is denied, the Employer shall endeavor to utilize other qualified employees to meet its workload needs. If the leave is denied, and the employee requests it, Management will explain the reasons in writing to the employee.

B. The Employer may grant Union officers and Stewards leave to perform Union duties unless work requirement or the work schedule prohibits release. Such officers and Stewards may charge such leave, at their option, to earned annual leave or leave without pay.

#### **Section 8 Advance Leave**

Employees may be given advance annual leave when:

A. They are eligible to earn annual leave;



B. They have served more than ninety (90) days in their current appointment; and

C. Their request does not exceed the amount of annual leave they would earn during the remainder of the leave year.

## **Section 9    Leave on a Religious Holiday**

If workload permits, the employee will be granted annual leave for a workday that occurs on a religious holiday. Before the Employer denies such leave, it will endeavor to utilize other qualified employees to meet its workload needs. If the leave is denied, and the employee requests it, the Employer will explain the reasons in writing to the employee.

## **ARTICLE 17**

### **LEAVE FOR FAMILY RESPONSIBILITIES**

#### **Section 1    General**

A. All leave under this Article must be taken in accordance with existing government-wide laws, rules and regulations for leave, as well as the Employer's written policies, where such written policies do not expressly conflict with this Agreement.

B. An employee shall request leave under this Article as far in advance as possible to allow the Employer to prepare for any staffing adjustments which may be needed. The request shall include the type of leave desired, approximate dates, and anticipated duration. If the total amount of leave requested by the employee cannot be granted, the Employer will inform the employee, in writing, of the reasons if the employee requests an explanation.

C. The Employer may require appropriate documentation to substantiate the employee's request under any section of this Article consistent with all applicable laws and regulations. In the interests of enhanced privacy, if the employee so chooses, he or she may submit the supporting medical documentation directly to the Human Resources Division for review. Employee medical information should only be shared with other agency officials on a need to know basis.

#### **Section 2    Maternity Leave**

A. Absence for maternity reasons is chargeable to a combination of sick leave, annual leave, and/or LWOP. An employee may request how and in what order such absences shall be recorded. The employee may apply for advanced sick leave, leave under the Leave Transfer Program, and may invoke her entitlement under the Family and Medical Leave Act of 1993 (FMLA).

B. The length of absence for maternity reasons shall be determined by the Employer, on an individual basis, in consultation with the employee and her physician. Generally, an initial leave of absence of up to ninety (90) days will be granted to the employee, workload permitting. The Employer will entertain additional leave requests of up to twelve (12) administrative workweeks consistent with the provisions of the FMLA. If the preceding period is found to be an insufficient length of time for incapacitation,

recuperation, adjustment, and child care, the Employer will entertain additional leave requests, and absent workload requirements, will approve up to an additional ninety (90) days.

### **Section 3     Paternity and Adoption Leave**

Absence for paternity and adoption reasons is chargeable to a combination of sick leave, annual leave, and/or LWOP. An employee may request how and in what order such absences shall be recorded. The employee may apply for advanced sick leave, leave under the Leave Transfer Program, and the employee may invoke entitlement under the FMLA. Approval of leave requests beyond the twelve (12) week entitlement under the FMLA will be subject to workload requirements.

### **Section 4     Leave for Care Giving Reasons**

A. Employees are entitled to request leave to care for an immediate family member who has a serious health condition. Such leave may be chargeable to a combination of sick leave, annual leave, and/or LWOP in a manner consistent with the provisions of the FMLA and Sick Leave regulations.

B. The length of absence for care giving reasons shall be determined by the Employer, on an individual basis, in consultation with the employee. Although the entitlement under the FMLA is limited to twelve (12) administrative workweeks of leave, the Employer may consider granting additional leave requests so long as such leave does not interfere with workload requirements.

C. For purposes of using sick leave, immediate family member includes any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

## **ARTICLE 18**

### **SICK LEAVE**

#### **Section 1    General**

A. Employees will earn sick leave in accordance with all applicable laws and regulations.

B. All leave under this Article must be taken in accordance with existing government-wide laws, rules and regulations for leave, as well as the Employer's written policies, where such written policies do not expressly conflict with this Agreement.

C. An approved absence chargeable to sick leave may be charged to annual leave if requested by the employee and approved by the Employer.

#### **Section 2    Requesting Sick Leave**

A. Sick leave requests (for medical, dental, or optical examinations) should be approved verbally, in writing, or in WebTA prior to leave being taken. Supervisors, or designees, will respond to leave requests in a timely manner, normally on the same day of the request.

B. In the event of an emergency situation, requests for leave should be submitted in WebTA as soon as possible. In these circumstances, interim verbal requests should be made using the following guidelines:

1. Unless previously instructed otherwise by the supervisor, the requesting employee must call and speak with his/her supervisor or designee or leave a voice mail message for the supervisor or designee;
2. Requests must be made within one (1) hour of the employee's regular reporting time, or within one hour of the supervisor's regular reporting time, whichever the supervisor designates;
3. The employee must specify that he/she is requesting the use of sick leave or family medical leave; and
4. The employee must specify the duration of the absence or call in every day of the absence.

### **Section 3     Granting Sick Leave**

A. Sick leave will be granted when supported by reasonably acceptable evidence. Generally, an employee's certification as to the reason for his/her absence will be reasonably acceptable except:

1. When it involves employees under the notice described in Section 4 of this Article; or
2. When the Employer has reasonable cause to believe that approval of sick leave is not warranted.

B. Employees normally shall not be required to furnish the medical certificate to substantiate a request for approval of sick leave unless such sick leave exceeds three (3) consecutive workdays. In cases where the nature of the illness was such that an employee did not need to see a medical practitioner, the employee's written statement concerning the illness can be submitted for consideration by the supervisor. However, employees who have been given written notice of suspected abuse of sick leave (see Section 4 of this Article) will be required to furnish documentation after the first day.

C. For purposes of standard sick leave "acceptable medical documentation" means a medical certificate from a doctor, on letterhead, providing:

1. Employee name;
2. Period of medical care; and
3. A statement that employee is incapacitated because of medical reasons.

Such documentation shall normally be provided within five (5) workdays of return to duty.

D. Under certain circumstances/situations, such as disability accommodation or leave under the Family Medical Leave Act, the Employer may request additional medical documentation, consistent with established laws and regulations.

E. In the interests of enhanced privacy, if the employee so chooses, he or she may submit the supporting medical documentation directly to the Human Resources Division for review. Employee medical information should only be shared with other agency officials on a need to know basis.

#### **Section 4 Sick Leave Restriction**

The Employer may put an employee on notice of sick leave restriction if it has reasonable evidence (tangible or intangible) of abuse of sick leave. The employee may request, in writing, a review of the notice after a minimum of one-hundred twenty (120) calendar days. The supervisor will reply, in writing, to the employee that the restriction will either be terminated or remain in effect. If the restriction is to remain in effect, the supervisor will include a brief explanation why it is necessary.

#### **Section 5 Advancing Sick Leave**

An employee will normally be granted advanced sick leave for a medical emergency, for purposes related to the adoption of a child, for family care or bereavement purposes, or to care for a family member with a serious health condition, upon meeting the following criteria:

- A. The employee is eligible to earn sick leave;
- B. The request does not exceed 240 hours;
- C. There is no reason to believe the employee will not return to work after using the leave;
- D. The employee has provided acceptable medical documentation of the need for advanced sick leave; and
- E. The employee is not subject to leave restriction.

## **ARTICLE 19**

### **LEAVE OF ABSENCE**

#### **Section 1 Leave for Elected Union Officials**

A. The Employer will consider approving a leave of absence for an employee for the purpose of serving a full-time elective or appointive position with the Union subject to the following conditions:

1. The term of the leave of absence for an elected official will run concurrently with the term of the office;
2. The Employer, upon notification that an elected official has been reelected, will automatically renew a leave of absence for the elected official.

B. The Parties agree that this section may be reopened for further negotiations in the event that reorganization within the Union occurs during the life of the Agreement.

#### **Section 2 Return Rights**

The Employer will place an employee returning from a leave of absence in the position or a like position held at the time the leave of absence began. If that position is not available, the Employer will make every reasonable attempt to place the employee in a position for which he/she qualifies.

#### **Section 3 Leave for Military Duty**

A. An employee is entitled to leave without loss of pay, time, or performance or proficiency rating in accordance with applicable law.

B. Each employee covered by this section shall be entitled to such leave of absence as provided under applicable law or regulation.

#### **Section 4 Court Leave**

An employee is entitled to court leave when he/she is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve (1) as a juror; or (2) as a witness on behalf of any party in connection with any judicial proceeding to which

the United States, the District of Columbia, or a State or local government is a party.



## **ARTICLE 20**

### **ADMINISTRATIVE LEAVE**

#### **Section 1    Definition**

Administrative leave is an absence from duty administratively authorized without loss of pay and without charge to leave.

#### **Section 2    Administrative Leave for Voting**

A. As a general rule, the Employer agrees that when the voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, he/she may be excused from duty so as to permit him/her to report to work three (3) hours after the polls open or leave work three (3) hours before the polls close, whichever requires the lesser amount of time off.

B. Under exceptional circumstances where the general rules do not permit sufficient time, an employee may be excused for such additional time as may be needed to enable him/her to vote, depending upon the particular circumstances in his/her individual case, but not to exceed a full day.

#### **Section 3    Inclement Weather**

A. The Employer agrees that whenever it becomes necessary to close an office because of inclement weather or any other emergency situation reasonable efforts will be made to inform all employees by private or public media. An emergency situation is one that is general rather than personal in scope and impact. It may be caused by such developments as heavy snow or severe icing condition, flood, earthquake, hurricanes, or other natural disasters, air pollution, massive power failures, major fires or serious interruption to public transportation caused by incidents such as strikes of local transit employees or mass demonstrations.

B. If the emergency conditions described above exist and prevent an employee from getting to work and the post of duty is not closed, the employee may be granted administrative leave for absence from work for a part of all of his/her workday if he/she provides the Employer with reasonably acceptable documentation that he/she made a reasonable, continuing effort to reach work but that emergency conditions prevented him/her from doing so. Factors which shall be considered by the Employer include:

1. The distance and normal commuting route between the employee's residence and place of work;
2. Mode of transportation normally used by the employee;
3. Efforts by the employee to get to work; and
4. Success of other employees similarly situated.

C. The Employer may waive the above requirement for documentation for absences of one (1) hour or less. This provision does not apply to employees who are away from their post of duty for personal reasons and are prevented from returning to work due to emergency conditions. Any grievance filed must include an explanation of why the employee failed to arrive at work.

#### **Section 4 Tardiness**

Tardiness and unavoidable or necessary absences from duty of less than one (1) hour may be excused upon reasonable justification to the supervisor. This section does not apply to chronic tardiness or absence.

#### **Section 5 Administrative Leave for Blood Donors**

If the workload permits, an employee donating blood will, upon request, be granted, if necessary, up to four (4) hours administrative leave for recuperation and travel.

## **ARTICLE 21**

### **HEALTH AND SAFETY**

#### **Section 1 Employee Safety Assurance**

A. The Employer will, to the extent of its authority, provide and maintain safe and healthful working conditions for employees. In facilities not owned or leased by the Employer, the Employer will seek to have any unsafe or unhealthful working condition reported by employees corrected. In facilities owned or leased by the Employer, it will initiate prompt and appropriate action to correct any reported unsafe or unhealthful working condition. The Union will encourage all employees to work in a safe manner. Employees are encouraged to report any possible safety and health hazards to their immediate supervisor or to the office safety representative.

B. Representatives of the Employer and the Union will continue to discuss health and safety issues that affect employees both within the workplace (e.g. violence in the workplace, workplace hazards, etc.) and outside the workplace (e.g., employee safety). The Parties will utilize joint committees, comprised of representatives appointed by the Employer and by the Union, to address such issues on an ongoing basis. Among the issues to be addressed will be appropriate training on various health and safety issues.

#### **Section 2 Union Participation / Annual Inspections**

A. In facilities owned or leased by the Employer, a safety representative will be designated for each office. Safety representatives will be responsible for recording and reporting any hazardous, unsafe, or unhealthful working condition to the appropriate management official. A safety inspection will be conducted annually at each government owned/leased facility. The Union may designate a representative at each office to participate in inspections of each post of duty.

B. Periodic air quality testing will be conducted in accordance with GSA schedules and other applicable laws and regulations.

C. Union representatives participating in safety inspections or air quality testing will be on official time. Upon written request, the Union will be provided with copies of any report of test results.

### **Section 3     Emergency Dismissal**

The Employer will determine whether conditions preclude an employee's continued presence at the worksite, subject to the following:

A. Whenever a danger exists which the employer determines could reasonably be expected to cause death or imminent serious physical harm the affected employees shall be immediately evacuated by the supervising official. This determination will not be subject to the arbitration provisions under this Agreement; and

B. The Employer recognizes the existence of certain employee rights under 29 CFR 1960. Among these rights are the right to be free from reprisal when employees decline to perform their assigned tasks because of reasonable beliefs that, under the circumstances, the tasks pose an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures established by the Employer. Employees who find themselves in the aforementioned situation and decline to perform their assigned tasks, will contact a supervisor as soon as practicable. The Employer agrees that, in such a situation, the duty time involved will be charged to administrative leave, if no other duties can be assigned.

### **Section 4     Health Testing**

A. The employer will make free flu shots, x-rays and diabetes, cholesterol and triglyceride testing available on a voluntary basis to all employees of the bargaining unit, when such are available at no cost to the Employer.

B. If workload permits, a reasonable amount of administrative time will be permitted to obtain the above-mentioned services through an agency-provided health unit.

C. In addition, the Employer will attempt to make available to employees whatever additional health services are obtainable at no cost to the Employer.

### **Section 5     First Aid Kits**

In any facility owned or leased by the Employer where full health facilities are not available on the premises, the Employer agrees to provide

first aid kit(s) and to designate employee(s) responsible to maintain the kit(s).

## **Section 6     GSA Automobiles**

An employee who believes a car he/she has been assigned is unsafe should take action in accordance with appropriate GSA or Bureau guidelines.

## **Section 7     Medical Determination on Sick Leave**

If an injured employee is sent to a medical facility for treatment, the Employer and the affected employee agree to accept the determination made by a competent agency authority at the facility as to whether the employee is eligible for sick leave.

## **Section 8     Worker's Compensation**

A. Employees injured in the performance of official duties will be informed by the Employer of the procedures for filing a claim for benefits under the Federal Employees' Compensation Act. Information will be provided about the type of benefits available, including specific reference to the option to file a claim for disability compensation or use of accrued leave if he/she is disabled for work.

B. Employees injured on the job will be granted sick leave in accordance with the Federal Employees' Compensation Act.

## **Section 9     Notification of Health Plans**

The Employer agrees to publish the following on the TTB intranet on a timely basis:

- A. Open Season instructions;
- B. Information to consider in choosing a health plan; and
- C. Bi-weekly Health Benefits rates.

## **Section 10   Employee Assistance Program**

The Employer agrees to the full implementation of the Employee Assistance Program as required and defined in applicable regulations and to make employees aware of the program.

**Section 11 Fire Safety**

To the extent Bureau employees are housed in non-GSA, Employer-controlled space, the Employer will provide fire safety devices, as appropriate. When new space is requested by the Employer sprinkler systems and fire escapes will be requested.

**Section 12 Safety Training**

The Employer will provide appropriate safety training, as necessary, to any employees conducting inspections or audits.

**Section 13 Safety Report**

The Employer will provide a copy of the Annual Report on Occupational Safety and Health.

## ARTICLE 22

### HOURS OF WORK

#### SECTION 1 Purpose

Consistent with the provisions of Chapter 61, Subchapter II, of title 5, United States Code, both Parties recognize that the use of flexible and compressed work schedules has the potential to improve productivity and provide greater service to the public. However, the Parties acknowledge that certain positions or organizational segments, because of the nature of the work performed, may not be suitable for flexible work schedules.

#### Section 2 Definitions

A. **Administrative workweek:** The basic workweek consists of five (5) consecutive eight (8) hour days Monday through Friday from 8:00 a.m. to 4:30 p.m.

B. **Flexible Work Schedules** include the following:

1. **Flexitour:** This is a schedule whereby employees work five (5) 8-hour days each workweek, and may choose a fixed time of arrival to and departure from work during flexible bands of hours (i.e., 6:00 – 9:00 a.m. and 3:00 – 6:00 p.m., respectively);
2. **Gliding Schedules:** Employees may vary arrival and departure times on a daily basis up to one (1) hour before or after the approved start and end times. (Example: Employee's approved start time is 7:00 a.m., therefore, they can start as early as 6:00 a.m. or as late as 8:00 a.m.) Regardless of the start time an employee must complete his/her scheduled number of work hours. Gliding schedules are:
  - a. **Flexible eight (8) hour work day:** This is a schedule whereby employees work five (5) 8-hour days each workweek, and may choose their time of arrival to and departure from work during flexible bands of hours (i.e. 6:00 – 9:00 a.m. and 3:00 – 6:00 p.m., respectively);
  - b. **Flexible 5/4/9:** This is a schedule which, within a bi-weekly pay period of ten (10) workdays, includes eight (8) nine-

hour days, one (1) eight-hour day, and one (1) non-work day; and

- c. Flexible 4/10: This is a schedule whereby an employee works four (4) 10-hour days, each workweek.

**C. Compressed Work Schedules (no “gliding” allowed):**

- 1. Compressed 5/4/9 Plan: This is a schedule which, within a bi-weekly pay period of ten (10) workdays, includes eight (8) nine-hour days, one (1) eight-hour day, and one (1) non-work day; and
- 2. Compressed 4/10 Plan: This is a schedule whereby an employee works four (4) 10-hour days, each workweek.

**D. Start/Stop Times:** These are the times that Employees working under either a Flexible Work Schedule or a Compressed Work Schedule must start/stop work. Employees may start no earlier than 6:00 a.m., and stop no later than 6:00 p.m., subject to the requirements for supervisory approval set forth in Section 4 and the need to be present during core hours. Pre-approved credit hours, compensatory or overtime may be worked after 6:00 p.m.

**E. Core Hours:** These are the hours that all employees must be present on all regularly scheduled workdays. They are between the hours of 9:00 a.m. and 3:00 p.m., except during lunch or break times, approved leave or excused absences.

**F. Credit Hours:** These are hours within a flexible work schedule that an employee elects to work in excess of his or her basic work requirement so as to vary the length of a workweek or workday. Credit hours are not allowed for employees on compressed work schedules or on the administrative work week schedule.

**G. Lunch Periods:** Will be taken no earlier than 11:00 a.m. and completed no later than 1:30 p.m.

**H. Holidays for Flexible Work Schedule Employees**

A full-time employee receives credit for eight (8) hours for a holiday, regardless of the number of hours in his or her standard work schedule for that day. A part-time employee receives credit for the number of hours of work scheduled for that day (not to exceed 8 hours). Employees scheduled to work more than eight (8) hours on a holiday must make up the hour(s)



on other day(s) in the affected pay period or take leave, use credit hours, or use compensatory time.

### **Section 3    Eligibility**

All employees are eligible to work any one of the flexible or compressed work schedules set forth in Section 2, except for employees in the following groups:

A. Employees participating in a training program, when the supervisor determines that participation would cause disruption in training assignments. On request, a supervisor will provide the reasons in writing; or

B. Consistent with section 6 of this Article, an employee who has been identified as having performance problems, and for whom the strategy for performance improvement must include a restriction on his or her work schedule in order to be effective. [Employees with performance problems are defined as those whose performance has been determined to be at the Needs Improvement level or below. Such determination must be documented in writing in accordance with the procedures of this Agreement.]

### **Section 4    Requirements for Approval of Work Schedules**

A. Employees shall submit work schedule requests to their immediate supervisor in writing. The request shall contain (1) the work schedule type requested (see above); (2) desired starting and stopping times; and (3) the requested off day(s), if applicable. The supervisor will approve or disapprove requests within thirty (30) days of a request, based upon consideration of relevant factors, including:

1. The need to provide service to clients; and
2. Other business or workload requirements.

It is recognized that application of these factors may be different when considering requests to work a flexible or compressed work schedule.

B. Approved work schedules will be implemented the first full biweekly pay period beginning after approval.

C. An employee may request to change a work schedule or tour of duty, either permanently or temporarily, at any time with the approval of the

supervisor. Such requests will be considered consistent with the factors set forth in Section 4A.

D. A supervisor may require an employee to change his or her work schedule, either permanently or temporarily, when necessary to ensure office coverage, provide service to customer or clients, or to meet other business or workload requirements. If the supervisor does not provide the employee at least two (2) workdays notice of the need to change his/her work schedule, then the employee will be eligible for overtime pay if required to work previously ordered and approved hours beyond the employee's normal work schedule. The employee may elect to earn compensatory time or credit hours when eligible and approved, in lieu of overtime.

E. An employee in travel or training status for all or a portion of a pay period may be required to revert from a flexible or compressed work schedule to a tour of duty with fixed hours for that pay period. An employee on detail will adhere to the hours of duty of the organizational segment to which he/she is temporarily assigned.

F. In accordance with applicable law and regulations, the Employer may establish special tours of duty of not less than forty (40) hours a week to enable employees to take educational courses at their own expense. An employee may request such a change in tour of duty at any time during the year.

G. Conflicts resulting from contemporaneous requests made by employees under this Article will be resolved by a seniority system which gives preference to the employee who has the longest period of continuous ATF/TTB service, the employee with the earliest service computation date (SCD) shall be given preference. Any ties in SCDs shall be broken by a flip of a coin. However, an employee who has an approved and established work schedule will not be required to change this work schedule (or off day) to accommodate a subsequent request by another employee.

## **Section 5     Credit Hours**

A. Credit hours are worked voluntarily by employees in excess of their regularly scheduled work requirements, either during the work week or on weekends, and only with advanced supervisory approval. Credit hours earned can subsequently be used at the election of the employee but only with the supervisor's approval, to vary the length of a workday or week.

B. Normally, an employee will be allowed to earn a maximum of two (2) credit hours in each workday and up to eight (8) credit hours on a non-workday. Credit hours will be earned and taken in one-hour increments. A maximum of twenty-four (24) credit hours may be carried over from one pay period to the next.

NOTE: Supervisors are authorized to approve the earning and use of credit hours unless they reasonably determine that approval will negatively impact the operations of TTB, e.g. customer service or the ability to interact with other agencies.

C. Time cannot be charged against credit hours until credit hours have been worked (i.e., credit hours cannot be advanced).

D. Credit hours earned and used will be recorded in WebTA.

E. Supervisors are responsible for ensuring that work scheduled to be performed during credit hours is accomplished.

F. Credit hours cannot be earned on workdays in which travel or training occurs.

Example 1: An employee travels to the taxpayer's offices on Monday and starts work. They are "in the field" for the full week, traveling back to their office or residence on Friday. In this example, credit hours could NOT be earned on Monday or Friday. However, with prior supervisory approval, credit hours could be earned on Tuesday, Wednesday and/or Thursday, assuming they are working one of the flexible work schedules.

Example 2: An employee attends Brewery training in Cincinnati. The employee travels on Monday, is in training on Tuesday through Thursday, and travels home on Friday. Since the employee is in travel status (either in part or in whole) on Monday and Friday and is training (either in part or in whole) Tuesday through Thursday, credit hours cannot be earned during the workweek.

G. Credit hours cannot be earned on workdays in which an excused absence is granted for annual leave, sick leave, compensatory time off, award time off, blood donation, Health Improvement Program time or any other administrative leave.

H. For delayed arrivals, early dismissals, or non-workdays caused by emergencies, employees will receive credit only for their basic work

requirement and not for any credit hours scheduled to be worked. Credit hours cannot be earned unless actually worked.

I. Any compensatory leave earned must be used before taking credit hours earned.

J. At the end of the leave year, credit hours cannot be used in lieu of annual leave if this would cause an annual leave loss or carry-over since credit hours are not subject to the calendar year restrictions.

K. If an employee has a bank of credit hours and is no longer eligible to use them for any reason (e.g. resigns, management action, etc.) that employee will be paid at their basic hourly rate for accumulated credit hours. No overtime pay or compensatory time off may be paid when employees earn credit hours or when credit hours are liquidated because Federal employment ends.

## **Section 6     Scheduling of Health Improvement Program (HIP) Time**

Scheduling of HIP time is subject to supervisory approval consistent with mission needs. On days in which administrative time is granted for early dismissal, no HIP time may be used on that day after issuance of the early dismissal notice.

## **Section 7     Time Recordation for Alternative Schedules**

A sign-in/sign-out register may, at the discretion of the supervisor, be maintained in an office for employees working alternative work schedules to record arrivals, departures and hours worked each day. Employees will record such entries in WebTA.

## **Section 8     Revocation or Termination of Flexible or Compressed Work Schedules**

A. An employee may be removed from a flexible or compressed work schedule for the following reasons:

1. The employee receives a performance evaluation with a rating below Meets Objectives or equivalent;

2. The supervisor determines, at any time during the rating period, that the employee's performance is less than Meets Objectives;
3. The supervisor determines that the employee has experienced time and attendance problems; or
4. There is need to ensure office coverage, provide service to customer or clients, or other business or workload requirements.

B. Prior to removing the employee from a flexible or compressed work schedule, the supervisor will notify the employee and provide to him or her the opportunity to correct the problem within a reasonable period of time.

C. Revocation of an employee's flexible or compressed work schedule will be effective at the beginning of the next pay period following receipt of an evaluation below Meets Objectives or equivalent, expiration of the period in Section 8.B., occurrence of the reasons cited Section 8.A.4., above. However, if this results in less than one week's notice to the employee, the revocation would be effective at the beginning of the following pay period.

D. Pursuant to Section 8.A. of this Article revocation of flexible or compressed work schedule privileges does not preclude the Employer from initiating an appropriate disciplinary or performance action at any time.

E. Should the employer at any time determine that a flexible or compressed work schedule program has had, or would have, an adverse agency impact, i.e., a reduction in productivity, a diminished level of service furnished to the public, or has resulted in an increase in operating costs, the Employer will notify the Union of its desire to modify or terminate such existing schedule. Such notice will include an explanation of the basis for the Employer's concerns. Should bargaining not be complete within forty-five (45) days of this notice, the matter may be submitted to the Federal Services Impasses Panel (FSIP) for resolution.

F. Any removal from a flexible or compressed work schedule may be grieved under this Agreement. However, a notice of potential removal provided by a supervisor under paragraph 8.B. cannot be grieved.

## **Section 9    Change in Workweek Schedule**

Prior to implementing a general change in any workweek, the Employer agrees to notify the Union as far in advance as possible. A general change must involve a change in the administrative workweek to five (5) employees or more.

## **ARTICLE 23**

### **OVERTIME**

#### **Section 1    General**

A. Overtime will be distributed in a fair and equitable manner to qualified employees currently assigned to the job at the office, provided that the Employer's assignment of individual work projects to an employee, such as an inspection, where such projects could require overtime, will not be affected by this provision.

B. An employee, upon request, will receive temporary exemption from a requirement to work overtime for legitimate medical reasons and other severe personal hardships. Staffing and workload requirements permitting, such exemptions shall be granted.

C. An employee may, upon request, be released from an overtime assignment when the employee or the supervisor finds a replacement who is willing to work, is fully qualified to do so, and is approved by the supervisor.

D. Upon request, the Employer will make available to the Union current records of overtime assignments of comparative employees to aid in resolving problems in overtime distribution in accordance with Privacy Act requirements.

E. The Employer will notify an employee as soon as possible when scheduling an overtime assignment.

#### **Section 2    Compensation**

Employees who are required to work overtime by the Employer will be compensated in accordance with applicable law and regulations. No employee will be required or expected to perform official duties without compensation.

#### **Section 3    Employee Requests for Unscheduled Hours**

Any request by an employee to work compensatory time or overtime will be fairly considered based on applicable laws and regulations and the mission and the budget needs of the Bureau.

## **Section 4 Meal Breaks and Call-Back**

A. In the event of an extension of a regular work shift into more than a three (3) hour overtime work period, reasonable unpaid time will be allowed for procurement of food at the end of the regular work shift and each four (4) hours thereafter, except where the law requires the presence of the employee in the work area.

B. An employee called back to work outside of and/or unconnected with his/her basic workweek shall be paid a minimum of two (2) hours pay.

C. At the employee's option he or she may be credited with two (2) hours of compensatory time for two (2) hours of overtime on callback, regardless of whether the full two (2) hours are worked, so long as the granting of compensatory time would not conflict with the provisions of the Fair Labor Standards Act.

## **Section 5 Premium Pay and Scheduling**

A. When the Employer finds it necessary to schedule a tour of duty, a part of which must be performed on Sunday, the employee will receive premium pay equal to twenty five percent (25%) of his/her basic rate of pay for such Sunday work.

B. Employees will be provided, when possible, with five (5) days advance notice of a change of the days of their regularly scheduled administrative workweek. Provided overtime work is available and the employee was not timely notified to work, then the employee will work his/her regularly scheduled administrative workweek and receive overtime pay for additional time worked. However, the Employer retains its right to change schedules to avoid the payment of overtime for the reasons set forth in 5 U.S.C. 6101 (a)(3)(A). This section provides: "Except when the head of an Executive agency . . . determines that his organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he shall provide, with respect to each employee in his organization, that assignments to tours of duty are scheduled in advance over periods of not less than 1 week."

C. When the Employer finds it necessary to make a change in an employee's daily hours of duty, the employee will, whenever possible, be given two (2) workdays advance notice. Provided overtime work is available and the employee was not timely notified to work, then the employee will work his/her regularly scheduled administrative workweek and receive overtime pay for additional time worked. However, the



Employer retains the right to change schedules to avoid the payment of overtime for the reasons set forth in 5 U.S.C. 6101 (a)(3)(A), cited above.

## **ARTICLE 24**

### **PERSONNEL RECORDS**

#### **Section 1     Records Availability**

Each employee or his/her representative, designated in writing will, upon request, be provided with a copy of any document which appears in the employee's Official Personnel Folder (OPF).

#### **Section 2     Privacy of Records**

Any record, file, or document not available to the employee or his/her personally designated representative for inspection will not be made available for any unauthorized persons for inspection or photocopy. Such information will be made available to authorized persons only for official use as provided for in Part 297, of Title 5 of the U.S. Code of Federal Regulations.

#### **Section 3     Record Retention**

A. OPFs, including records maintained by employees' supervisors, will be purged in accordance with current applicable regulations.

B. Any documents concerning discipline, adverse action and performance appraisals that are maintained by the supervisor will be removed by that supervisor according to the appropriate OPM, TTB, or other federal agency record retention schedule. Generally, any document concerning conduct or performance issues maintained by a supervisor that has not been relied upon for two (2) years, including counseling notes, should be purged. If the record is maintained beyond two (2) years, the employee will be advised of the reason and given a copy of the record.

C. Supervisors will not pass written records of employee conduct on to another subsequent supervisor unless the employee is provided a copy.

D. Performance related documents and/or files maintained/received by supervisors (other than regular employee work products) that could have an adverse impact on an employee's performance rating (e.g., customer/stakeholder complaints) shall be provided to the employee normally within ten (10) work days.

## **Section 4    Recording Devices**

Generally, information from electronic recording devices (Datawatch, computer logons, cameras) will not be accessed for a particular employee unless the particular employee is suspected of some misconduct or if the Employer needs access to a particular employee's system (or related device) in order to obtain information that may be necessary to an investigation of some other employee suspected of misconduct. However, this provision does not limit the Employer's ability to access such recording devices for routine maintenance and/or trouble shooting or for any criminal investigation.

## ARTICLE 25

### NOTICES TO EMPLOYEES

#### Section 1 Types of Notices

The Employer will provide the following notices with the sentence typed in bold print stating: **"A COPY MAY, AT YOUR OPTION, BE FURNISHED TO YOUR UNION REPRESENTATIVE"**:

- A. Notice of decision to take adverse action;
- B. Notice of decision to take a disciplinary action;
- C. Notice of reduction-in-force;
- D. Notice of proposed denial of a within-grade increase;
- E. Notice of decision to deny a within-grade increase;
- F. Notice of decision to remove or reduce in grade or pay for unacceptable performance;
- G. Notice of proposed separation of a probationer;
- H. Notice of decision to separate a probationer;
- I. Leave restriction letters;
- J. Notice of involuntary reassignment to another post of duty (other than an SF-50); and
- K. Notice of reclassification of the position an employee occupies (other than SF-50).

#### Section 2 Notifications and Information about Agency Policies

The Union and the Employer recognize that employees should be informed of their rights and benefits. Accordingly, the Employer agrees to notify employees about changes to agency directives and agrees to make available information on personnel policies and procedures.

### **Section 3    Leave and Earnings Statements**

For each pay period, the Employer will continue to provide employees a payroll statement showing pay, deductions, and leave status, together with the total cumulative yearly earnings and total cumulative deductions in each category.

### **Section 4    Standards of Conduct**

Supervisors will be responsible for advising employees under their jurisdiction, or helping them obtain information, on the application of the standards of conduct.

## **ARTICLE 26**

### **TRAVEL**

#### **Section 1 Travel Outside Established Tour of Duty**

A. The Employer agrees to schedule travel during the regular work hours and work week of the employee, to the maximum extent practicable. Time spent traveling outside the established workday is considered hours of work and is compensable, under the following circumstances:

1. The travel:
  - a. Involves the performance of work while traveling;
  - b. Is carried out under such arduous and unusual conditions that the travel is inseparable from work;
  - c. Is incident to travel that involves the performance of work while traveling; or
  - d. Results from an event, outside of regular work hours, which could not be scheduled or controlled administratively.
2. Employees covered by the Fair Labor Standards Act will be paid for time in a travel status in accordance with provisions of Title 5 of the United States Code and the Fair Labor Standards Act, whichever is appropriate. Under the Fair Labor Standards Act, time spent traveling shall be considered hours of work if:
  - a. An employee is required to travel during normal working hours;
  - b. An employee is required to drive a vehicle or perform other work while traveling;
  - c. An employee is required to travel as a passenger on a one-day assignment away from the official duty station; or
  - d. An employee 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.

3. An employee who travels from home before the regular workday begins and returns home at the end of the workday is engaged in normal "home to work" travel; such travel is not hours of work. When an employee travels directly from home to a temporary duty location outside the limits of his or her official duty station, any time the employee would have spent in normal home to work travel shall be deducted from hours of work as specified above.

B. For travel time outside of normal duty hours which is not otherwise compensable, employees will receive compensatory time in accordance with the Agency policy.

## **Section 2     Determining What Day Travel Occurs**

Taking into account regulatory requirements, work assignments, budget constraints, efficient use of government resources, employee morale, and safety considerations, the approving official should, to the extent practicable, authorize that the employee travel during normal duty hours. Consistent with these factors, the approving official may approve travel during normal working hours on the preceding day when circumstances require the employee's attendance at a time too early to permit travel during normal duty hours on that day. In the same manner, return travel may be scheduled for the following day when circumstances require the employee's attendance late into the afternoon.

If an employee requests, he/she may be permitted to travel during duty hours on a Friday preceding the Monday on which the employee is ordered to report to the temporary duty location. However, where the travel is performed on the preceding Friday, subsistence reimbursement may be allowed to start with the departure time, but will be limited to that which would have been payable had the departure been made on Sunday.

## **Section 3     Advance Notice to Travel**

If employees are required to travel, the Employer will provide employees with advance notice as soon as reasonably possible.

## **Section 4 Advance of Travel Funds**

Whenever possible, the Employer will provide travel charge cards for employees to use to obtain Automated Travel Machine (ATM) travel advances for authorized travel. When obtaining a credit card is not possible or practical, employees will receive a travel advance to his/her bank account by direct deposit, if requested in a timely manner. Travel charge cards or direct deposit advances will be available prior to the date of departure for those employees who make timely application. Should job related travel be scheduled with insufficient time to secure a travel charge card or process a travel advance by direct deposit, the Employer will advise the employee on other options to accomplish their travel.

## **Section 5 Reimbursement of Business Related Travel Expenses**

A. The Employer agrees to reimburse employees when in a travel status for per diem or actual subsistence and mileage expenses incurred by them in the discharge of their official duties to the extent allowable by law.

1. Maximum allowable per diem rates within the Continental United States (CONUS) will be based upon the traveler's actual lodging costs up to the maximum allowable amount as well as upon the meals and incidental expenses reimbursement rate for the locality subject to the most current rates published by General Services Administration (GSA) in the Federal Register.
2. For travel within the CONUS to localities designated by GSA as specific per diem localities, travelers shall be reimbursed in accordance with the most current rates published by GSA in the Federal Register. For travel within the CONUS to all other CONUS localities, travelers shall be reimbursed in accordance with the most recent standard per diem rate as published by GSA in the Federal Register.
3. In accordance with GSA regulations, and when authorized in advance by management, reimbursement on an actual subsistence expense basis will be authorized when actual and necessary subsistence expenses of official travel are unusually high due to special or unusual circumstances. This may include attendance at an event located at a particular hotel.



B. Official travel begins when the employee leaves home, office or other authorized point of departure and ends when the employee returns home, to the office, or other authorized point at the conclusion of the workday or trip. A per diem allowance shall not be allowed for travel within the limits of the official duty station or the vicinity of the employee's home.

## **Section 6     Use of Private Vehicle (POV)**

A. When use of a POV for official business is advantageous to the Employer, the employee providing such automobile will be reimbursed at the rate allowable by regulation. An employee will not be required to use his/her privately owned vehicle in connection with official business. However, if a Government Owned Vehicle (GOV) is requested by an employee who has previously used his/her POV for official travel, he/she may have to wait a reasonable amount of time for a GOV to become available, therefore, the most efficient and cost effective alternate means of transportation will be used to meet the Agency's needs.

B. In circumstances where an employee's first and/or last official assignment of the day is en route or by circuitous routing between his/her residence and the official station, his/her mileage entitlement shall be reduced, if applicable, by the miles in excess of fifty (50) that his/her residence is from his/her official station. For example:

1. Employee lives forty-eight (48) miles from his/her official station. He/she goes directly from home to an official assignment, visits the office during the day and goes directly home from another official assignment. No mileage offset is applicable.
2. Employee lives fifty-five (55) miles from his/her official station. He/she goes directly from home to an official assignment, visits the office during the day and goes directly home from another official assignment. A mileage offset of ten (10) miles is applicable, i.e. five (5) miles each way.

## **Section 7     Use of a Government Furnished Vehicle**

Government furnished or leased vehicles are to be used for official business purposes only. Employees are expected to comply with regulations, statutes, and policies regarding the use of government furnished vehicles. Violations may be subject to the penalties outlined in 31 U.S.C. 1349(b) including possible removal.

## **Section 8     Vehicle Parking**

An employee will be reimbursed for the most efficient and cost effective available parking related to authorized travel.

## **Section 9 Voluntary Return for Non-Workdays**

A. When an employee in travel status voluntarily returns to his/her official duty station or residence for non-workdays, the maximum reimbursement for the round-trip transportation and per diem en route shall be limited to the expenses which would have been allowed had the employee remained at the temporary duty station. The employee shall perform any such voluntary return travel during non-duty hours or periods of authorized leave except as authorized under Agency compensatory time off for travel policy.

B. Employees who are required to routinely perform extended periods of temporary duty may, at agency discretion and within the limits of appropriations available for payment of travel expenses, be authorized round-trip transportation expenses and per diem in route for periodic return travel to their official duty station or residence for non-workdays. For temporary duty assignments lasting four (4) weeks or more, employees will be authorized one (1) return trip home. Actual timing of the return trip home will be coordinated between the supervisor and the employee.

## **Section 10 Illness or Injury During Travel**

Where an employee in a travel status becomes ill or injured and is expected to be incapacitated for a significant length of the temporary duty time, the Employer will reimburse normal travel expenses in connection with returning that employee to his/her normal post of duty area as promptly as possible.

## **Section 11 Denial of claim for Reimbursement of Travel Expenses**

The Employer agrees to advise the employee of the specific reason any claim for travel expenses is denied. Employees will be advised of the appeal process at the time of the denial.

## **Section 12 Travel Voucher**

Employees may check online, with the Travel Services Provider, or with their program office at any time to determine the status of their travel voucher.

## **Section 13 Travel to the Same Event**

Taking into account regulatory requirements, work assignments, budget constraints, effective use of government resources, employee

morale, and safety considerations, approving officials will strive for consistency for all employees attending the same event.

#### **Section 14 Working in Commuting Area**

A. When traveling from residence directly to the first assignment, the employee should arrive at the first assignment at the same time he/she would have arrived if he/she had left from the office at the beginning of the official workday. (Subject to (D) below)

B. When traveling directly from the last assignment of the day to the residence, the employee should leave the last assignment at the same time he/she would have left in order to return to the office by the close of the official workday. (Subject to (D) and (E) below)

C. In both of the above cases, official travel time is authorized for the amount of travel time that would have occurred had travel from the office to the first assignment and for the last assignment to the office occurred.

D. In applying the rules under (A) and (B), the employee should never leave the residence at the start of the day any later than the beginning of the official workday, nor should the employee leave the last assignment at the end of the workday at a time which would allow him/her to return to the residence earlier than the close of the official workday; i.e., the employee must work a full tour of duty.

E. When traveling from residence directly to the office at the beginning of the day, the employee should arrive at the office by the beginning of the official workday. When traveling from office to residence at the end of the day, the employee should leave the office at the end of the official workday. No official time should be charged for resident to office or office to residence travel.

F. Directed Travel: The supervisor always has the authority to direct travel, such as requiring an employee to report directly to the office. Also, in order to complete an assignment in areas where it would be impracticable for the employee to return to the assignment on another day, the supervisor may require an employee to work beyond the time he/she would normally return to his/her residence. In cases where it is not practicable to limit travel to duty hours and the employee is not legally entitled to overtime pay, the employee may be eligible for compensatory time for travel in accordance with the Agency policy.

G. POV Mileage: No POV mileage reimbursement is permitted for travel directly between the residence and the office, and the office and the residence. All other authorized POV mileage will be reimbursed on an actual mileage basis using the current government authorized per mile rate.

## **ARTICLE 27**

### **REASSIGNMENTS**

#### **Section 1    Definition**

A. For the purpose of this Article, **reassignment** means the change of an employee from one position, work location, or post of duty, without promotion or demotion. These are non-competitive reassignments and not to positions with greater promotion potential.

B. Employees interested in applying for a voluntary lateral reassignment should refer to the applicable provisions of Article 9 or Section 8, below.

#### **Section 2    Reassignments Involving Permanent Change of Station (PCS)**

A. When the Employer determines that it is necessary to make a reassignment that involves an authorized PCS move, the following provisions will apply. The Employer will establish reasonable job-related criteria for the vacant position. Employees at the post(s) of duty designated by the Employer as the post(s) of duty from which employees will be reassigned will be polled to determine if any will voluntarily accept reassignment. If no fully qualified employee volunteers, the Employer will select the employee at the designated post(s) who best meets the established criteria; if the employees are equally qualified then the employee with the least total continuous TTB/ATF service will be selected. If more than one qualified employee volunteers, the Employer will select the best qualified employee; if the volunteers are equally qualified then the employee with the most total continuous TTB/ATF service will be selected.

B. The Parties agree that the criteria established by the Employer are not grievable or arbitrable. A grievance may be filed by the employee or the Union only on the application of the criteria to the employee selected for reassignment.

C. Upon request by an employee polled or selected under the provisions in Section 2A, the Employer will expeditiously provide information that would be useful to the employee in deciding whether to volunteer or to accept involuntary reassignment; e.g. information about the office, post of duty, area and/or region which the employee would be assigned, including information about promotional opportunities, type of

work, or assignments, amount of official travel, cost of living, housing, schools, and public transportation.

### **Section 3     Reestablished Abolished Positions**

In accordance with governing regulation, the Employer agrees that when an employee has been reassigned due to the abolishment of his/her position, he/she will be given consideration if that position is reestablished within two (2) years and he/she applies for the position.

### **Section 4     Notice to Employee**

When an involuntary reassignment involves an authorized PCS move, the Employer agrees to give the affected employee at least fifteen (15) calendar days written notice and when possible, ninety (90) calendar days written notification.

### **Section 5     Household Move Reimbursement**

When an employee is reassigned, a determination of whether the employee is authorized for reimbursement of PCS move expenses will be made on an individual basis, in accordance with applicable laws and regulations.

### **Section 6     Effect of Reassignment Procedures**

The Parties agree that when the Employer reassigns an employee in accordance with the procedures of this Article, notification and bargaining on impact and implementation is not required, as this Article constitutes full and complete negotiations of the impact and implementation of reassignments.

### **Section 7     Transfer of Function**

Employees whose jobs are moved because of a transfer of function that does not include a reduction-in-force will be entitled to move with their jobs. If they choose not to transfer, they will be reassigned to any vacant position for which they apply and qualify for in their own commuting area, subject to governing regulations. It is understood that the Employer need not fill vacancies it deems unnecessary to fill based on legitimate needs and concerns. Its decision to leave a position unfilled is not grievable or arbitrable.

## **Section 8 Voluntary Requests for Reassignment, Change to Lower Grade/Band, and/or Change in Official Duty Station**

A. Employees may request reassignments, changes to lower grades/bands, and/or changes in official duty stations to alleviate personal hardships or for the interest, convenience, and/or benefit of the requesting employees. However, these employees:

1. Must pay all relocation expenses, in accordance with 5 U.S.C. 5724(h), including but not limited to travel and transportation and expenses of transporting, packing, crating, temporarily storing, draying, and unpacking of household goods and personal effects;
2. Are not entitled to relocation allowances;
3. Must pay all expenses for the movement of all Government equipment and phone and cable installation costs (if on telework);
4. Cannot be reassigned to a position that has greater promotion potential than the position they currently hold or held in the past and meets with all applicable requirements in accordance with the governing regulations;
5. Must be qualified for the position they are seeking and have a current Meets Objectives or better performance appraisal;
6. Must not be on a Performance Improvement Plan (PIP) or scheduled to be on a PIP;
7. Must not be the subject of an investigation by the Office of Inspector General (OIG) or law enforcement office, or of a pending disciplinary or adverse action; and
8. Will not be eligible for retained pay if they request and accept a change to a lower grade/band.

B. Application Procedures. All requests from the employee must be submitted in writing to their first- level supervisor and include the following information:

1. The reason(s) for the request for reassignment, change to a lower grade/band, and/or a change in official duty station. This must be specific and include all relevant details;



inadequate or incomplete information and details may result in a denial of the request. TTB may make a decision without asking for additional details;

2. Divisions/offices and location(s) requested;
3. An acknowledgement that:
  - a. The employee voluntarily and actively pursued, solicited, and/or requested the change and/or reassignment;
  - b. Said change and/or reassignment is primarily for the convenience, benefit, and/or interest of the employee, and is not for the interest of the Government; and
  - c. The employee is personally responsible for all relocation expenses and costs, including use of his/her leave, if necessary.
4. A waiver that specifically states that by signing the request, the employee waives any reimbursement of travel and transportation expenses and costs and any allowances related to the relocation.
5. Specific documentation that supports the request. Management will treat supporting documentation submitted with a request as confidential under the Privacy Act and will release the documentation only to those with an official need to know; and
6. The overall benefits to TTB.

C. Decisions on employee requests will be made consistent with staffing needs, mission requirements, and the work coverage that is needed within the employee's assigned area.

D. In addition to the provisions outlined in Section 8 A – C, above, bargaining unit employees in the National Revenue Center (NRC) may request a reassignment to another commodity/function in their current position at the NRC as follows:

1. An annual solicitation will be conducted via a TTB broadcast message, to National Revenue Center employees only, to obtain a list of employees interested in such reassignments;

2. To be eligible for reassignment under this provision, the employee must be fully trained and able to work independently without supervision in their current commodity (employees must have a minimum of at least one (1) year of experience in their current commodity), and must not be the subject of any performance or conduct action. The employee's current supervisor will certify that the employee is currently performing at least at the Meets Objectives or better level, has no conduct issues pending, and that the employee is fully trained in their current commodity via written statement to the Human Resource Service Provider at the time of reassignment;
3. The roster will be maintained by the Human Resources Service Provider. The roster will remain valid and be utilized for twelve (12) months from the date of issue as follows:
  - a. The Employer will consider employees on the reassignment roster prior to otherwise filling a vacant position within the NRC. Absent a business need to keep the employee in his/her current commodity, an eligible employee on the roster will be reassigned to fill the vacancy prior to filling the vacancy through other sources. If there is no eligible employee on the reassignment roster, then the position may be filled using any Office of Personnel Management authorized recruitment source, to include posting in accordance with the requirements of Article 9, or any external recruitment source;
  - b. When a match exists between NRC employees seeking reassignment to another commodity/function under these provisions, such reassignments may occur even in the absence of a vacancy. The Human Resources Service Provider will work with NRC supervisors to identify all instances where matches exist between eligible employees seeking reassignment. When a match has been identified, reassignments should occur as soon as practicable, consistent with mission needs; and
  - c. If two or more employees from the roster are eligible for the same reassignment, the reassignment will be granted to the employee with the most agency seniority (continuous ATF/TTB service) will break the tie. If there is a tie in agency seniority, government service date will break the tie (if agency and government service dates are

tied, flip of coin for two (2) employees and draw straws for three (3) or more employees). For purposes of this provision, the Employer has determined that employees on the roster are equally qualified.

4. Upon request, the NTEU Chapter President will be provided a list of all reassignments of bargaining unit employees in NRC that have occurred during the life of the roster that is current at the time of the request.

## **Section 9 Exclusions**

A. This Article does not apply to involuntary reassignments resulting from a reduction-in-force.

## **ARTICLE 28**

### **RETIREMENT**

#### **Section 1    Training**

The Employer will provide a retirement planning program to be made available on an as needed basis, but not more frequently than annually, in which all employees in the Unit nearing eligibility for retirement may voluntarily participate. It will include individual counseling assistance, information material and/or group information sessions.

#### **Section 2    Employee Retirement Rights**

Each employee who separates voluntarily or involuntarily (except by retirement) will be informed by the Employer as to his/her rights to file for disability retirement, the possibility of applying for a discontinued service annuity, and eligibility for a deferred annuity, if the employee requests, and the situation warrants.

#### **Section 3    Withdrawal**

An employee may withdraw an optional retirement application at any time prior to its effective date, provided the withdrawal is communicated to the Employer in writing and is received by the Employer prior to its having made a commitment to fill the position of the retiring employee.

## **ARTICLE 29**

### **SPACE AND OFFICE MOVES**

#### **Section 1 Pre-decisional Involvement**

A. For purposes of this Article, when the Employer has made the decision to move, co-locate, open a new office, expand, or contract any office the appropriate local management will give notice to local NTEU and to the Human Resources service provider before engaging in the formal assessment process. NTEU will be afforded an opportunity to participate with and/or provide feedback to local management on field office requirements before submission to Acquisition Facilities Management. The Parties agree that the goal is to have a collaborative process and attempt to reach consensus on all specifications, (e.g., the delineated geographic area) prior to TTB's requirements being submitted to the General Services Administration (GSA). Agreements, which result from this collaborative process, will be signed by the parties concerned and forwarded to the Human Resources service provider.

B. If consensus is not reached before requirements are submitted to GSA, the Union may submit comments to the Human Resources service provider and the Union may present a formal request for bargaining on those issues appropriate for bargaining.

#### **Section 2 Walk-Throughs**

The Union will be afforded an opportunity to participate as observers when the appropriate "walk-through" of proposed space is to be conducted. Any questions and/or comments concerning the proposed space will be directed to the management spokesperson during and after the walk-through.

#### **Section 3 Floor Plans**

The Employer will provide copies of the initial draft layout (including walls, cubicles, and furniture) to local NTEU for review and comment. The goal is collaboration between local management and NTEU to reach consensus on the plan. If consensus is not reached, NTEU may submit comments to the HR service provider. If consensus is reached, the Parties will sign an agreement stating this and there will be no further bargaining on issues on which consensus is reached.

#### **Section 4    Formal Notice**

Any formal notice of office moves including the “space plan” will be provided to NTEU in accordance with Article 39.

## **ARTICLE 30**

### **PROBATIONARY EMPLOYEES**

#### **Section 1    Evaluation**

Employees should receive ongoing feedback on their performance during their probationary periods. The Employer agrees to advise probationary employees of any negative feedback regarding their performance in writing prior to the end of the tenth (10<sup>th</sup>) month of the probationary period. This does not prevent the Bureau from being able to terminate an employee in accordance with governing regulation.

#### **Section 2    Appeal Rights**

The Employer's decision will be final and may not be challenged or appealed to any higher level authority in any manner, except as provided by statute or higher level regulations.

## **ARTICLE 31**

### **DISCIPLINARY ACTIONS**

#### **Section 1    General**

A. A disciplinary action, for the purpose of this Article, is defined as a written reprimand, or a suspension of fourteen (14) days or less.

B. This Article applies only to bargaining unit employees who have completed their probationary period.

C. No bargaining unit employee will be the subject of a disciplinary action except for just cause, and the action will be for such cause as will promote the efficiency of the service. The Employer subscribes to the concept of progressive discipline.

D. A meeting where there is a discussion or examination between an employee and his/her supervisor and/or other management officials during which the principal topic of discussion is disciplinary action or potential disciplinary action, will entitle the employee to be given an opportunity to request the presence of Union representation during such a meeting. If a request for representation is made, the Employer will set a time for the meeting which gives the employee at least two (2) workdays to obtain representation. If the employee is unable to have a representative attend within that time period, the meeting may be held, as scheduled, at the Employer's option. The Parties agree that the employee does not have a right to representation at meetings for discussion or counseling on performance-related matters or other topics in which the employee should not reasonably expect disciplinary or adverse action. There is no right to representation, as when a supervisor delivers a proposal or a decision and there is no discussion.

E. In taking disciplinary actions, the Employer will give due consideration to the existence of mitigating or aggravating circumstances, the grade or nature of the position occupied by the employee involved, the frequency or severity of the offense and any other factors or circumstances bearing upon the incidents or acts involved.

F. The Employer will give due regard to the fact that an employee has followed supervisory orders when determining what disciplinary action if any should be taken.



## **Section 2     Disciplinary Suspensions**

When the Employer proposes to suspend an employee for fourteen (14) days or less, the following procedures will apply:

A. The Employer will provide the affected employee with fifteen (15) calendar days advance written notification of the proposed suspension, including a reasonable amount of time to reply to the notice.

B. Upon the employee's written request of the Employer, the employee will be furnished a copy of all written documents which contain evidence relied on by the Employer which formed the basis for the proposed action.

C. An affected employee will be granted a reasonable amount of official time for reviewing material relied on by the Employer to support the reasons in the notice and for furnishing affidavits in support of the answer.

D. An employee has the right to make an oral and/or written reply provided that the employee requests an oral reply within seven (7) calendar days of the receipt of the letter of proposed action. The oral and/or written replies must be received by the designated official no later than ten (10) calendar days after receipt of the letter of proposed action. A request for an extension of the notice period shall be in writing, shall state the reasons for the extension and shall be delivered no later than the date the replies are due to the official who will render the decision. A failure to receive an extension shall be appealable or grievable as it relates to the requirement for providing a reasonable time for reply.

E. A written decision and the specific reasons should be issued at the earliest practical date. The Employer will address, in the written decision, the substance of the defenses or arguments raised by the employee/Union in his/her response to the proposed action. The notice period for the above may be extended for a reasonable period of time at the request of the employee when the employee demonstrates that good and sufficient reasons exist for the extension of the notice period.

F. Nothing in this Article shall preclude the Employer from taking immediate action, without adhering to the above-cited time limits, in situations where there is a reasonable cause to believe that the employee may have committed a crime for which a sentence of imprisonment may be imposed.

G. The Employer will provide a summary of any oral reply made under Section 2D to an affected employee and/or his/her designated representative prior to the time a final decision is made.

### **Section 3 Standard of Proof**

Where arbitration is involved, the burden of proof for matters covered by this Article shall be a preponderance of evidence.

### **Section 4 Grievance Rights**

Employees may grieve final decisions on disciplinary actions in accordance with procedures set forth in Article 34.

### **Section 5 Nexus Requirement for Off-Duty Misconduct**

An employee will not be disciplined for off-duty conduct unless a nexus is established between the conduct and the efficiency of the service. The notice of proposed disciplinary action will include a statement or description of the connection between the off-duty misconduct and the efficiency of the service.

### **Section 6 Effective Date of Suspension**

If the Employer's final decision is that an employee will be suspended for a period of not more than fourteen (14) calendar days, the suspension will take effect as soon as possible after the receipt by the employee of the final decision, but normally or in most cases no sooner than two (2) working days after the receipt by the employee of the final decision.

### **Section 7 Notice to the Union**

A. The Union will be provided a copy of any notice of proposed disciplinary action, if authorized by the employee.

B. In any proposed disciplinary action, the employee shall be informed that he/she may have an individual represent him/her and that the representative may be from NTEU or may be any other individual.

C. The notice of proposed disciplinary action will contain the following, typed in bold print stating: **"A COPY MAY, AT YOUR OPTION, MAY BE FURNISHED TO YOUR UNION REPRESENTATIVE."**

D. The decision letter will inform the employee that if the employee elects to file a grievance or wishes to proceed to arbitration, the employee should contact his/her Union representative.

## **ARTICLE 32**

### **ADVERSE ACTIONS**

#### **Section 1    General**

A. An adverse action for the purpose of this Article is defined as a removal, a suspension for more than fourteen (14) calendar days, a reduction in grade, a reduction in pay, or a furlough of a permanent employee, without pay, for thirty (30) calendar days or less. The Employer will follow existing case law in ascertaining whether to process actions under Chapters 43 or 75 of Title 5, U.S. Code.

B. This Article applies to bargaining unit employees who have completed their probationary period.

C. No bargaining unit employee will be the subject of an adverse action except for such cause as will promote the efficiency of the service. The Employer subscribes to the concept of progressive discipline.

D. A meeting between an employee and his/her supervisor and/or other management officials during which the principal topic of discussion is adverse action or potential adverse action will entitle the employee involved to be given an opportunity to request to be accompanied by the employee's Union representative during such meeting. If a request for representation is made, the Employer will set a time for the meeting which gives the employee at least two (2) work days to obtain representation. If the employee is unable to have a representative attend within that time period, the meeting may be held, as scheduled, at the Employer's option. The Parties agree that the employee does not have a right to representation at meetings that are for the purpose of discussing with an employee work habits or products, dependability, and all other topics which do not relate principally to a disciplinary or adverse action.

E. In deciding what action may be appropriate, the Employer will give due consideration to the relevance of any mitigating and/or aggravating circumstances. The following factors, included herein for purpose of illustration, are neither meant to be exhaustive nor intended to be applied mechanically, but rather to outline the parameters of reasonableness:

1. The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including

whether the offense was intentional or inadvertent, or was committed maliciously or for gain, or was frequently repeated;

2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee's past disciplinary record;
4. The employee's past work record; including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the supervisor's confidence in the employee's ability to perform assigned duties;
6. The consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. The notoriety of the offense or its impact upon the reputation of the agency;
8. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
9. Potential for the employee's rehabilitation;
10. Mitigating circumstances surrounding the offense such as unusual job tension, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter;
11. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others; and
12. Whether an employee has followed supervisory orders.

F. The Employer agrees that any adverse action will be administered as timely as possible.

## **Section 2    Procedures**

Where the Employer proposes to take an adverse action against an employee, the following procedures will apply:

A. The Employer will provide the affected employee with thirty (30) calendar days advance written notification of the proposed adverse action, including twenty-one (21) calendar days to reply to the notice;

B. Upon the employee's written request, the employee will be furnished a copy of all written documents which contain evidence relied on by the Employer which formed the basis for the proposed action;

C. To the extent materials cannot be released to an employee or the employee's representative, such information may not be used by the Employer to support the reasons for the action;

D. An affected employee will be granted a reasonable amount of official time for reviewing material relied on by the Employer to support the reasons in the notice and for furnishing affidavits in support of the answer;

E. An employee has the right to make an oral and/or written reply provided that the employee requests an oral reply within seven (7) calendar days of the receipt by the employee of the letter of proposed action. The oral and/or written replies must be received by the designated official within twenty-one (21) calendar days;

F. However, the response period will be extended a reasonable amount of time at the request of the employee when the employee demonstrates that good and sufficient reasons exist for the extension of the response period. A request for an extension will be in writing, shall state the reasons for the extension, and shall be delivered no later than the date the replies are due to the official who will render a decision;

G. An official who sustains the proposed reasons against an employee in an adverse action will set forth his/her findings with respect to each reason and specification against the employee in his/her notice of the decision. The Employer will also address, in the written decision, the substance of the defenses or arguments raised by the employee/Union in his/her response to the proposed action;

H. Nothing in this Article shall preclude the Employer from taking immediate action, without adhering to the above-cited time limits, in situations where there is reasonable cause to believe that the employee

may have committed a crime for which a sentence of imprisonment may be imposed; and

I. If the employee provides no written reply, the Employer will provide a summary of any oral reply made under Section 2E to an affected employee and/or the employee's designated representative prior to the time a final decision is made.

### **Section 3     Appeal Rights**

At the election of the employee, a final decision by the Employer to effect an adverse action against a bargaining unit employee may be appealed to the Merit Systems Protection Board, (MSPB), or, alternatively, and with the consent of the Union, may be sent directly to binding arbitration. However, the employee may choose only one appeal forum. An appeal to the MSPB must be filed any time during the period beginning with the day after the effective date of the action being appealed until not later than thirty (30) calendar days of the effective date.

### **Section 4     Invoking Arbitration**

When the Employer renders a final decision, the Union may invoke arbitration within thirty (30) calendar days of the date of the decision. The date of filing the invocation shall be the date of mailing indicated on the certified mail. If the filing is by personal delivery, it shall be considered filed on the date it is received. The National President of NTEU may invoke arbitration by filing notification with the HR service provider. If arbitration is not invoked in a timely manner with the HR service provider the action may not be appealed through the arbitration procedure.

### **Section 5     Burden of Proof**

Where arbitration is invoked, the burden of proof for matters covered by this Article shall be a preponderance of evidence.

### **Section 6     Application of Case Law**

The Parties hereby agree that they will look to the body of case law regarding adverse actions which has been developed by the Federal courts and the MSPB for guidance and interpretation.

## **Section 7    Nexus Requirement for Off-Duty Misconduct**

An employee will not be disciplined for off-duty conduct unless a nexus is established between the conduct and the efficiency of the service.

The notice of proposed adverse action will include a statement or description of the connection between the off-duty misconduct and the efficiency of the service.

## **Section 8    Notice to the Union**

A. The Union will receive notice of any adverse action proposal by serving the National Office with a copy of the letter, if authorized by the employee.

B. In any proposed adverse action, the employee shall be informed that he/she may have an individual represent him/her and that the representative may be from NTEU or may be any other individual.

C. The notice of proposed adverse action will contain the following, typed in bold print stating: **“A COPY MAY, AT YOUR OPTION, MAY BE FURNISHED TO YOUR UNION REPRESENTATIVE.”**

D. The decision letter will inform the employee that if the employee elects to file a grievance or wishes to proceed to arbitration, the employee should contact his/her Union representative.



## **ARTICLE 33**

### **UNACCEPTABLE PERFORMANCE ACTIONS**

#### **Section 1    General**

A. This Article sets forth the procedures to be followed in processing involuntary reduction in grade and involuntary removals based solely on unacceptable performance, pursuant to Chapter 43 of Title 5.

B. This Article applies only to bargaining unit employees who have completed their probationary or trial period.

C. No bargaining unit employee will be subject to an action based on unacceptable performance, pursuant to Chapter 43 of Title 5 of the United States Code, unless that employee fails to meet established performance standards in one or more critical elements of his/her position.

D. Prior to issuing a notice of proposed action based on unacceptable performance, the Employer, will provide the employee with an opportunity to improve performance in accordance with Article 7, Section 7.

#### **Section 2    Procedures**

A. Notice of Proposed Action and Reply. An employee whose reduction in grade or removal is proposed for unacceptable performance will receive:

1. Thirty (30) days advance written notice of the proposed action which includes:
  - a. Specific instances of unacceptable performance by the employee on which the proposed action is based, including the performance standard involved in each instance of unacceptable performance;
  - b. The critical elements of the employee's position involved in each instance of unacceptable performance;
  - c. A statement of the employee's right to be represented by NTEU, an attorney or any other individual;

- d. A statement of the employee's right to answer orally and/or in writing, and the time frame for filing such replies. A reasonable amount of official time will be provided to prepare/present replies, and a request to submit an oral reply must be made within seven (7) days of the receipt of the proposed notice. A copy of the answer of the employee, when written, or a summary of the oral reply when there is no written reply, if any, should be made a part of the record. The employee will be given up to twenty-one (21) calendar days to reply; and
  - e. The notice of proposed action will contain the following, typed in bold print stating: **"A COPY MAY, AT YOUR OPTION, MAY BE FURNISHED TO YOUR UNION REPRESENTATIVE."**
- 2. The employee will be given a copy of all materials relied upon by the Employer that formed the basis of the proposed action.

B. Extensions.

- 1. The response period will be extended a reasonable amount of time at the request of the employee when the employee demonstrates that good and sufficient reasons exist for the extension of the response period. A request for an extension will be in writing, shall state the reasons for the extension, and shall be delivered no later than the date the replies are due to the official who will render a decision.
- 2. The Employer may further extend the notice period with prior approval of the Office of Personnel Management. 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 above the Unacceptable level for one (1) year from the date of the advance written notice provided under Section 2A above, any entry or other notation of the unacceptable performance for which the action was proposed under this subparagraph shall be removed from any agency record relating to the employee.

C. Decision.

- 1. The deciding official's written decision will set forth his/her findings in regard to each instance of unacceptable

performance by the employee on which the reduction in grade or removal is based, and has been concurred in by an official who is in a higher position than the official who proposed the action. The written decision should include information to the employee of the appropriate appeal, grievance, and complaint rights available and, at a minimum, the time limits and procedures for exercising those rights. In an action in which an employee has been removed or downgraded based on unacceptable performance, such actions must be supported by substantial evidence. The Employer will also address, in the written decision, the substance of the defenses or arguments raised by the employee/Union in the employee's response to the proposed action.

2. The decision letter will inform the employee that if the employee elects to file a grievance or wishes to proceed to arbitration, the employee should contact his/her Union representative.
3. The decision to retain, reduce in grade, or remove an employee should be made within thirty (30) days after the date of the expiration of the notice period, and in the case of a reduction in grade or removal, may be based only on those instances of unacceptable performance by the employee which occurred during the one (1) year period ending on the date of the thirty (30) day advance written notice of the proposed action.

### **Section 3 Exclusions**

This Article does not apply to:

A. The reduction to the grade previously held of a supervisor or manager who has not completed the probationary period under 5 U.S.C. 3321; and

B. An employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less.

### **Section 4 Timing of Actions**

The reduction in grade or removal of an employee, whose performance in one or more critical elements becomes unacceptable, may be taken at any time during the performance period.

## **Section 5    Appeal Rights**

At the election of the employee, a reduction in grade or removal action may, with the consent of the Union, be sent directly to binding arbitration in accordance with Article 34, not later than thirty (30) calendar days after the effective date of the action. These same actions can, at the election of the employee, be appealed to the MSPB. However, the employee may choose only one appeal forum. An appeal to the MSPB must be filed any time during the period beginning with the day after the effective date of the action being appealed until not later than thirty (30) days of the effective date.

## ARTICLE 34

### GRIEVANCES

#### Section 1 Purpose and Scope

A. The purpose of this Article is to provide an orderly method for the disposition and processing of grievances.

B. The Employer and the Union recognize and endorse the importance of bringing to light and adjusting problems promptly and, whenever possible, informally.

C. The Parties agree to submit virtually all contract-related matters to the negotiated grievance procedures concerning contract-related issues which may occur in the day-to-day administration of this Agreement or TTB's Early Conflict Prevention and Resolution Program (ECPR) as contained in Section 7 of this Article.

D. The Employer and the Union by mutual agreement may consolidate any number of grievances into one grievance if they involve the same issue or factual situation(s).

E. Section 12 contains a list of specific matters not subject to grievance under this Article, and subjects that are grievable either under this Article or under statutory appeal procedures at the option of the employee.

#### Section 2 Definitions

A. **Grievance** means any complaint:

1. By any employee concerning any matter relating to the employment of the employee;
2. By the Union concerning any matter relating to the employment of any employee; or
3. By an employee, the Union, or the Employer concerning:
  - a. The effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

- b. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

B. Grievances under the terms of this Article may be initiated by bargaining unit employees either singly or jointly, by the Union, or by the Employer. As used in this Agreement, the term grievant refers to the aggrieved party, whether an employee, the Union, or the Employer.

### **Section 3 Rights Under the Procedures**

A. When an employee has initiated a grievance and does not elect to be represented by the Union, the Union will be given the opportunity to be present at all formal discussions between the employee and the Employer concerning the grievance. The Employer will process all grievances presented under such circumstances consistent with the terms and conditions of this Agreement.

B. An affected employee will be allowed a reasonable amount of time, as soon as workload permits, to:

1. Discuss potential grievances with a designated Union steward or National Field Representative; and
2. To prepare and present grievances.

C. An employee engaged in the activities set forth in Section 3B above during duty hours shall request from his/her supervisor the amount of reasonable time necessary to prepare and present the grievance.

### **Section 4 Notes and Representatives**

A. Unless mutually agreed by all Parties in writing, the Parties will not be allowed to make verbatim notes of meetings during the grievance procedure for any purpose by manual, mechanical, or electronic means. Notes or recordings made during the grievance procedures will not be admissible in any manner at arbitration or other hearing.

B. Grieving employees will have the right to be accompanied, represented, and advised by a Union representative at any stage of the proceeding.

C. Management officials retain the right to be accompanied, represented, and advised by a representative or members of their staff as

they deem necessary at any stage of the proceeding. This may include supervisors not involved in previous steps of the grievance process.

## **Section 5 Exclusivity of Procedure**

The procedures in this Article will be the exclusive administrative remedy available to bargaining unit employees, the Union, and the Employer for the resolution of grievances covered by this Article.

## **Section 6 Timeliness**

Except as may be otherwise provided in other articles of this Agreement, grievances will not be considered unless they are presented to the appropriate official twenty-one (21) calendar days after the incident which gave rise to the grievance or within twenty-one (21) calendar days after the grievant became aware of the matter that caused the grievance.

## **Section 7 Beginning the Grievance or ECPR Process**

### **A. Employee Grievances, Step 1**

1. Each grievance must be in writing and delivered to the grievant's immediate supervisor. The grievance must contain an explanation of the complaint including, where appropriate, the article and section of the Agreement alleged to have been violated, and the personal relief sought by a bargaining unit employee. The immediate supervisor will, if he/she has the authority to grant the relief requested, attempt to resolve the grievance. If he/she does not have the authority, the supervisor will refer the grievance to the official with the authority to grant the relief.
2. The official with the authority to grant relief will consider the matter and will meet with the grievant, if the grievant or the official so requests, within twenty-one (21) calendar days of the receipt of the grievance in order to discuss the grievance in an attempt to resolve it. If a meeting is held, the official will determine who will attend the meeting on behalf of the Employer. The grievant and/or a Union Steward or representative shall be the other parties present. The official shall give the grievant a written decision regarding the grievance within fourteen (14) calendar days after the meeting or within twenty-one (21) calendar days of receipt of the grievance if no meeting is held. If the grievance is denied,

the written decision will contain an analysis of the reasoning and evidence supporting the denial and will refer the grievant to the next highest official who will hear the Step 2 grievance if the grievant is dissatisfied with the Step 1 decision.

#### B. ECPR Process, Alternate Step 1

The grievant may elect to utilize the ECPR process at Step 1 under the following conditions:

1. To use the ECPR process, unit employees must inform their NTEU representative of the problem or dispute. The Union representative shall then contact the Bureau neutral, or his/her designee, in an effort to resolve the issue;
2. The Parties agree that this ECPR method will address any issue unit employees elect to raise;
3. The Parties agree that in matters which would otherwise be acceptable under Article 34 of the Negotiated Agreement as timely grievable, the ECPR system can replace Step 1 of the negotiated grievance procedure. If an ECPR recommendation to resolve the problem is rejected by either the employee or the Union, the matter will then be heard at Step 2 of the negotiated grievance procedure at the election of the employee, or arbitration may be invoked at the election of the Union. To preserve the employee's right to file a timely negotiated grievance, the employee must seek the ECPR within twenty-one (21) calendar days after becoming aware of the matter;
4. The ECPR mechanism shall involve the use of a neutral who shall conduct fact-finding and prepare a non-binding recommendation to resolve the problem. The neutral will be selected jointly by the Employer and the Union; however, for at least the first year of this agreement the Employer and the Union agree that either the Agency's EEO Officer or a person selected from the Department of the Treasury Shared Neutral's Program may serve as the neutral;
5. The neutral shall have thirty (30) calendar days from receipt of the complaint to formulate recommendations. The complainant shall have ten (10) calendar days to either accept or reject the recommendation, unless the neutral agrees on an extension of time;



6. If the complainant elects not to accept the neutral's recommendation and the matter is otherwise timely grievable, the employee may, within fifteen (15) calendar days, file a grievance at Step 2 of the procedure. The employee will be granted an additional ten (10) calendar days to file a negotiated grievance only if the Employer rejects the neutral's recommendation;
7. If no non-binding recommendation is made by the neutral, the matter shall revert to the regular dispute resolution procedures, i.e., the negotiated grievance procedure, at Step 2;
8. With respect to otherwise non-grievable matters that an employee may elect to raise in the ECPR, the parties agree that these matters have no further right of appeal at the conclusion of the ECPR process and that this agreement is, in no way, intended to increase the employee's formal appeal rights in any forum; and
9. The Parties agree that information developed or obtained in the course of the ECPR process and any settlement agreements reached by the Parties will be kept confidential by all persons involved.

#### C. Step 2 of the Grievance Procedure

1. Employees appealing decisions rendered under Step 1 may, within ten (10) calendar days of the grievant's receipt of the Step 1 decision, submit the Step 2 grievance to the next higher official having authority to grant relief. This official will be identified in the decision letter at Step 1.
2. Such appeals must include a copy of the original grievance submitted and the Step 1 grievance submitted and the Step 1 decision letter. The official hearing the second step of the grievance shall consider the matter and meet with the employee, if the grievant or the official so requests, within ten (10) workdays of the official's receipt of the appeal of the Step 1 decision in order to discuss the grievance. The official will determine who will attend the meeting on behalf of the Employer. The grievant, his/her Steward, Chief Steward, and/or Union National Field Representative may also be present. The official will give the grievant a written decision

regarding the grievance within ten (10) workdays after the meeting or within ten (10) workdays of the receipt of the grievance if no meeting is held. If the grievance is denied, the written decision will contain an analysis of the reasoning and evidence supporting the denial.

#### D. Union and Employer Grievances

1. Grievances filed by the Union will be submitted to the Chief, Employee and Labor Relations Team, within twenty-one (21) calendar days after the particular act or occurrence precipitating the grievance or within twenty-one (21) calendar days after the Union became aware of the particular act or occurrence causing the grievance. A written decision on the matters presented will be issued within ten (10) calendar days.
2. Grievances filed by the Employer will be submitted in writing to the National President of the Union by the Chief, Employee and Labor Relations Team within twenty-one (21) calendar days after the particular act or occurrence causing the grievance. A written decision will be issued within ten (10) workdays.
3. Should the grievance be settled during the processes described in 1 or 2 above, the grieving party will withdraw the grievance in writing, or the Parties will reduce the settlement to writing, stating that the matter is closed, and sign the settlement agreement.
4. When the issues are not resolved, the grieving party, through the National President of the National Treasury Employees Union or the Chief, Employee and Labor Relations Team, may invoke arbitration in accordance with the procedures set forth in Section 8 of this Article.

### **Section 8     Invoking Arbitration**

A. Arbitration may be invoked by the aggrieved party within thirty (30) calendar days of the decision in cases where a negative determination is sustained on reconsideration of a denial of a within-range increase and no grievance is filed, and if the employee, with the consent of the Union, elects arbitration; or when an adverse decision is rendered in the final step of the grievance procedure. The date of filing the invocation shall be the date indicated on the certified mail, or the date on the e-mail or fax. If the

filing is by personal delivery, it shall be considered filed on the date it is received.

B. Arbitration may only be invoked by the National President of the National Treasury Employees Union by filing notification with the Chief of the Employee and Labor Relations Team, or the Chief, Employee and Labor Relations Team, so notifying the National President of the Union.

## **Section 9 Evidence**

A. The Parties will have the obligation of introducing all relevant evidence during steps of the grievance procedure and producing any and all witnesses who have relevant information of the matter or issue, or a statement by the witness.

B. Evidence may not be withheld during the processing of a grievance. However, newly discovered evidence may be offered at later stages of the grievance procedure or arbitration.

C. New issues may not be raised by either party unless they have been raised at Step 1 of the grievance procedure; provided, however, the parties may mutually agree to join new issues to a grievance in process.

## **Section 10 Time Limits**

A. The time limits delineated in this Article may, by mutual agreement of the Parties, be extended.

B. The Parties may mutually agree in writing or by fax or e-mail to waive any step or meeting in this procedure.

C. For grievances filed pursuant to this Article, the date of filing by mail shall be determined by the postmark date or by the date on the fax or e-mail. If no postmark date is evident, it shall be presumed to have been mailed five (5) days prior to receipt. If the filing is by personal delivery, it shall be considered filed on the date it is received by the appropriate party.

## **Section 11 Cancellation**

Failure on the part of the grievant or the Union to timely prosecute the grievance at any step of the procedure will have the effect of nullifying the grievance. Failure on the part of the Employer to meet any of the requirements of the procedure will permit the grievant or the Union to move to the next step.

## **Section 12 Exclusions**

A. The following matters are excluded from the grievance procedures:

1. Pursuant to 5 U.S.C. 7121 (c):
  - 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. Suspensions or removals pursuant to 5 U.S.C. 7532, dealing with national security;
  - d. Any examination, certification or appointment; or
  - e. The classification of any position which does not result in the reduction in grade or pay of any employee.
2. Dismissals of probationers;
3. Garnishment of wages;
4. Non-selection for promotion from a list of properly ranked and certified employees;
5. Non-adoption of a suggestion, disapproval of a quality step increase or performance award; or any other kind of discretionary award except where the grievance alleges a violation of this Agreement or the Employer's established policies and practices on awards;
6. An action terminating a temporary promotion within a maximum period of two (2) years and returning the employee to the position from which he/she was temporarily promoted unless the termination would constitute a prohibited personnel practice;
7. Any termination of benefits payable under Chapter 53, subchapter VI of Title 5 of the United States Code, pertaining to grade and pay retention;

8. Proposal of an action which, if effected would be covered under the grievance procedure or under a statutory appeals procedure;
9. Reduction-in-force actions;
10. Scheduling of Health Improvement Program (HIP) time unless based upon a claim of disparate treatment;
11. Matters for which a formal EEO complaint has been filed;
12. Annual performance appraisal ratings for demonstration project employees. Such grievances will be handled in accordance with the procedures outlined in the applicable Demonstration Project directive; and
13. All other matters specifically excluded elsewhere in this agreement.

B. The following matters, at the employee's option, may be appealed under statutory procedures or may be grieved under the negotiated grievance procedure, and with the consent of the Union, taken to arbitration, but review may only be sought under one procedure.

1. Adverse actions as defined in 5 U.S.C. 7512.
2. Reductions in grade or removals for unacceptable performance under 5 U.S.C. 4303.

## **ARTICLE 35**

### **ARBITRATION**

#### **Section 1 Procedures**

The Parties will establish two lists of three (3) to five (5) qualified arbitrators; one (1) list for the East centered around the Washington, DC area and one (1) list for the rest of the country. The Parties will execute an agreement within thirty (30) days of the effective date of this agreement establishing the procedures for the selection of arbitrators.

#### **Section 2 Documents, Files and Witnesses**

A. If either Party furnishes the grievance file to the arbitrator, all documents furnished to the arbitrator will be furnished to the other Party.

B. The official grievance file shall consist of the written grievance, the written answers to each step, all documentary evidence submitted, and the notice invoking arbitration.

C. The Parties shall exchange, at least ten (10) workdays prior to a scheduled arbitration hearing, a list of witnesses anticipated to be called at the hearing. They shall also briefly discuss the substance of each witness' expected testimony. Neither Party shall be precluded from adding witnesses; however, the Parties shall make their best efforts to notify each other of additional witnesses at least three (3) days in advance of the hearing.

#### **Section 3 Cost of the Arbitration**

A. The arbitrator's fees and expenses of the arbitration, including the cost of the transcript, will be paid one-half (1/2) by the Employer and one-half (1/2) by the Union.

B. The arbitration hearing will be held on the Employer's premises at the grievant's post of duty, when practicable, or at any other mutually agreed site.

C. The quantum of proof necessary to sustain a grievance will be a preponderance of the evidence except as noted for unacceptable performance actions where the burden of proof will be substantial

evidence. The terms “preponderance” and “substantial” will have the meanings set forth in 5 CFR 1201.56.

D. A verbatim transcript will be made by a qualified reporter.

E. The grievant and the grievant’s designated Union representative shall be granted official time to participate in an arbitration hearing.

F. TTB employees, participating in a hearing as witnesses shall be granted official time for travel.

G. Arbitrators’ decisions will be final and binding and they will also have the authority to make an aggrieved party whole to the extent such remedy is not limited by statute or regulations.

H. Witnesses at a hearing must testify in the presence of the grievant and the grievant’s representative, unless waived by the grievant and the representative of the other Party.

I. The hearing shall be open unless the grievant requests that it be closed.

J. It will be the sole discretion of the arbitrator to determine who may testify.

K. All testimony will be truthful and will be under oath or affirmation.

#### **Section 4 Arbitrator’s Authority**

A. The Employer and the Union agree that the jurisdiction and authority of the chosen arbitrator and the opinion expressed by the arbitrator shall be confined exclusively to the issues resolvable through the scope of the grievance procedure as defined in Article 34. The arbitrator will have no authority to add to, subtract from, alter, amend, or modify any provision of this Agreement or impose on either the Employer or the Union any limitation or obligation not specifically provided for under the terms of this Agreement.

B. If the Employer raises an assertion of arbitrability or grievability, that issue will be joined to the grievance at issue. Any arbitrator assigned to decide the grievance will have the authority to make all arbitrability/grievability decisions as well as decisions on the merits of the grievance. The arbitrator, in his/her sole discretion, can delay the hearing on the merits if such is clearly necessary.

## **ARTICLE 36**

### **EXPEDITED ARBITRATION**

#### **Section 1 When to Use**

The expedited arbitration procedure set forth in this Article is intended to provide prompt and efficient handling of certain cases. The Parties agree to submit grievances concerning the following matters to an expedited procedure under the terms of this Agreement: (Expedited Arbitration will be invoked in accordance with Section 8, Article 34 and Section 1, Article 35, Arbitration.)

- A. Written reprimand;
- B. Appeals of performance appraisal ratings;
- C. Denials of annual or sick leave, or leave without pay;
- D. Denials of reasonable time to which Union representatives are entitled under this Agreement;
- E. Postings and distributions;
- F. Ranking panel evaluations;
- G. Denial of requests for outside employment or business activity;
- H. Disputes concerning dues withholding and denials of waiver of overpayment under Article 37; and
- I. Any other matter by mutual agreement.

#### **Section 2 Submissions**

A. If either Party furnishes the grievance file to the arbitrator, all documents furnished to the arbitrator will also be furnished to the other party.

B. The official grievance, the written answers to each step, the written appeals at each step, all documentary evidence submitted, and the notice invoking arbitration.



### **Section 3    Fees and Conduct of the Arbitration**

A. The arbitrator's fees and expenses of the arbitration will be paid one-half (1/2) by the Employer and one-half (1/2) by the Union.

B. The arbitration hearing will be held on the Employer's premises at the grievant's post of duty, when practicable, or at any other mutually agreed site.

C. The quantum of proof necessary to sustain a grievance will be a preponderance of the evidence except as noted for unacceptable performance actions where the burden of proof will be substantial evidence. The terms "preponderance" and "substantial" will have the meanings set forth in 5 CFR 1201.56.

D. No verbatim transcript will be made.

E. The grievant and the grievant's designated Union representative shall be granted official time to participate in an arbitration hearing.

F. TTB employees, participating in a hearing as witnesses shall be granted official time for travel. However, by mutual agreement of the Parties, witnesses may testify by telephone or video teleconference.

G. All testimony will be truthful and will be under oath or affirmation. The Parties have the right to be present and cross-examine witnesses, and to issue opening statements.

H. It shall be the sole discretion of the arbitrator to determine who shall testify. Witnesses at a hearing must testify in the presence of the grievant and the grievant's Union representative unless waived by the grievant and the representative of the other Party.

I. Neither Party may file written briefs with the arbitrator following the arbitration hearing, but either party may, at its option, present a written and or oral statement of its position prior to the close of the hearing. Any written submissions shall be served simultaneously on the other party.

J. The Employer and the Union agree that the jurisdiction and authority of the chosen arbitrator and the opinion expressed by the arbitrator shall be confined exclusively to the issues resolvable through the scope of the grievance procedure as defined in Article 34. The arbitrator will have no authority to add to, subtract from, alter, amend, or modify any provision of this Agreement or impose on either the Employer or the Union

any limitation or obligation not specifically provided for under the terms of this Agreement.

K. Whenever possible, arbitrators will issue bench decisions. All decisions will be issued and confirmed in writing within five (5) work days of the closing of the hearing.

L. Arbitrators' decisions will be final and binding and they will also have the authority to make an aggrieved party whole to the extent such remedy is not limited by statute or higher level regulations.

#### **Section 4 Arbitrator's Authority**

If the Employer raises an assertion of arbitrability or grievability, that issue will be joined to the grievance at issue. Any arbitrator assigned to decide the grievance will have the authority to make all arbitrability/grievability decisions as well as decisions on the merits of the grievance. The arbitrator, in his/her sole discretion, can delay the hearing on the merits if such is clearly necessary.

## **ARTICLE 37**

### **DUES WITHHOLDING**

#### **Section 1 Eligibility**

This Article permits eligible employees who are members of NTEU to pay dues through the authorization of voluntary allotments from their compensations. This Article covers all eligible employees who:

- A. Are members in good standing with NTEU;
- B. Have voluntarily completed Standard Form 1187, Request for Payroll Deductions for Labor Organization Dues; and
- C. Receive compensation sufficient to cover the total amount of the allotment.

#### **Section 2 NTEU Responsibilities**

NTEU agrees to assume responsibilities for:

- A. Informing and educating its members on the voluntary nature of the system for union dues allotment, including the conditions under which the allotment may be revoked;
- B. Purchasing and distributing to employees Standard Form 1187;
- C. Forwarding properly executed and certified Standard Form 1187(s) to the Human Resources service provider on a timely basis;
- D. Forwarding employee revocations (memorandum or Standard Form 1188, Cancellation of Payroll Deductions for Labor Organization Dues) to the Human Resources service provider when such revocation is submitted to NTEU;
- E. Informing the Human Resources service provider of the name of any participating employee who has been expelled or ceases to be a member in good standing with NTEU within ten (10) workdays of the date of such final determination;
- F. Informing the Human Resources service provider of any change in the formula for membership dues;

G. Returning magnetic tape(s) with protector to the NFC as soon as possible; and

H. Informing the Employer of changes in certification and remittance procedures as listed in Section 3.

### **Section 3 Certification and Remittance**

Certification and remittance procedures shall be as follows:

A. Dues will be wire transferred to the bank account designated by NTEU;

B. Dues tapes will be mailed to the Director of Information Systems, National Treasury Employees Union, 1750 H Street, NW, Washington, DC 20006; and

C. NTEU's National President or any chapter officer who has submitted proper notification to the Human Resources service provider is authorized to make the necessary certification of Standard Form 1187.

### **Section 4 Employer Responsibilities**

The Employer agrees to be responsible for processing voluntary allotments of dues in accordance with this Article. The Employer will:

A. Upon receiving a properly certified Standard Form 1187, Human Resources service provider stamps the date received on the back of the form and forwards it to the payroll office within three (3) workdays of its receipt;

B. Provide information to the National Finance Center (NFC) for withholding dues on a biweekly basis;

C. Authorize NFC to provide biweekly, sufficient magnetic tape reels to contain information on the Record Format, Record Format Positions, and the total gross amount deducted for all employees, the total amount of prescribed costs retained, and the net amount remitted;

D. Discontinue allotments when required by OPM and Department of the Treasury regulations;

E. Authorize NFC to withhold new amounts of dues upon certification from the NTEU National President as long as the amount has not been changed during the past twelve (12) months;

F. Authorize transmittal of remittance checks to the allottee designated by NTEU;

G. Authorize transmittal of magnetic tape reels pursuant to Section 3B of this Article to NTEU or its designee;

H. Upon receiving the properly executed Standard Form 1188 or other revocation document, the Human Resources service provider, stamps the date received on the form or other revocation document and forwards the original and copy to the payroll office within three (3) workdays after receipt; and

I. Will provide the local NTEU Chapter a copy of Standard Form 1188 or other revocation documents received by the Human Resources service provider within three (3) workdays. A copy of the form need not be provided to NTEU if it was initialed by the Chapter President or designated official when submitted to the Human Resources service provider.

## **Section 5 Allotment Changes**

The Parties to this Agreement agree that the formula for dues to be deducted as allotments from compensation may not change more frequently than once each twelve (12) months. NTEU will pay no fee for these services.

## **Section 6 Overpayments**

A. Each pay period, the Employer will forward a copy of any bill for dues overpayments, with an accompanying document prescribed by the Debt Collection Act of 1982, to the Administrative Controller, National Treasury Employees Union, 1750 H Street, NW, Washington, DC 20006. This bill will identify amounts which were reimbursed to employees as a result of dues withholding, and the pay periods in which the overpayments were made to NTEU. The document accompanying the bill will include a statement that debts due to the government for more than thirty (30) days are subject to interest, to the extent required by law, as well as Treasury Department policy regarding the assessment of other fees if delinquent. The bill sent to NTEU will request payments be made payable to "U.S. Department of Agriculture" and will specify that the payment and a copy of the bill be mailed to an address designated on the bill for the USDA National Finance Center. The right of NTEU to request a waiver of overpayment in accordance with 4 CFR 101 or to dispute the amount of the overpayment will also be contained in the accompanying document. A copy of the bill and accompanying document will be forwarded to the Human Resources service provider for use in determining the start of the period for requesting waivers by NTEU.

B. Upon receipt of the amount due from NTEU the accounts receivable for the applicable pay period will be closed. If a waiver or partial waiver of overpayment is requested timely by NTEU, the Employer will suspend collection of the amount in question pending adjudication by the Employer in accordance with 4 CFR 101. The personnel office that processed the request for waiver will notify the local NTEU Chapter of the determination.

## **Section 7 Errors in Withholdings**

A. The total error in the amount of dues withheld shall be adjusted as soon as practical after the error has been detected by the Employer or written notification of an error is received from NTEU or an employee.

B. When an underpayment to an employee results in an overpayment to NTEU (e.g., the Employer fails to timely terminate dues withholding after receiving a properly submitted employee request), the Employer will refund the payment to the employee in accordance with Section 6A of this Article.

C. When the Employer fails to commence dues withholding timely or otherwise fails to remit dues owed, the Employer will pay the full amount to NTEU and recoup the funds from the employee's salary through an adjustment subject to the employee's right to seek waiver of overpayment. When the total amount owed by the employee is less than twenty-five (\$25) dollars, the entire amount will be withheld in one (1) pay period, to the extent it does not exceed fifteen (15) percent of disposable pay. When the total amount owed by an employee is more than twenty-five (\$25) dollars, the deductions will be made in accordance with the Debt Collection Act.

D. When an adjustment is made to an employee's salary to recoup dues withholding and the amount to be deducted is twenty-five dollars (\$25) or more, the employee will be provided a written notification advising of the employer's intent to offset in accordance with the Debt Collection Act of 1982. This notification will contain information relating to the amount and nature of the debt and additional information required by the Debt Collection Act of 1982 as implemented in 31 CFR Part 5, Subpart B. When an adjustment is made to an employee's salary to recoup dues withholding and the amount to be deducted is less than twenty-five dollars (\$25), the employee will be given a written explanation stating the amount to be withheld and the pay period in which the adjustment will occur. This notification will be prepared by the HR service provider. This notice shall notify employees that:

1. They have the right to request a waiver of overpayment pursuant to 4 CFR Part 91; and

2. Denials of employee requests for waiver of overpayment will be subject to the grievance procedure as outlined in Article 34 of this Agreement.

E. The Employer and NTEU will resolve disputes arising out of dues withholding situations, including requests for waivers, at the local level. If the matter is not resolved, either party may invoke expedited arbitration in accordance with Article 36.

## **Section 8 Effective Dates**

The effective dates for actions under this Agreement are as follows:

A. Starting dues withholding: Beginning of first full pay period after date of receipt of properly executed and certified Standard Form 1187 in the Human Resources service provider;

B. Change in amounts of dues: Beginning the first full pay period after receipt of certification in the Human Resources service provider;

C. Revocation before one (1) year anniversary of membership: Revocation notices for employees who have not had dues allotments in effect for one (1) year must submit the revocation notices on or before the one-year anniversary date of their dues allotment. Employees may at their discretion provide a copy of the Standard Form 1188 to the NTEU Chapter President or designated official or submit it directly to the Human Resources provider. The Standard Form 1188 will become effective during the first full pay period after the employee's anniversary date;

D. Revocation after one (1) year membership: Revocation notices for employees who have had dues allotments in effect for more than one (1) year must be submitted to the Human Resources provider during the month of July. Revocations will become effective during the first full pay period of September. Employees may at their discretion provide a copy of the Standard Form 1188 to the NTEU Chapter President or designated official or submit it directly to the Human Resources provider;

E. Termination due to loss of membership in good standing: Beginning of first full pay period after date of receipt of notification in the Human Resources Service provider; and

F. Termination due to separation or movement out of the exclusive bargaining unit; a final deduction will be made for that pay period in which the action is effective.

## **Section 9 Movement of Employee to Bargaining Unit Position**

A. If an employee moves from a bargaining unit position in one appointing office within TTB to a bargaining unit position in another TTB appointing office, dues withholding will not be canceled.

B. Employees who leave the unit temporarily will have the withholding suspended and will have the withholding automatically continued once they return to the unit.

## **Section 10 Movement of Employee to Nonbargaining Unit Position**

When a dues paying bargaining unit employee is permanently placed in a nonbargaining unit position, the employee will be supplied with the form shown below. The local chapter will be provided a copy of the form. The subject form follows:

TO:  
FROM:  
SUBJECT: Termination of Union Dues Withholding

Regulations governing dues withholding to a labor organization require that dues withholding be canceled automatically whenever an employee is assigned to a nonbargaining unit position.

You were recently subject to a personnel action which will automatically terminate your dues withholding. The final dues withholding will be made for the last pay period during which you were in the bargaining unit.

If you are interested in continuing your membership, or if you have any other questions regarding the termination of dues withholding, contact a representative of NTEU.



## **Section 11 Dues Tapes**

A. The Employer's biweekly dues tapes will indicate the following information:

1. Whether the employee retired or separated;
2. Whether the employee is continuing to be carried in non-duty status;
3. Whether the employee is full time, part time, seasonal, intermittent, term, temporary, permanent, or career conditional;
4. The geographic locality of each employee used to determine the appropriate locality pay;
5. The base pay of each employee, his or her grade and step, pay structure and the total dues withheld; and
6. The national dues withheld, local dues withheld, and total dues withheld.

B. The Employer will provide, on a biweekly tape, a list of bargaining unit employees who were dropped off the bargaining unit list since the previous biweekly tape and an explanation of why they were dropped.

C. The Agency will use the most current information codes as established by the NFC a copy of which will be provided to the Union, as updated.

## **Section 12 Duration of Article**

This Article will remain in full force and effect after the expiration of this Agreement or until such time as a new Agreement is reached.

## **ARTICLE 38**

### **EMPLOYER/UNION MEETINGS**

#### **Section 1    General**

Upon written request to the Human Resources service provider, the Employer will meet with NTEU representatives within sixty (60) calendar days to discuss matters of local or national concern.

#### **Section 2    Meetings on National Issues**

##### **A. Purpose of the Partnership**

The parties agree to utilize the National Partnership Council (NPC) as the forum for national issues so long as the NPC exists.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) and the National Treasury Employees Union (NTEU) recognize that the parties are subject to significant change because of external events, such as government downsizing, budget constraints, and the rapid increase in technology.

TTB and NTEU recognize that the primary resources of the Bureau are the knowledge, skill, wisdom, experience, enthusiasm and versatility of its employees and that it is necessary to encourage the active, involved participation of those employees in order to improve the quality and quantity of the internal and external work product of the Bureau.

TTB and NTEU desire to create a labor-management partnership by involving management representatives of the Bureau with NTEU, and the bargaining unit employees it represents.

TTB and NTEU recognize that a partnership between labor and management is a key to accomplishing the Bureau's mission.

##### **B. Partnership Goals**

The parties jointly agree that the TTB and NTEU partnership has the following goals:

1. Delivering quality service at the lowest possible cost to internal and external customers, with the involvement of bargaining unit employees;
2. Building a successful, efficient and competitive organization with the ability to gain new business within the scope of the Bureau's mission;
3. Involving employees (through NTEU) before the Bureau's decisions impacting the bargaining unit are finalized, including NTEU participation in appropriate Bureau operational meetings and groups relating to issues affecting the unit;
4. Effectively implementing, with employee involvement, the Chief Financial Officer Act, the Federal Managers Financial Integrity Act, and the Government Performance and Results Act;
5. Fostering the effective performance of a diverse work force;
6. Providing income security by providing quality public service;
7. Improving labor-management relations;
8. Implementing any TTB restructuring that impacts bargaining unit employees;
9. Creating more job satisfaction, feelings of respect, value and ownership;
10. Defining and meeting strategic and operational plans and goals;
11. Ensuring a stable, self-confident union/management relationship;
12. Managing conflict to settle/resolve disputes faster;
13. Reducing confrontation, arbitrariness and conflict;
14. Increasing productivity;
15. Confronting change with speed, flexibility and innovation;
16. Recognizing, admitting and correcting mistakes;

17. Sharing risks, accountability and rewards, to the extent that decision-making is shared;
18. TTB becoming a leader in government; and
19. Operating efficiently on a fixed budget and managing finances in a responsible and sound manner.

C. Establishment of a National Partnership Council

1. A Partnership Council will be established at the national level and shall have the responsibility for accomplishing the goals set forth in Section 2B. The Council will hold management and NTEU representatives jointly accountable for accomplishing the goals and performing the tasks set forth in this agreement. This will be accomplished by each party using its own internal processes and by jointly creating new processes, as necessary.
2. The Council will have the following ground rules:
  - a. Behavior

No personal attacks, treat each other with respect and courtesy, attend all meetings on time (otherwise give notice), and no side conversations.
  - b. Meeting Schedule

Meet at least three (3) times a year (see Section 2C2g), additional meetings as needed on an ad hoc basis, and generally meet for two (2) days (but at least one (1) day) depending on the agenda.
  - c. Make-up of Council

The Council membership will include four (4) NTEU representatives and four (4) TTB management representatives, each with the authority to make decisions as delegated by the President, NTEU and the Administrator, TTB. The Administrator, TTB, and the President, NTEU, will be designated as ex officio members.

d. Duration of Council

The Council will be ongoing. Termination of the council may be made unilaterally by either party based upon a written justification.

e. Changes in Membership

NTEU members may be replaced at any time by the President, NTEU. TTB management members may be replaced at any time by the Administrator, TTB.

f. Cost Containment and Shared Accountability

Pilot or experiment with video-conferencing; reduce meeting frequency; decided at each meeting when to meet next; explore less expensive sites (using a location model); explore obtaining bulk discounts on meeting rooms and lodging at mutually agreeable places/ contracts. NTEU will host some meetings at its headquarters and will waive reimbursement rights to all Labor Management Relations Committee (LMRC) meeting expenses during the life of the Council. TTB pays all expenses associated with Partnership Council meetings incurred by TTB employees. NTEU communicates results of meetings to all bargaining unit employees. This will entail the Bureau's staff distributing material Bureau-wide via electronic media, such as the Intranet.

g. Meeting Sites

DC metro area. Explore other methods ( e.g., video-conferencing, consideration of other sites using a locator model, etc. See Section 2C2f).

h. Quorum

A quorum shall consist of six (6) members, to include the co-chairs, with at least three (3) NTEU and three (3) TTB members, which can be waived by mutual agreement of the co-chairs.

i. Decision Making Process

Decisions regarding recommendations of the Council will be made by consensus, using problem-solving techniques, discussion, brainstorming, and facilitation. Council decisions are subject to agreement by the Administrator, TTB, and the President, NTEU. When either disagrees, both will participate in further discussions of the issue with the council. As provided under Article 5 of this Agreement, nothing in this Article limits or otherwise affects the Bureau's rights under 5 U.S.C. 7106, and the Union retains its right to bargain as permitted by law, as provided in Article 4.

The Council will utilize outside expertise, as it deems necessary. The Council will use joint subgroups. Issues will be resolved through analysis, compromise and consensus. Interest based discussion techniques will be used in an effort to produce "win-win" results.

j. Neutrals

The TTB will provide recorder/scribe services. Meeting minutes will be provided to all Council members for review and approval within two(2) weeks of receiving a draft. Copies of the approved minutes will be provided to all unit employees in accordance with Section 2C2f.

Outside facilitator(s) will be used, if deemed necessary by the Council.

k. Co-Chairs

The Council will have two (2) co-chairs, one (1) to be designated by the Administrator, TTB, and the other by the President, NTEU.

l. Agenda Determination

At the end of each meeting, action items for the next meeting will be set. Between meetings, the agenda for the next meeting will be submitted by the co-chairs in a timely fashion. For ad hoc meetings, co-chairs will set the agenda.

3. The Joint National Partnership Council will have the following responsibilities:
  - a. Work to accomplish the goals set forth in Section 2B;
  - b. Secure sufficient direction, joint training, and support to accomplish the Section I goals; and
  - c. Select a facilitator or facilitation team for itself and use their facilitation/intervention assistance as needed.

#### D. NTEU Participation in Other Operational Groups and Meetings

In addition to its participation in the Partnership Council created in Section 2, NTEU may appoint representatives, subject to mission and budget needs, from among NTEU members to all task forces and groups formed on a short-term or long-term basis by TTB for the purpose of improving or changing work processes and procedures affecting bargaining unit employees. These selectees will be ready and able to serve on the group and will possess the necessary qualifications, as determined by the Council.

#### E. General Principles

1. It is critical that, while functioning as a participant in the TTB/NTEU Partnership, participants treat each other with dignity and respect, and share their ideas, proposals, information and concerns with each other. Each participant is expected to participate as an equal partner in all discussions and activities associated with the Partnership related to the bargaining unit.
2. It is understood that an employee's participation will be viewed positively and will have no adverse impact on his/her career.
3. The Bureau and NTEU endorse the use of joint facilitation (one facilitator from NTEU and one from TTB may be assigned to joint work groups). A cadre of facilitators drawn from both NTEU and Bureau representatives may be trained for this purpose.
4. The Bureau and NTEU will use a "strive for consensus" decision-making model in all of its Partnership activities; that is, the parties will work extraordinarily hard to reach a

recommendation that all participants can live with and support. Each participant has a responsibility to participate in the decision-making process and to support the group's decision if consensus is reached. If consensus is not reached, the parties may agree to disagree, table and revisit the issue if time permits, possibly using alternative dispute resolution and interest-based bargaining techniques.

5. It is expected that disputes should become less frequent and more easily resolved by operation of these partnership principles and goals. However, the Bureau and NTEU also recognize that the use of administrative or legal remedies is appropriate.
6. The creation of this agreement and/or Partnership Council does not supersede any of management's or NTEU's statutory rights or the requirements in the existing collective bargaining agreement.
7. All time spent by the participants will be considered duty time.
8. In the event that the Bureau is restructured, the Parties recognize that it may become necessary to modify this agreement.

### **Section 3 Meetings on Local Issues**

A. The Parties agree to furnish each other, ten (10) days prior to the scheduled date of the meeting, with a written agenda of items to be discussed. Matters not on the agenda can be discussed by mutual consent.

B. The Employer agrees that any meeting conducted under this article shall be conducted during the normal work hours, in facilities furnished by the Employer.

C. NTEU may appoint up to three (3) employee representatives, subject to mission and budget needs. The Employer recognizes that the Union may at times find it necessary to expand the size of its team in order to make expertise available to itself. In such cases, the Union will provide advance notice of its need to do so and TTB must agree before these extra people can attend.



D. The Employer agrees that the employees will be on duty time for travel to and from attending these meetings. Use of video or phone conference is acceptable for some or all participants by mutual agreement.

## **ARTICLE 39**

### **MID-TERM BARGAINING**

#### **Section 1 Pre-decisional Involvement**

A. The Parties agree to the goal of providing the Union with pre-decisional involvement in all matters affecting conditions of employment for bargaining unit employees. With regard to issues that are national in scope, the NTEU National President, or designee, will be responsible for designating the Union's representatives on any joint labor-management group. For local issues, the NTEU Chapter President will be the point of contact for designating these representatives, with a courtesy copy of the Employer's request for representatives provided to the NTEU National President, or designee.

B. If pre-decisional involvement results in a joint resolution of the issue through consensus and the Parties sign an agreement to this effect, the Union will have waived its right to further bargaining on this issue. If an agreement is not reached through pre-decisional involvement, the remaining procedures set forth in this Article shall apply. In addition, if any agreement signed by the Parties is subsequently modified or rejected by Agency officials, then the Union shall retain its right to bargain.

C. A decision by the Union not to take advantage of an opportunity for pre-decisional involvement does not constitute a waiver of the Union's right to bargain over the matter.

D. Official time will be provided in accordance with Article 6, Sections 5 and 6.

#### **Section 2 Employer-Initiated Bargaining**

A. Unless otherwise agreed to through the TTB-NTEU Partnership Council or other pre-decisional joint groups, the Employer will give advance notice of any proposed changes in the conditions of employment for bargaining unit employees. Normally, the Employer will provide twenty-one (21) calendar days notice of such changes and the Union will make any proposals it intends to make before the end of the notice period. If the Union requests additional information or a briefing concerning the change, the deadline for response will be extended ten (10) calendar days from receipt of the additional information or briefing. Any deadline may also be extended by mutual agreement.

B. The Employer will furnish notice to the National President or designee, with simultaneous notice to the Chapter President. Such notice may be provided by certified mail, hand delivery, fax, e-mail, or by any other method of communications agreed upon by the parties. The Employer will provide this notice except in cases of emergency described in the Civil Service Reform Act.

C. For changes limited to an appointing office, notice of the change will be served on the designated National and Chapter NTEU officials. Negotiations over this change will begin at the local level. If local Parties reach agreement and that agreement is subject to agency head review, the NTEU National Headquarters will approve the agreement prior to signature. The National Headquarters of NTEU and the agency head have the authority to disapprove only for reasons of conflict with law, government-wide regulations.

D. In providing notice of proposed changes, the Employer will identify the specific changes in policies, directives, procedures, practices, etc., that are being proposed (e.g., by executive summary or redline/strikeout).

E. When bargaining over Employer-initiated changes, either Party may propose technical or conforming changes to existing provisions of this Agreement.

### **Section 3 Union-Initiated Bargaining**

A. The Union shall have the right to initiate mid-term bargaining to the extent permitted by law for issues not otherwise covered by this agreement.

B. The Union shall submit proposals from its National President (or designee) to the HR service provider. Such notice may be provided by certified mail, hand delivery, fax, e-mail, or by any other method of communications agreed upon by the Parties. The Employer shall submit its response to the Union within twenty-one (21) calendar days.

### **Section 4 Ground Rules for Bargaining**

If the Parties enter into negotiations during the life of this Agreement, the following rules will apply:

A. Negotiations will take place between the hours of 8 a.m. and 6 p.m. and at other times mutually agreeable;

B. Subject to work requirements the Union may have up to a total of four (4) unit employees (and unlimited staff) in attendance. Negotiations will be scheduled so that the Union designated representatives may attend;

C. A number of bargaining unit employees equal to the number of the Employer's bargaining representatives shall be excused from duty without charge to pay or leave during the part of the actual negotiations that they were otherwise scheduled to be in a duty status. The Union will designate which of its representatives will be excused from duty without charge to pay or leave;

D. Once an issue is invoked, the Union will accept the Employer's reasonable scheduling of the negotiations;

E. The Employer will pay travel and per diem expenses for one (1) Union representative, if a TTB employee. However the Employer will pay travel and per diem expenses for up to two (2) additional Union representatives, if TTB employees if the parties have:

1. Attempted to resolve the issue telephonically or by video-conferencing; and
2. Mutually agreed that an in-person meeting is appropriate.

F. There shall be no publicity regarding the negotiation by either Party unless and until third parties enter into the process;

G. All agreements are tentative until full agreement is reached. Any final agreement will be reduced to writing and signed by the Parties; and

H. The site of negotiations shall be at a mutually agreeable location.

## **Section 5    Effect of Local Agreements**

Local negotiations pertaining to a policy, practice, or working condition affecting employees at a specific office or post of duty will not establish past practice or precedent for other offices or posts of duty.

## **Section 6    Negotiability Determinations**

Proposals declared non-negotiable and subsequently found negotiable by the Federal Labor Relations Authority will be timely negotiated by the parties under the finding.

## **Section 7 Mid-term Reopener**

A. After this Agreement has been in effect for twenty-four months, each Party may reopen negotiations for up to three (3) articles of the contract. By mutual agreement, more than three (3) articles may be reopened. In order to re-open, either Party must submit notification to the other party within sixty (60) calendar days following the twenty-four (24) month period. Such notification will include the articles to be reopened and a brief statement of the main interests and/or issues of concern.

B. In the event this Agreement is extended beyond its initial term, the opportunity to reopen on three (3) articles will occur at twenty-four (24) month intervals from the effective date of the Agreement.

## **Section 8 Mid-Term Bargaining Q & A's**

### **A. What are "conditions of employment?"**

According to the Federal Service Labor-Management Relations Statute, "conditions of employment" are personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting the working conditions of bargaining unit employees.

Personnel policies and practices are the written and unwritten rules that apply to bargaining unit employees. Other matters/working conditions include various features of the working environment such as safety, heat, lighting, air conditioning, and parking.

Examples of changes in the conditions of employment may include:

1. Office moves;
2. Changes in policies;
3. Changes in work procedures; and
4. Changing or implementing new forms.

### **B. What is the process to use if a manager wishes to make a change affecting the conditions of employment of bargaining unit employees?**

TTB and NTEU have agreed to the goal of pre-decisional involvement. Accordingly, managers are encouraged to include an NTEU representative on any project team/group that is created for the purpose of making recommendations to management regarding a change or creating a

new policy. In utilizing this approach, managers must allow the Chapter president/steward to appoint the bargaining unit employee who will serve as the NTEU representative on the group, subject to mission and budget needs. Pre-decisional involvement will give NTEU the opportunity to voice concerns and also offer suggestions on behalf of the affected bargaining unit employees. It is anticipated that this will ultimately facilitate the implementation of the change or policy.

If a manager has decided to make a change absent the recommendation of a team, it is important to forward proposals to NTEU at the earliest practical date possible to allow enough time for bargaining. The Human Resources service provider will facilitate this process when contacted by the management official planning to initiate a change. Once NTEU has been officially notified, the Human Resources service provider will act as a liaison between the parties to assist TTB management with the mid-term bargaining procedures set forth in Article 39.

If a manager/supervisor wishes to meet with bargaining unit employees to discuss any changes in working conditions, it is very important to first notify the local NTEU Chapter president of the meeting and to give NTEU an opportunity to be present at the meeting.

**C. What happens when the last day of the three (3) week notice period referred to in Section 2A ends on a non-work day?**

The "next day rule" applies to the situation; that is, the notice period is extended to the next workday. For example, if the three (3) week notice period ends on a Saturday, NTEU will have until the following Monday to respond provided that the Monday is not a holiday. This rule also applies to all notice periods.

## **ARTICLE 40**

### **PART-TIME EMPLOYMENT**

#### **Section 1    General**

A. Part-time employment under this Article will be governed by all applicable laws and regulations.

B. To be considered part-time for purposes of this Article an employee must have a regularly scheduled tour of duty, set in advance, from sixteen (16) to thirty-two (32) hours per week.

C. The Employer will not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis. This does not preclude a full-time employee from requesting a voluntary change to a part-time schedule.

D. Any person who is employed on a full-time basis shall not be required to accept part-time employment as a condition of continued employment.

#### **Section 2    Coverage**

A. It is the intention of the Employer to make part-time career employment opportunities available to the maximum extent possible, consistent with the Employer's resources and mission requirements.

B. The Employer recognizes that employees may face any number of personal circumstances that could severely impact their ability to fulfil the obligation of full-time employment (e.g. persons with disabilities who require a reduced workweek, parents who must balance family responsibilities with the need for additional income, students who must finance their own education and training, or similar personal situations).

#### **Section 3    Job Sharing**

A. Job-sharing is a form of part-time employment in which the tours of duty of two (2) employees are arranged in such a way as to cover a single full-time position using flexibility in the number of hours worked and work schedules of each partner.

B. The Employer will consider requests to job-share and may grant these requests based on the need for the employees' services, the suitability of the position for job-sharing, availability of resources, and the impact on the efficiency of the service.

C. If one partner leaves the program for any reason, the other partner may, absent workload demands, have forty-five (45) days from receiving written notice from the Employer to find another partner or resume full-time employment unless Employer has agreed to allow part-time employment arrangements.

#### **Section 4    Application**

A. Interested employees will submit a memorandum, which outlines the employee's justification to participate in the part-time employment program. With regard to job-sharing, it is the responsibility of the requesting employee to find a suitable partner to share a position.

B. Denials of requests to participate in the part-time employment program will be discussed with the employee and upon request the employee will be provided with written reasons for the denial.

C. The approval and duration of the part-time employment is subject to and may be limited by the mission and resource needs of the Employer.

D. Before an employee is assigned to a part-time position, the Employer will brief the employee on the impact of this assignment on retirement, reduction-in-force, health and life insurance, promotion, and step increases.



## **ARTICLE 41**

### **AWARDS**

#### **Section 1 Types of Awards**

A. Performance awards are cash awards based on current performance appraisals that are Exceeds Objectives (EO) or higher.

B. Quality Step Increases (QSI's) are faster-than-normal step increases that recognize outstanding performance.

C. Special Act Awards are awards that recognize one-time, non-recurring contributions either within or outside of an employee's regular job responsibilities. They consist of:

1. Cash or time off awards; or
2. On-the-Spot Awards (cash).

D. Suggestion Awards.

E. Miscellaneous honorary awards.

#### **Section 2 Documentation**

A. All incentive and performance-based awards shall be distributed in a fair and equitable manner and on the basis of merit. All awards shall be documented in HR Connect or equivalent system, including the nature and amount of awards.

B. Statistics concerning all non-Senior Executive Service awards given will be provided to NTEU on a fiscal year basis. These statistics will be provided electronically to include the following:

1. Grade or equivalent level, race and national origin, age (whether forty (40) years or over), directorate and bargaining unit status excluding Chief Counsel and Office of Inspection organizations; and
2. For bargaining unit employees the above information will also be broken down by gender and division.

To the extent that similar automated information is available on non-monetary awards, such information will also be provided.

C. Awards should be processed in a prompt manner. Once granted, awards shall be given. Employees shall receive their awards as soon as technologically feasible, once approved.

## **ARTICLE 42**

### **EMPLOYEE ORIENTATION**

A. All new employees will have access to orientation material from the Human Resources service provider within one (1) week after arriving on duty. Included in this orientation material will be an electronic copy of the TTB/NTEU Agreement and other material provided by NTEU.

B. The Employer will provide advance notice as soon as possible to the NTEU Chapter President or designee when any new employee will be reporting to duty.

C. A representative of the Union may meet with each new employee for up to thirty (30) minutes, workload permitting. Such meeting should normally occur during the employee's first week of employment with the Bureau and may be conducted by telephone or video conference.

D. During an employee's first year with TTB, the Employer will provide the Union an opportunity to make a thirty (30) minute presentation to new employees as part of any Agency new employee training.

## **ARTICLE 43**

### **REDUCTION IN FORCE (RIF)**

#### **Section 1 Notification**

The Employer agrees to notify the Union of any reduction in force as far in advance of notification to affected employees as is possible. The information to be furnished the Union will be the competitive levels initially affected, the number of employees involved, the proposed effective date and the reasons for the action. The Employer will notify the Union of its efforts to minimize adverse affects on employees. The Union may request to negotiate in accordance with Article 39, Mid-Term Bargaining.

#### **Section 2 Repromotion**

When the Employer chooses to fill a vacant position, employees demoted pursuant to a RIF will be repromoted to a similar position to which he/she is qualified in order of RIF seniority from among the qualified employees when the position becomes vacant.

## **ARTICLE 44**

### **PRIORITY PLACEMENT PROGRAM**

#### **Section 1    Negotiability and Eligibility**

The Employer agrees to negotiate over its priority placement program prior to its implementation. Employees in permanent positions, at grades GS-15 and below, or the equivalent in another pay system, are automatically eligible for registration in the program when such employees are adversely affected by a RIF, reclassification of position, or are otherwise entitled to grade/pay retention.

#### **Section 2    Points of Contact**

The Employer will inform the Union of the name and office location of the program coordinator. In the event of a RIF, the Union may designate a steward in affected areas to receive information on the program.

## **ARTICLE 45**

### **ASSIGNMENT OF WORK**

#### **Section 1    Development of Employees**

The Parties recognize the importance of developing employees in the performance of their jobs. Therefore, the Employer will consider employee's requests to enhance their experience.

#### **Section 2    Workload**

Management has determined, subject to mission requirements, work and associated deadlines will be issued in a fair and objective manner within the context of mission requirements. Employees are encouraged to discuss workload with their supervisors at any time.

## **ARTICLE 46**

### **DURATION AND TERMINATION**

#### **Section 1    Effective Date**

This Agreement will become effective fourteen (14) calendar days after the date of Treasury approval.

#### **Section 2    Term of Contract**

This Agreement shall remain in full force and effect for a period of forty-eight (48) months from the effective date.

#### **Section 3    Roll Over**

This Agreement will remain in effect for yearly periods thereafter, unless either Party serves the other Party with a written notice, at least one-hundred and twenty (120) days prior to the expiration date, of its desire to terminate or modify the Agreement. In the event such notice is given, the Parties shall begin full-scale negotiations not later than sixty (60) days prior to the expiration date. If negotiations are not concluded prior to the expiration date, this Agreement shall continue in full force and effect until such time as a new Agreement has been concluded and approved.

#### **Section 4    Re-Negotiation**

Except for provision(s) rendered invalid by law or regulations of appropriate authorities, the provisions of this Agreement can be amended, supplemented, rescinded or otherwise altered only by mutual agreement of the Parties.

#### **Section 5    Contract Severability**

Invalidation of any provision of this Agreement shall have no effect on any other provision.

## **ARTICLE 47**

### **MISCELLANEOUS PROVISIONS**

#### **Section 1 Combined Federal Campaign**

A. The Employer agrees that participation in the Combined Federal Campaign, and other worthy drives, will be on a completely voluntary basis.

B. It is also agreed that the immediate supervisor may not solicit pledges or contributions from an individual under his/her supervision.

#### **Section 2 Next of Kin Notifications**

The Employer will notify a deceased employee's designated next of kin of any benefits to which they may be entitled, including the possibility of social security benefits, and assist them in filing the claims for unpaid compensation, including lump sum leave payments, insurance, and survivorship benefits.

#### **Section 3 Denied Pay or Benefits**

The Employer agrees that where it is determined by the Employer, a third party under this Agreement, or regulatory or statutory appeals authority, that through administrative error or oversight an employee is denied benefits or pay to which he/she is otherwise entitled, corrective action shall be taken as expeditiously as possible.

#### **Section 4 Administrative Waivers**

A. An employee who receives a monetary payment to which he/she is not entitled because of an administrative error or oversight may request a waiver of repayment.

B. The Parties agree that the final decision rests with the Employer and that the provisions of this section shall not be grievable or arbitrable, except as provided under Article 37, Section 7D.

#### **Section 5 Outside Activity**

A. Requests for outside employment or business activity, compensated or uncompensated, must be approved, in writing, by the



employer in advance. Employees may participate in such activities where such activity does not create:

1. Interference with efficient performance of their official duties;
2. Possible discredit on or cause unfavorable and justifiable criticism of the Government;
3. A conflict, or apparent conflict of interest, with their official duties; or
4. The unauthorized use or disclosure of classified or sensitive information.

B. The Employer will render a decision on the request within fourteen (14) calendar days. If such a request is denied, the employee may proceed directly to Step 2 of the grievance procedure. If the matter is still unresolved, the union may invoke expedited arbitration unless the denial is based either upon an ethics official's written determination made pursuant to 5 C.F.R. Part 2635 that approval would violate a Government wide standard of conduct or a written determination by an appropriate official made pursuant to security or information disclosure law or Government wide regulation, e.g. under 26 U.S.C. 6103, that approval would violate the underlying law or Government wide regulation.

## **Section 6 Debts to the Employer**

Employees who owe a debt to the Employer due to an administrative error on the part of the agency, shall repay the debt at the rate of 15 percent (15%) or other amount as determined by the applicable law of net earnings (gross wages minus deductions for federal, state and local taxes, contributions to a retirement plan, social security and court-ordered wage deductions). Such payments shall be made by involuntary deductions from the employee's pay during each pay period. It is understood by the parties that the 15 percent (15%) limitation does not apply to levies on wages for back taxes.

## **Section 7 Public Transit Subsidy Program (PTSP)**

Subject to the availability of funding and consistent with the PTSP, the Agency will make public transit subsidy available to eligible employees. Agency changes to the application of the PTSP will be subject to the provisions of Article 39.

## **Section 8 Student Loan Repayment Program**

A. TTB will provide the annual report submitted to Treasury and the Office of Personnel Management (OPM) required by Section 5379 Title V. United States Code (U.S.C.) to NTEU. This will include:

1. The number of Agency employees selected to receive this benefit (broken down by name (if a bargaining unit employee) and bargaining unit status);
2. The job classifications of the employees selected to receive benefits under this part; and
3. The cost to the Federal government for providing benefits under this part.

B. Subject to the budget provided for this program, the amount of loan repayment paid by TTB on behalf of an employee participating in the Program will be up to the maximum yearly limit provided by 5 CFR 537.106(c) per employee. Within these limits, the Employer may repay more than one eligible loan for a recipient.

C. TTB will make recommendations for and grant approval of Student Loan Repayments in a non-discriminatory manner, without regard to a candidate's or employee's race, national origin, gender, religion, sexual orientation, union membership status, age and/or disability status.

D. TTB will apply the criteria for approving Student Loan Repayments and for determining the amount of the loan repayment within the allotted program budget fairly and equitably.

## **APPENDIX A**

### **MIRANDA RIGHTS**

Before we ask you any questions, it is my duty to advise you of your rights. You have the right to remain silent. Anything you say can be used against you in court or other proceedings.

You have the right to consult an attorney before making any statement or answering any questions and you may have him or her present with you during questioning.

You may have an attorney appointed by the United States Magistrate or the court to represent you if you cannot afford or otherwise obtain one.

If you decide to answer questions now with or without an attorney, you still have the right to stop the questioning at any time or to stop the questioning for the purpose of consulting an attorney.

However:

You may waive the right to advice of counsel and your right to remain silent, and you may answer questions or make a statement without consulting an attorney if you so desire.

## **APPENDIX B**

### **KALKINES RIGHTS**

Before we ask you any questions, it is my obligation to inform you of the following:

You are here to be asked questions pertaining to your employment with TTB and the duties that you perform for TTB. You have the option to remain silent, although you may be subject to removal from your employment by TTB if you fail to answer material and relevant questions relating to the performance of your duties as an employee. You are further advised that the answers you may give to the questions proposed to you at this interview, or any information or evidence which is gained by reason of your answers, may not be used against you in a criminal proceeding except that you may be subject to a criminal prosecution for any false answer that you may give.

## **APPENDIX C**

### **REPRESENTATION RIGHTS AND DUTIES**

5 U.S.C. 7114 (a)(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

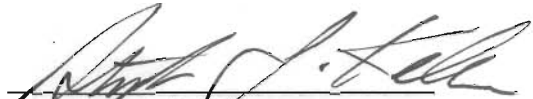
“(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if—

“(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

(ii) the employee requests representation.”



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