



**Collective Bargaining Agreement  
between the  
American Federation of Government Employees,  
AFGE Local 0055  
and  
USDA, Rural Development/Puerto Rico  
San Juan, Puerto Rico**



**Executed May 23, 2019  
Effective June 25, 2019-June 24, 2023**

## Table of Contents

	Page Number
<b>Table of Contents</b>	<b>i</b>
<b>Preamble</b>	<b>1</b>
<b>Definitions</b>	<b>2</b>
<b>Article 1 - Parties to the Agreement, Recognition, Definition of Bargaining Unit, and Coverage of the Agreement</b>	<b>4</b>
Section 1 - Parties to the Agreement	4
Section 2 - Recognition	4
Section 3 - Bargaining Unit	4
Section 4 - Coverage of the Agreement	5
<b>Article 2 - Governing Laws and Regulations</b>	<b>6</b>
Section 1 - Relationship to Laws, Government-wide Rules and Regulations	6
Section 2 - Agency Regulations	6
Section 3 - Past Practices	6
<b>Article 3 - Union and Management Rights</b>	<b>7</b>
Section 1 - General	7
Section 2 - Restraint	7
Section 3 - Representation	7

Section 4 - Union Rights and Responsibilities	7
Section 5 - Formal Discussions	8
Section 6 - Working Relations	8
Section 7 - Notification of Changes in Working Conditions	8
Section 8 - Notification to Employees of Exclusive Representation	9
Section 9 - Communications with Bargaining Unit Employees	9
Section 10 - Management Rights - General	9
Section 11 - Other Agreements	9
Section 12 - Management Rights With Respect to Non-Bargaining Unit Employees	10
Section 13 - Management Rights to Establish Work Rules and Policies	10
<b>Article 4 - Employee Rights</b>	<b>11</b>
Section 1 - Organizational Rights	11
Section 2 - Personal Rights	11
Section 3 - Whistle-Blower Protection	12
Section 4 - Right to Union Representation	12
Section 5 - Timely and Proper Compensation	13
Section 6 - Voluntary Activities	13
Section 7 – Nursing Mothers	13
<b>Article 5 - Negotiations During the Term of the Agreement</b>	<b>15</b>
Section 1 - Purpose	15

Section 2 - Matters Covered by This Agreement	15
Section 3 - Matters Not Covered by This Agreement	15
Section 4 - Mid-Term Bargaining	15
<b>Article 6 - Dues Withholding</b>	<b>16</b>
Section 1 - Dues Withholding	16
Section 2 – Dues Revocation	16
<b>Article 7 - Effective Date, Duration, and Distribution of Agreement</b>	<b>17</b>
Section 1 - Effective Date	17
Section 2 – Reopening at the Expiration of the Contract and Mutual Agreement to Reopen Mid-term	17
Section 3 - Printing and Distribution	17
Section 4 - Training	17
<b>Article 8 - Official Travel</b>	<b>18</b>
Section 1 - Compensation and Travel	18
Section 2 - Actual Subsistence	18
Section 3 - Continuation of Approved Travel Expenses	18
Section 4 - Advancement of Expenses	18
Section 5 - Use of Vehicles	18
Section 6 - Protective Assistance	19
Section 7 - Return to Duty Station	19
Section 8 – Reimbursement of Travel Expenses	19

Section 9 - Resolution of Disputes	19
<b>Article 9 - Health and Safety</b>	<b>20</b>
Section 1 - Policy Statement	20
Section 2 - Employer Responsibilities	20
Section 3 - Union Responsibilities	21
Section 4 - Employee Reports of Unsafe or Unhealthy Working Conditions	21
Section 5 - Occupation Injury or Illness	23
Section 6 - Employee Assistance Program	23
Section 7 - Occupant Emergency Plan	23
Section 8 - Training	24
Section 9 - Protective Clothing, Personal Protective Equipment, and Tools	24
Section 10 - Miscellaneous Health Provisions	24
Section 11 - Office Hazards	24
Section 12 - Ergonomic Hazards	25
Section 13 - Lunchrooms, Break-rooms, Restrooms, Lockers and/or Showers in Dirty or Toxic Environments	25
Section 14 - Repairs and Adjustments to Operating Equipment	25
Section 15 - Public Contact	25
Section 16 - Vehicle Safety	25
Section 17 - Cleaning of Air Conditioning Ducts	25
Section 18 - Smoking Policy	26

Section 19 - Water Fountains	26
<b>Article 10 - Hours of Work</b>	<b>27</b>
Section 1 - Statement of Policy	27
Section 2 - Breaks	27
<b>Article 11 - Pay Administration</b>	<b>28</b>
Section 1 - Applicable Regulations	28
Section 2 - Guidelines	28
<b>Article 12 - Holiday Work</b>	<b>29</b>
<b>Article 13 - Use of Facilities</b>	<b>32</b>
Section 1 - Office Space and Furnishings	32
Section 2 - Issuances	32
Section 3 - Other Facilities and Services	32
<b>Article 14 - Communications</b>	<b>34</b>
Section 1 - Bulletin Boards	34
Section 2 - Distribution and Content of Union Publications	34
Section 3 - Space for Pamphlet Racks	34
Section 4 - New Bargaining Unit Member Employees	34
Section 5 - Use of Office Equipment and Supplies	35
<b>Article 15 - Parking and Parking Areas</b>	<b>36</b>
<b>Article 16 - Reduction-In-Force and Transfer of Function</b>	<b>37</b>
Section 1 - Negotiations	37

Section 2 - Notification to the Union	37
Section 3 - Impact and Notification to Employees	37
<b>Article 17 - Contracting Out Bargaining Unit Work</b>	<b>39</b>
Section 1 - Notification to the Union	39
Section 2 – Management Decisions	39
Section 3 – Statement of Work	39
Section 4 - Impact and Implementation	39
Section 5 - Access to Regulations	39
Section 6 - Adverse Effects on Bargaining Unit Employees	39
Section 7 - Placement Assistance	40
<b>Article 18 - Training and Career Development</b>	<b>41</b>
Section 1 - Statement of Policy	41
Section 2 - Non-Discrimination	41
Section 3 - Individual Development Plan	41
Section 4 - Employee Training Counseling	41
Section 5 - Training Expenses	41
Section 6 - Training Needs	42
Section 7 - Enhancing Career Opportunities For Employees	42
<b>Article 19 - Incentive Awards</b>	<b>45</b>
Section 1 - Purpose and Policy	45
<b>Article 20 - Equal Employment Opportunity</b>	<b>46</b>

Section 1 - Equal Employment Opportunity	46
Section 2 - Complaints	46
Section 3 - Duty Status	46
Section 4 - Reasonable Accommodation	46
<b>Article 21 - Telework</b>	<b>47</b>
<b>Article 22 - Performance Management System</b>	<b>48</b>
Section 1 - Statement of Policy	48
<b>Article 23 - Within Grade Increases</b>	<b>51</b>
Section 1 - General	51
Section 2 - Basis for Granting or Denying	51
Section 3 - Supervisory Responsibilities	51
Section 4 - Decisions	51
Section 5 - Appeal Rights	51
Section 6 - Effective Date/Administrative Error	52
<b>Article 24 - Disciplinary and Adverse Actions</b>	<b>53</b>
Section 1 - Statement of Assumptions, Purpose and Policy	53
Section 2 - Obligations: General	53
Section 3 - Definitions	53
Section 4 - Counseling and Warnings	53
Section 5 - Reprimand	54
Section 6 - Short-term Suspensions	54

Section 7 - Removal, Suspension For More Than Fourteen (14) Days, Reduction-in-Grade, Reduction-in-Pay, Furlough of 30 days or Less	54
<b>Article 25 - Negotiated Grievance Procedure</b>	<b>56</b>
Section 1 - Purpose	56
Section 2 - Definitions, Coverage and Scope	56
Section 3 - Exclusivity	57
Section 4 - Representation	57
Section 5 - Resolution of Grievances and Employee Standing	57
Section 6 - Grievability/Arbitrability Questions	57
Section 7 - Time Limits	57
Section 8 - Options	58
Section 9 - Procedures for Employee Grievances	58
Section 10 - Union-Management Grievances	59
Section 11 - Failure to Meet Requirements	59
<b>Article 26 - Arbitration</b>	<b>60</b>
Section 1 - Invoking Arbitration	60
Section 2 - Procedures	60
<b>Article 27 - Merit Promotion</b>	<b>62</b>
<b>Article 28 - Details and Reassignments</b>	<b>63</b>
Section 1 - Details	63
Section 2 - Reassignments	64

<b>Article 29 - Position Description/Classification</b>	<b>65</b>
Section 1 - General	65
Section 2 - Position Description	65
<b>Article 30 - Official Time</b>	<b>66</b>
Section 1 - Official Time	66
Section 2 - Procedures for Approving Official Time	66
Section 3 - The Purposes for Which Official Time May be Granted	67
Section 4 - Training	68
Appendix – Guidance for coding “official time”	70
<b>Article 31 - Time and Leave</b>	<b>72</b>
<b>Article 32 - Temporary, Probationary, Part-time, and Permanent Employees</b>	<b>73</b>
Section 1 - Temporary Employees	73
Section 2 - Probationary Employees	73
Section 3 - Part-time Employees	73
<b>Article 33 - Workers’ Compensation Program</b>	<b>74</b>
Section 1 - Workers’ Compensation Program	74
Section 2 - Employee Options	74
<b>Article 34 - Official Personnel Records and Files</b>	<b>75</b>
Section 1 - Collection and Storage	75
Section 2 - Access, Copying and Printing	75
<b>Article 35 - Alternative Dispute Resolution</b>	<b>76</b>

Section 1 - Commitment	76
Section 2 - Definitions and Intentions	76
<b>Article 36 - Employee Attire</b>	<b>77</b>
<b>Signature page</b>	<b>78</b>

## Preamble

This Collective Bargaining Agreement (hereinafter referred to as the “Agreement”) is entered into by and between the American Federation of Government Employees, AFGE Local 0055, Puerto Rico, (hereinafter referred to as the “Union”) and the USDA, Rural Development - Puerto Rico, (hereinafter referred to as the “Employer”, “Agency”, or “Management”).

The parties completely adopt the Federal Service Labor-Management Relations Statute, 5 USC Chapter 71 (“the Statute”), which states in its section 7101 the purpose and findings of Congress regarding labor and management relations and concludes that labor organizations and collective bargaining in the civil service are in the public interest.

It is the intent and purpose of both parties to the Agreement to:

1. Promote and improve the efficient and effective administration of USDA, Rural Development/Puerto Rico and the well-being of “employees” as defined by the Statute;
2. Establish and foster a basic understanding of personnel policies, procedures and practices, and matters affecting the conditions of employment; and (3) provide a means for amicable discussion and adjustment of matters of mutual interest at USDA, Rural Development - Puerto Rico.
3. Promote and develop, as partners, new ways to better serve our customers in the rural communities in Puerto Rico, who are our reason to be as civil service employees.

The parties of this Agreement recognize that they have a mutual and cooperative interest in accomplishing the mission of USDA Rural Development/Puerto Rico. They agree accomplishments will be greater by creating an atmosphere of cooperation and trust between labor and management.

By entering into this Agreement, both parties agree to work towards the creation of a work environment in which everyone treats all others with respect, consideration and dignity. In an atmosphere of mutual respect and trust, all parties shall be treated fairly and equitably in the administration of personnel policies, practices, procedures and matters affecting conditions of employment with proper regard for their privacy and constitutional rights.

## DEFINITIONS:

The following definitions of terms used in this Agreement shall apply.

1. **Employees:** Individuals who are “Employees” as defined by the Statute and members of the bargaining unit covered by this Agreement.
2. **Union:** American Federation of Government Employees, AFL-CIO, Local 0055
3. **Agency/Management/Employer:** USDA, Rural Development/Puerto Rico
4. **Grievance:** Any complaint subject to the control of the Employer, which seeks personal relief:
  - A. By an employee in the bargaining unit concerning any matter relating to the employment of the employee;
  - B. By the Union concerning any matter relating to the employment of any employee in the bargaining unit; and
  - C. By any employee in the bargaining unit, the Union, or the Employer concerning:
    1. The effect or interpretation, or a claim of breach of this collective bargaining agreement; or
    2. Any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment.
5. **Emergency Situation:** An emergency situation is one which poses sudden immediate and unforeseen work requirements for the Employer or Agency as a result of natural phenomena or other circumstances beyond the Employer’s or Agency’s control or ability to anticipate.
6. **Days:** Calendar days unless otherwise noted.
7. **Conditions of Employment:** Personnel policies, practices and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices and matters: (a) relating to political activities prohibited under Subchapter III of Chapter 73 of Title VII; (b) relating to the classification of any position; or (c) to the extent such matters are specifically provided for by federal statute.
8. **Impasse:** The condition when representatives of the Employer and the Union are unable to arrive at a mutually agreeable position, concerning negotiable matters, through the bargaining process.
9. **Collective Bargaining:** The performance of the mutual obligation of the representative of an Agency and the exclusive representative of employees in an appropriate unit in the

Agency to meet at reasonable times and consult and bargain in good-faith effort to reach agreement with respect to the conditions of employment affecting such employees.

10. **Grievance Arbitration Hearing:** An arbitration hearing where an individual employee, group of employees, the Union, or the Employer is seeking to obtain resolution through the arbitration process under Article 26 of a dispute arising from differing claims about rights created by contract, regulation or statute.
11. **Interest Arbitration Hearing:** An arbitration hearing where the Union or the Employer is seeking to obtain resolution through the arbitration process of a dispute arising from bargaining about what the terms of a contract shall be.

**Article 1 -  
Parties to the Agreement, Recognition, Definition of Bargaining  
Unit, and Coverage of the Agreement**

**Section 1 - Parties to the Agreement**

The parties to this Agreement are the American Federation of Government Employees (AFL-CIO), AFGE Local 0055, hereinafter referred to as the “Union” and the USDA, Rural Development - Puerto Rico, hereinafter referred to as the “Employer”, “Agency”, or “Management”.

**Section 2 - Recognition**

The unit of recognition covered by this Agreement is that unit certified by the Federal Labor Relations Authority (FLRA) in Case No. AT-RP-60041 approved on October 16, 1996. The Employer recognizes AFGE Local 0055 as the exclusive representative of all employees [hereinafter sometimes referred to as “employees” or “bargaining unit employee(s)”] in the bargaining unit as defined below.

**Section 3 - Bargaining Unit**

- A. This Agreement applies to all members of that unit named in the “Certification of Representative” issued by the Regional Director of the Federal Labor Relations Authority (“FLRA”) Atlanta Region on October 16, 1996 in Case No. AT-RP-60041, and described therein as follows:

INCLUDED: All non-professional employees of USDA, Rural Development assigned to State, District and County offices in Puerto Rico.

EXCLUDED: All professional employees of USDA, Rural Development assigned to State, District and County offices in Puerto Rico, supervisors, management officials, and employees described in Title 5, United States Code, Section 7112 (b) (2) (3) (4) (6) and (7).

- B. In addition, the following groups of employees are excluded: stay in schools, summer hires, intermittent employees, cooperative education program students, and temporary employees.
- C. If temporary employees go beyond 90 days of consecutive service in their current appointment, they shall be covered by the terms of this Agreement thereafter and the Agency shall inform the Union of that change in their status.
- D. If any individual previously employed by the Agency and excluded from the bargaining unit thereafter becomes a member of the unit, the Agency shall inform the Union and give it the opportunity to orient the employee (see Article 14, Section 4).

#### **Section 4 - Coverage of the Agreement**

This Agreement covers only those positions described in the bargaining unit.

## **Article 2 - Governing Laws and Regulations**

### **Section 1 - Relationship to Laws, Government-wide Rules and Regulations**

- A. In the administration of all matters covered by this Agreement, the parties shall be governed by Federal laws and Government-wide rules, regulations and policies, as defined in 5 USC 71.
- B. Should future changes in Departmental regulations or Rural Development Instructions conflict with any portion of this Agreement, this Agreement shall prevail and shall not be changed except pursuant to 5 USC 71.

### **Section 2 - Agency Regulations**

If the Union wishes to negotiate on proposed changes, it shall notify management within fifteen (15) calendar days following receipt of management's notice of the change. Bargaining shall begin as soon as reasonably possible and as agreed by the parties but not later than the seventh calendar day following the Union's receipt of the Employer's notice of the change (either party may delay the start of such bargaining up to the tenth calendar day following the Union's receipt of notice merely by informing the other in writing on or before the third calendar day of its desire to do so). During bargaining, the parties shall explore expeditiously all aspects of the proposed changes and work diligently to agree. Any timeframe hereby established may be changed by mutual consent.

The signatory for the Union on all Union/Management Agreements shall be the President of Local 55 or his/her designee.

### **Section 3 - Past Practices**

When it becomes effective, this Agreement shall supersede and cancel any and all previous formal and informal agreements including past practices, and shall serve as the sole Agreement between the parties.

Any future practices or agreements between the parties shall become part of the contract for the life of this Agreement.

## **Article 3 - Union and Management Rights**

### **Section 1 - General**

In matters relating to personnel policies, practices and other conditions of employment, the parties shall have due regard for the responsibilities and obligations imposed by 5 USC Chapter 71, this Agreement, and supplements thereto.

### **Section 2 - Restraint**

There shall be no restraint, interference with or coercion against any Union official or representative in the exercise of their rights under 5 USC Chapter 71 because of the performance of duties within the scope of this Agreement, or against any bargaining unit member for filing a grievance/complaint, or acting as a witness under this Agreement, the Law, or applicable regulations.

### **Section 3 - Representation**

- A. The Union is the exclusive representative of the bargaining unit and is entitled to act on behalf of bargaining unit employees. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to Union membership.
- B. Designated officers or representatives of the Union have the right to represent the employees within the entire bargaining unit in accordance with the provisions of Article 30 of this Agreement on Official Time. Management shall recognize representatives designated by the Union.
- C. The Union shall provide management an annual distribution of representational duties for each officer and steward. The Union shall match, to the maximum extent reasonably possible, this distribution with each officer/steward's duty station.
- D. The Employer shall permit officials or other representatives designated by the Union, including persons not employed by the Employer, to enter the Employer's premises at any time during normal working hours following adequate advance notice in order to represent employees, inspect physical structures, evaluate programs and perform other similar representational tasks. To the maximum extent reasonably possible, the Union shall coordinate these visits with Management at the premises where the visit is to occur.

### **Section 4 - Union Rights and Responsibilities**

- A. The Union has the right to represent an employee or group of employees in presenting a grievance or when raising matters of concern or dissatisfaction with Management.

- B. The Union has exclusive right to represent employees under the Negotiated Grievance Procedure in this Agreement.
- C. An employee or group of employees may present a grievance or complaint without representation by the Union.
- D. The Union shall be a party to all formal discussions and grievance/complaint proceedings involving conditions of employment in the bargaining unit.

### **Section 5 - Formal Discussions**

- A. Consistent with 5 USC 7114(a)(2)(A), the Union, as the exclusive representative of bargaining unit employees, 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 bargaining unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment (and not, e.g., performance reviews).
- B. The opportunity to be present shall be provided to the Union by giving its President or designee reasonable notice of, and reasonable time, to be present at formal discussions concerning any grievance, personnel policy or practice, or other general conditions of employment. The determination of reasonableness shall be based upon the circumstances of each case.

### **Section 6 - Working Relations**

The parties, especially Union representatives and first-line supervisors, are encouraged to meet as necessary to informally discuss and attempt resolution of matters of concern.

### **Section 7 - Notification of Changes in Working Conditions**

The parties recognize that changes may occur in the workplace on a regular basis. When changes occur, the parties shall be governed by the following provisions:

- A. Management shall provide the Union at least 21 calendar days advance notice of anticipated implementation date and changes affecting conditions of employment of bargaining unit employees.
- B. If the Union wishes to negotiate on the proposed changes, it shall notify management within fifteen (15) calendar days following receipt of management's notice of the change. Bargaining shall begin as soon as reasonably possible and as agreed by the parties but not later than the seventh calendar day following the Union's receipt of the Employer's notice of the change (either party may delay the start of such bargaining up to the tenth calendar day following the Union's receipt of notice merely by informing the other in writing on or before the third calendar day of its desire to do so). During bargaining, the parties shall explore expeditiously all aspects of the proposed changes and work

diligently to agree. Any timeframe hereby established may be changed by mutual consent.

- C. The signatory for the Union on all Union/Management Agreements shall be the President of Local 55 or his/her designee.

### **Section 8 - Notification to Employees of Exclusive Representation**

The Union shall provide a general notice to employees of the exclusive recognition granted to the Union, together with a list of Union-designated representatives and their work locations and telephone numbers to be posted on Union bulletin boards.

### **Section 9 - Communications with Bargaining Unit Employees**

Consistent with 5 USC 71, the Employer shall not communicate directly with employees regarding conditions of employment in a manner that will improperly bypass the Union.

### **Section 10 - Management Rights - General**

Nothing in this Agreement shall affect the authority of the Agency:

- A. To determine the mission, budget, organization, number of employees, and internal security practices.
- B. In accordance with applicable laws:
  - 1. To hire, assign, direct, layoff, and retain employees, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
  - 2. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Employer's operations shall be conducted;
  - 3. With respect to filling positions, to make selections for appointments from properly ranked and certified candidates for promotion or from any other appropriate source, and
  - 4. To take whatever actions may be necessary to carry out the Agency mission in emergency situations.

### **Section 11 - Other Agreements**

The provisions of this article shall apply to all supplemental, implementing, or subsidiary agreements between the Employer and the Union.

## **Section 12 - Management Rights With Respect to Non-Bargaining Unit Employees**

The Employer reserves its statutory rights with regard to all matters affecting employees and positions outside the bargaining unit.

## **Section 13 - Management Rights to Establish Work Rules and Policies**

The Employer retains the right to establish work rules and personnel policies that are not in direct conflict with the provisions of this Agreement.

## **Article 4 - Employee Rights**

### **Section 1 - Organizational Rights**

- A. Each employee in the bargaining unit shall have the right to form, join, or assist any labor organization, or to refrain from such activity, freely and without fear of penalty or reprisal; and each employee shall be protected in the exercise of such right.
- B. Except as otherwise provided under 5 USC Chapter 71, bargaining unit employees have the right:
  - 1. To act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and
  - 2. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under 5 USC 71.

### **Section 2 - Personal Rights**

The parties agree that in the interest of maintaining a congenial work environment, both supervisors and employees shall deal with each other in a professional manner and with courtesy, dignity and respect. To that end, all employees should refrain from coercive, intimidating, loud or abusive behavior.

- A. There shall be no restraint, interference with or coercion against any bargaining unit member in the exercise of their rights under 5 USC Chapter 71.
- B. The Employer and the Union shall annually inform bargaining unit employees of their rights under 5 USC 7114(a)(2)(B), including but not limited to posting a notice on the official bulletin boards.
- C. Employees have the right to participate in picketing against the Employer or any other organization, when such picketing does not interfere with agency operations pursuant to 5°USC 71.
- D. This agreement does not prevent any employee, regardless of Union membership, from bringing any matters of personal concern to the attention of appropriate officials in accordance with applicable laws, regulations, or Agency policies, or from choosing his or her own representative in a statutory appeal action.
- E. Nothing in this agreement shall cancel or annul any employee right or require an employee to become or to remain a member of a labor organization except pursuant to

a voluntary, written authorization by a member for the payment of dues through payroll deductions.

- F. An employee shall not be disciplined or otherwise discriminated against because he or she has filed a complaint or given testimony under the Civil Service Reform Act, the Negotiated Grievance Procedure, or any other procedure available to redress complaints.
- G. The parties agree that, to the extent possible, instructions, directives and orders communicated to employees by Management officials should be reasonably consistent. An Employee who does not understand an instruction, directive or order has the right to request clarification of that communication. To the extent possible, a supervisor's instruction, directive or order must be complied with once given, whether or not the employee believes those instructions to be consistent, fair or reasonable. An employee who concludes that a supervisor's instruction, directive or order is not consistent, fair or reasonable has the right to pursue his or her dissatisfaction through the Negotiated Grievance Procedure.

### **Section 3 - Whistle-Blower Protection**

The Employer shall not take any action against an employee in reprisal for the employee's lawful disclosure of information that the employee reasonably believes evidences a violation of law, rule, or regulation, or evidences mismanagement, a waste of funds, an abuse of authority, or a danger to health or safety.

### **Section 4 - Right to Union Representation**

- A. If an employee wishes to discuss a problem or potential grievance with a Union representative, the employee shall have the right to contact the Union representative on duty time, and may do so by means of telephone, e-mail, fax, or in person, so long as the employee's exercise of this right does not interfere with the normal operations of the office. If the employee's need to use the telephone, e-mail, fax, etc., is greater than *de minimis*, the employee must first consult with his/her immediate supervisor.
- B. If the Union representative is located outside the employee's duty station and a personal contact is needed, the employee and supervisor shall agree on the appropriate time and date to meet with the Union Representative. The appropriate procedure to be used in such instances is covered in Article 30, "Official Time".
- C. The exclusive representative shall be given the opportunity to be represented at any examination of an employee in the bargaining unit by a representative of the agency in connection with an investigation if —
  - 1. The employee reasonably believes that the examination may result in disciplinary action against the employee; and

2. The employee requests representation.
- D. The right to Union representation is not intended to interfere with the routine interaction between supervisors and employees in the normal course of a workday.
- E. The Employer shall not designate an employee who has not been properly trained as in-house investigator to conduct a formal investigation.

### **Section 5 - Timely and Proper Compensation**

- A. The Employer shall make reasonable efforts to ensure that employees receive their salaries, normally by direct deposit, in accordance with applicable RD Instructions and U.S. Treasury Department rules and regulations.
- B. Employees are responsible to review their Leave and Earnings Statements and to notify the Administrative Programs Director or Human Resources Manager or designee of any unexplained changes.
- C. Employees are responsible for arranging for the timely repayment of overpayments.

### **Section 6 - Voluntary Activities**

The parties agree that employee participation in the Combined Federal Campaign, blood donor drives, U.S. Savings Bond campaigns and other worthy projects shall be voluntary. This shall not preclude the Employer giving general publicity and encouragement to employees to contribute. The Employer shall not require or coerce employees to invest their money, donate to charity or participate in these activities. The Employer shall not treat employees more or less favorably because the employee chooses or does not choose to participate in such campaigns or projects.

### **Section 7 – Nursing Mothers**

The Employer shall provide nursing mothers with a reasonable break time to express breast milk whenever needed throughout the workday. The frequency and length of such breaks may vary depending on the needs of the nursing mother, e.g., the time required to express milk. If extra time is needed, an option may be for time to be made up before or after work, through Telework arrangements, or by using other work schedule flexibilities. If the Department issues guidance under which the Employer is authorized to permit nursing mothers additional paid time to express milk, the Employer shall notify the Union and give it an opportunity to bargain about the subject. No adverse action or recourse will be based on an employee's desire to breastfeed. For further guidance regarding Breastfeeding see the USDA Nursing Mothers Support Program Handbook.

Nursing mothers may submit written requests to their immediate supervisors or designees to be permitted time to express and save milk in a private place other than a bathroom (i.e., space shielded from view and free from intrusion by coworkers and the public) while at the workplace. Such requests shall be submitted sufficiently far in advance as to allow time for the supervisor/designee to make the arrangements, and shall specify:

- a. Duration of the request;
- b. Any arrangements which the employee will make to store and remove saved milk (i.e., cooler, pick-up arrangements, container types, etc.) to ensure consistency with workplace policies;
- c. Type of time employee is requesting if the time requested exceeds the employee's unpaid lunch period and paid breaks; and
- d. The schedule of times during the employee's tour of duty for which the employee is requesting to be permitted time to express milk.

In addition, facility-by-facility, the Agency shall provide places other than bathrooms, shielded from view and free from intrusion from coworkers and the public, for nursing mothers to express breast milk. The Union and Agency will negotiate locally the specific locations, procedures, and styles, e.g., portable barriers/panels/partitions, dedicated rooms/space, comfortable seating, etc.

## **Article 5 - Negotiations During the Term of the Agreement**

### **Section 1 - Purpose**

The purpose of this Article is to establish a process to govern mid-term negotiations.

### **Section 2 - Matters Covered by This Agreement**

The Parties agree that they may enter into Memoranda of Agreement or of Understanding about matters covered by this Agreement at any time during the life of this Agreement.

### **Section 3 - Matters Not Covered by This Agreement**

Recognizing that the Agreement cannot cover all aspects or provide definitive language on each subject addressed, it is understood that the obligation to engage in mid-term bargaining is limited to subjects not covered by this Agreement.

### **Section 4 - Mid-Term Bargaining**

With respect to matters not already covered by provisions of this Agreement and which affect conditions of employment subject to bargaining under 5 USC Chapter 71, either party may submit a proposal (or proposals) to the other at any time. Negotiations shall begin as soon as reasonably possible, but not later than the fifteenth calendar day following submission of the proposal unless the parties agree otherwise. During bargaining, the parties shall explore expeditiously all aspects of the proposed changes and work diligently to agree. Any timeframe hereby established may be changed by mutual consent.

## **Article 6 - Dues Withholding**

### **Section 1 - Dues Withholding**

In order to initiate Union dues withholding by payroll deduction, a bargaining unit employee must complete a Standard Form (SF) 1187, "Request For Payroll Deductions For Labor Organization Dues". The SF-1187 can be obtained from either the Union or the Administrative Officer. The employee must complete the appropriate spaces, sign it, and submit it to the Union. The Union shall complete its portion of the form before submitting it to the Administrative Officer. This official shall provide a receipt copy to the employee, indicating the pay period in which the deduction is to be effective, i.e., the employee's anniversary date.

### **Section 2 - Dues Revocation**

A bargaining unit employee may terminate Union dues withholding on the anniversary date of the pay period in which the allotment began. To cancel the dues allotment, the employee must submit a completed Standard Form (SF) 1188, "Cancellation of Payroll Deductions for Labor Organization Dues", not earlier than the first day of the month preceding the anniversary date and not later than five (5) workdays prior to the beginning of the pay period in which the anniversary date falls. The SF-1188 can be obtained from either the Union or the Administrative Officer. The employee must complete the form, sign it, and submit it to the Union. The Union shall complete its portion and submit it to the Administrative Officer not later than the first day of the pay period in which the employee's anniversary date falls. The Administrative Officer shall provide a receipt copy of the form to the employee, indicating the pay period in which the dues allotment will cease. Employees who are uncertain of their anniversary date can contact either the Union or the Administrative Officer.

## **Article 7 - Effective Date, Duration, and Distribution of Agreement**

### **Section 1 - Effective Date**

This Agreement shall become effective on the earlier of the following two dates: (1) the 31<sup>st</sup> day from the date it was executed by the Parties unless it has been disapproved by the Agency head pursuant to 5 U.S.C. 7114(c)(2); or (2) the day it is approved after review by the Agency head.

### **Section 2 – Reopening at the Expiration of the Agreement and Mutual Agreement to Reopen Mid-term**

- A. This Agreement shall renew itself automatically on the 4<sup>th</sup> anniversary of its effective date, and each 4<sup>th</sup> anniversary thereafter, unless either party gives written notice of its desire to reopen and renegotiate the Agreement not more than 105 and not less than 60 calendar days before the expiration date. Following receipt of such written notice, unless the Parties agree otherwise, they shall begin negotiations on Ground Rules by meeting and exchanging written proposals within thirty (30) calendar days of the written notice previously mentioned.
- B. Negotiations during the term of this Agreement to add, to amend or to modify this Agreement on matters covered by this Agreement may be conducted only by mutual consent of the Parties.

### **Section 3 - Printing and Distribution**

Within thirty (30) days of the effective date of this Agreement, the Employer shall: (a) distribute electronic copies of this Agreement to all current bargaining unit members; (b) post and maintain a copy on a commonly accessible electronic site or portal, e.g., webpage or Sharepoint site; and (c) announce to all bargaining unit members its availability on that site or portal for reading and printing.

### **Section 4 - Training**

Within 90 days following the effective date of this Agreement, the parties shall jointly train bargaining unit employees to inform them of the new Agreement's meaning and application.

## **Article 8 - Official Travel**

### **Section 1 - Compensation and Travel**

Whenever practicable, time spent in travel status away from the employee's official duty station shall be scheduled by the Employer within the employee's normal working hours. When travel is performed during non-duty hours, the determination of whether such travel constitutes hours of "work" shall be made under 5 USC or the Fair Labor Standards Act, whichever is applicable.

The employee shall be compensated accordingly.

### **Section 2 - Actual Subsistence**

Requests for actual subsistence expenses shall normally be approved when the supporting justification showing the unusual and exceptional circumstances complies with the government-wide Federal Travel Regulations.

### **Section 3 - Continuation of Approved Travel Expenses**

Employees who are unable to arrive at or return from their destination during regular duty hours shall be reimbursed for authorized travel expenses provided said inability to arrive or return is due to arduous travel conditions beyond the employee's control resulting from natural calamity, unavailability of transportation, or severe weather.

### **Section 4 - Advancement of Expenses**

Normally, the Employer does not pay advances for travel, and employees are expected to use government-issued credit cards to pay such expenses. However, employees may request travel advances in accordance with the Federal Travel Regulations, USDA Departmental Regulation 2300-001, and Rural Development Instruction 2036-A.

### **Section 5 - Use of Vehicles**

- A. Reasonable periods of time spent by a traveling employee during regular duty hours to make emergency repairs to or refueling of vehicles used to conduct government business shall be considered duty time.
- B. In situations where a traveling employee is required to pick up or return a government owned vehicle from a motor pool or other assigned motor vehicle storage, without first checking in or out of the permanent duty station, the Employer shall schedule the travel assignments so whenever practicable, previously authorized by the supervisor, that the traveler may leave home at the same hour he/she would normally leave to report to the office, and, upon return, wherever practicable and previously authorized by the supervisor, so that he/she may arrive home at the same time he/she would ordinarily arrive had he/she worked at the office.

- C. When an employee uses a privately-owned vehicle (POV) instead of an available government owned vehicle (GOV), mileage shall be paid at the maximum reduced rate consistent with regulations of the General Services Administration (GSA).
- D. In all other cases, mileage for the use of the POV shall be compensated at the maximum rate permitted by GSA for the type of travel done by the employee.
- E. The Employer shall not require employees to drive or ride in unsafe vehicles. When an employee is assigned a GOV that is not functioning or equipped properly, the employee shall report the situation to the Administrative Programs Director or designee.

### **Section 6 - Protective Assistance**

The Employer and the Union recognize that some travel job assignments could present a threat of imminent danger to the personal safety of employees. Appropriate measures shall be taken on a case-by-case basis to assure the safety of employees.

### **Section 7 - Return to Duty Station**

An employee on a long-term assignment outside the commuting area may be authorized occasional return trips to his or her permanent duty station at government expense on non-workdays. Approval for such trips is at the administrative discretion of the authorizing official and may be granted in accordance with published USDA, Rural Development travel policy.

### **Section 8 - Reimbursement of travel expenses**

- A. When an employee travels on temporary duty (TDY) because he/she has been detailed to, or assigned to perform work at, a location outside his/her commuting area, the Employer shall reimburse the employee for the expenses of such travel in accordance with applicable RD and USDA guidance.
- B. When an employee travels on official business locally (i.e., between his/her residence and an alternate duty point, e.g., USDA Service Center or satellite office, within his/her commuting area but in close proximity to the employee's permanent duty station), the Employer shall reimburse the employee for the amount by which the expense of such travel exceeds the employee's normal commuting costs.

### **Section 9 - Resolution of Disputes**

Disputes of matters under the jurisdiction of the GSA Board of Contract Appeals may be resolved using the Negotiated Grievance Procedure in Article 25 of this Agreement or using procedures provided by the GSA Board of Contract Appeals.

## **Article 9 - Health and Safety**

### **Section 1 - Policy Statement**

The Employer and the Union have a common interest in promoting safe working habits and safe working conditions. The Employer has an obligation to provide safe working conditions. All employees are responsible of prompt reporting of unsafe conditions. The Employer and the Union recognize that observing safe work practices is primarily the responsibility of each employee. The Employer shall ensure that the poster titled “Occupational Safety and Health Protection for USDA Employees” is displayed in each office with appropriate contact persons identified. The Employer and the Union shall cooperate in encouraging employees to work in a safe manner and to report promptly any unsafe or unhealthy conditions to appropriate supervisors.

- A. In the event an employee sustains a job-related injury, disease, or illness, the Employer’s State Office Administrative Division shall provide advice and assistance to the employee in completing and submitting a claim (for details see Article 33).
- B. The Employer shall, to the extent of its authority and consistent with the applicable requirements of Title 29 Part 1960 of the Code of Federal Regulations, as well as other applicable health and safety codes, provide and maintain safe and healthful working conditions for all employees and shall provide places of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm. The Union shall cooperate to that end and shall encourage all employees to work in a safe manner.
- C. The Union has the responsibility to advise the Employer concerning safety and health problems.

### **Section 2 - Employer Responsibilities**

- A. The Employer with the assistance of the Union shall work with all persons, entities or organizations which own and/or control work space to which bargaining unit employees are assigned to ensure that healthy and safe working conditions are maintained and to ensure compliance with applicable laws, rules, and regulations. The Employer and the Union shall also take appropriate action to ensure that any reported hazardous or unsafe working conditions are examined and, if necessary, corrected in a timely manner.
- B. The Employer agrees:
  - 1. To provide information concerning Federal Employee Health Benefits and Life Insurance Programs, and occupational health services;
  - 2. To make reasonable efforts to provide clean restrooms in which normal supplies shall be available at all times and in which all equipment is in working order;

3. To provide and maintain adequate fire and disaster plans and equipment on each floor, including smoke detection devices and exit signs that are visible during power failure;
4. To work with the building manager, the Department, GSA, and private lessors, to have safe electrical equipment and adequate ventilation in all work areas;
5. To provide an environment free of roaches and rodents through a regular extermination program and by other measures as may be necessary for purposes of pest control. Spraying for extermination of pests shall be accomplished during non-duty hours or employees shall be given the opportunity to work an appropriate distance from his/her work site. All employees shall be given the opportunity to work away from the site of spraying intended to exterminate pests and/or painting or other activity adversely affecting air quality for a period of 12 hours after such spraying. An employee who wishes to work away from the site shall inform his/her supervisor of the situation, and the supervisor shall evaluate the request and respond appropriately.
6. To follow GSA regulations in providing facilities appropriate and adequate to accommodate the needs of qualified disabled employees.

### **Section 3 - Union Responsibilities**

- A. The Union agrees that it shall take appropriate action to encourage all bargaining unit employees to work safely with due consideration for the safety, health and comfort of all fellow employees. To avoid preventable unhealthy or unsafe working conditions, the Union shall encourage respect and care by bargaining unit employees for the Employer's facilities and equipment and their own work environment.
- B. Each bargaining unit employee has a duty and is encouraged to report any unsafe or unhealthy working condition(s) to his/her immediate supervisor as soon as any such condition(s) come to his/her attention.

### **Section 4 - Employee Reports of Unsafe or Unhealthy Working Conditions**

- A. Any employee who believes that an unsafe or unhealthy condition exists shall have the right and is encouraged to report the unsafe or unhealthy working condition to his/her immediate supervisor. No employee shall be required to continue working in a situation posing the threat of imminent danger.
- B. The Employer shall make reasonable efforts to investigate the condition as soon as reasonably possible, and to report the condition for further investigation to: (a) the appropriate RD or USDA office; (b) GSA; (c) the Occupational Safety and Health Administration ("OSHA") of the Department of Labor; (d) the Public Health Service ("PHS") Health Unit; or (e) other appropriate official. When an inspector responds to such a complaint and conducts a physical inspection of the work place, the Union shall be

given an opportunity to accompany the inspector for this purpose on official time.

1. Qualified Agency personnel shall conduct Safety and Health inspections of all work areas at least annually.
  2. When a work-place inspection is conducted by the Employer's safety representative or by an outside agency such as OSHA or NIOSH, the Union shall be invited to accompany the inspectors. During the course of any such inspection, any employee(s) may bring to the attention of the inspector any unsafe or unhealthful working conditions.
- C. In accordance with applicable OSHA regulations, employees shall perform properly assigned duties unless, under the circumstances, they reasonably believe that:
- (1) compliance or performance poses an imminent risk of death or serious bodily harm;
  - and (2) there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures.
- D. The Employer agrees to post notices of hazardous conditions discovered in any work place. This notice shall be posted at or near the location of the hazard and shall remain posted until the cited condition has been corrected. Such notices shall contain a (a) warning, (b) description of the unsafe or unhealthful working conditions, and (c) any required precautions required by applicable regulations.
- E. The Employer agrees to assure prompt abatement of unsafe or unhealthy working conditions found to exist by the Employer in conjunction with the Department, GSA, OSHA, PHS and/or other appropriate officials. When this cannot be accomplished, the Employer agrees to develop, following consultation with the Union, an abatement plan setting forth a timetable for abatement and a summary of interim steps to protect employees. Employees exposed to such conditions shall be informed of the abatement plan and the Union shall be consulted during the implementation of the plan. When the hazard cannot be abated without the assistance of GSA or other Federal lessor agency, the Employer agrees to work with the lessor agency to seek abatement.
- F. Whenever possible, the Employer shall inform the Union when paints or pesticides are to be used in the presence of employees or in close proximity to employees no later than one full workday before such use. this notice shall also include any warning statements given to the Employer by the organization using the paints or pesticides or that the Employer otherwise has in its possession.
- G. The Employer shall assure that no employee shall be subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other authorized participation in an agency occupational safety and health program activities.
1. The Employer shall assure the right of anonymity for those employees or Stewards who report an unsafe or unhealthful working condition.

2. The Employer shall establish procedures to investigate employee complaints concerning restraints, coercion or reprisal.

### **Section 5 - Occupation Injury or Illness**

- A. When an employee sustains a job-related injury or occupational illness, the employee shall report the injury or illness to his/her supervisor as soon as practicable. The supervisor shall refer the employee to the Human Resources Staff (“HRS”); the Health Unit or other medical service as appropriate and as permitted by applicable law, rule, or regulation. The supervisor shall also advise the employee to contact the HRS to obtain information on benefits under the Federal Employees’ Compensation Act.
- B. When an investigation is made of an occupation accident by anyone, the Union shall be invited and encouraged to participate.

### **Section 6 - Employee Assistance Program**

- A. The Employer presently maintains an Employee Assistance Program (“EAP”), which provides referral services for counseling, information and other sources for employees troubled by alcoholism, substance abuse, emotional illness, marital/family problems or financial problems. The EAP Office offers referral services to outside, local alcohol treatment programs, family counseling and substance abuse treatment programs, many of which are available free, or at a nominal cost.
- B. Employees undergoing a prescribed program of treatment for problems recognized under this Article may be granted the appropriate leave to the extent necessary to complete such program on the same basis as any other illness when absence from work is necessary.
- C. The Employer agrees to continue participating in the EAP as mandated by federal laws and regulations. Employees’ participation in the EAP shall be treated with the utmost confidentiality.

### **Section 7 - Occupant Emergency Plan**

- A. The Employer shall maintain an Occupant Emergency Plan for all buildings in which bargaining unit employees’ work. The plan shall designate monitors and describe the duties and responsibilities of these persons during an emergency. A copy shall be given to the Union upon request.
- B. The Employer shall establish such programs if they are not already in existence, in all buildings in which bargaining unit employees work, within 90 days of the effective date of this agreement. Copies of these plans shall also be provided to the Union upon request.

## **Section 8 - Training**

- A. The Employer agrees to provide training to employees who perform duties that involve safety hazards. Such training may include instruction, proper work methods to be used and proper use of protective equipment, and any applicable regulations or standards.

## **Section 9 - Protective Clothing, Personal Protective Equipment, and Tools**

- A. The Employer shall acquire, maintain, and provide approved safety equipment, approved personal protective equipment and clothing, and other devices necessary to provide protection of employees from hazardous conditions encountered during the performance of official duties, or as a result of the performance of such duties.

## **Section 10 - Miscellaneous Health Provisions**

- A. The Employer shall grant leave to employees who donate blood according to the applicable provisions of RD Instruction 2066-A, "Rural Development Leave Program". Employees who donate blood shall make reasonable arrangements with their supervisors to minimize the amount of time spent doing so.
- B. If an employee is asked by the Employer to transport a co-worker who finds it necessary to leave work and return home or go to a medical facility because of illness or incapacitation, the transporting employee shall be on duty time.

## **Section 11 - Office Hazards**

- A. Temperature. Should temperatures fall below 65 degrees Fahrenheit, or exceed 85 degrees Fahrenheit and no ventilation is present or it is inadequate, Management shall make a reasoned determination whether employees shall be removed from the work site until optimum temperatures can be restored. During this time, Management will determine whether work can be performed at a telework site, or other approved alternate location in accordance with current law and regulation.
- B. Ventilation. Adequate ventilation shall be provided so as to reduce harmful concentrations of chemicals, chemical irritants, or any other type of uncomfortable odors in the workplace.
- C. All copying machines that emit fumes shall be removed from employees' workstations or properly exhausted via a ventilation system. In the event that the copying machine cannot be adapted to/with a proper ventilation system, the Employer shall replace the equipment with a model that does not emit fumes.
- D. In order to minimize the Agency's operational costs during any of the events described above in this section, field/home work assignments may be assigned.
- E. The Agency shall permit employees to work from other offices (if such exist within the commuting area), or to perform fieldwork, or to telework, or to be excused from duty

without loss of pay or charge to their annual leave in the event that either: (1) water and/or electrical service at an office is continuously unavailable for two (2) hours; or (2) hazardous conditions exist.

### **Section 12 - Ergonomic Hazards**

- A. The Employer shall, to the maximum extent reasonably possible: (1) provide equipment (chairs, tables, workstations, etc.) that meet ergonomic design criteria; and (2) see that employees are properly trained to operate the equipment safely and properly.

### **Section 13 - Lunchrooms, Break-rooms, Restrooms, Lockers and/or Showers in Dirty or Toxic Environments**

- A. The Employer shall furnish a clean and adequate space where employees may eat their meals or take breaks in a designated area at each Rural Development Office or Service Center. Whenever reasonably possible, employees shall have access to refrigerator, freezer, microwave, and sink.
- B. The Employer shall provide adequate sanitary washroom facilities.

### **Section 14 - Repairs and Adjustments to Operating Equipment**

Employees may be requested to perform some equipment repair work with written and/or telephone support from the Agency and/or manufacturer.

### **Section 15 - Public Contact**

- A. Employees shall not be required to divulge personally identifiable information to the public under circumstances where there is reason to believe harassment or physical abuse would result. In keeping with this principle, such employees may remove their name plates/tags should the need arise.

### **Section 16 - Vehicle Safety**

- A. If at any time a government-owned motor vehicle is observed to be defective, in need of repair, or in any way unsafe, the vehicle shall be taken out of service until it has been restored to a safe operating condition.
- B. Employees operating or riding in government-owned, leased, or privately owned vehicles on official business are to use safety belts (both seat and shoulder).

### **Section 17 - Cleaning of Air Conditioning Ducts**

The Employer shall: (i) clean air conditioning (“A/C”) ducts (supply and return), supply diffusers and return registers, and (ii) replace filters of A/C systems on buildings occupied by bargaining unit members in accordance with applicable OSHA and ASHARE standards.

**Section 18 - Smoking Policy**

No smoking is allowed inside any USDA Rural Development facility in Puerto Rico. Smoking is also restricted near building entrances, elevators, staircases, etc.

**Section 19 - Water Fountains**

The Employer shall install water fountains in each office supplied with potable water.

## **Article 10 - Hours of Work**

### **Section 1 - Statement of Policy**

The Employer and Union are committed to implementing RD Instruction 2051-F, “Hours of Duty”. However, they also agree that implementation of any of the alternative work schedules requires good judgment to guarantee that such arrangements do not make it necessary for a staff member within an office to carry an unreasonable burden. In addition, implementation of any alternative work schedules must enable the Agency to meet its mission needs.

### **Section 2 - Breaks**

- A. Employees are authorized two (2) breaks lasting up to fifteen (15) minutes each day. No more than one break period may be taken in the morning or in the afternoon. Breaks may not be used to delay arrival times, extend lunch periods, or advance departure times, and may not be carried over or accumulated.
- B. The fifteen (15) minute break in each part of the day may be taken at one time or in shorter intervals but total time in each part of the day shall not exceed fifteen (15) minutes.
- C. Break periods are part of the duty day. Employer business will, from time to time, interrupt breaks with phone calls and walk-in customers. Employees shall, in such cases, shorten breaks but still be authorized the fifteen (15) minutes at some time each morning and afternoon. Breaks shall be scheduled so as to maintain appropriate office coverage.
- D. Employees are to inform supervisors when they will be taking their breaks. It is expected That employees shall remain reasonably accessible during break periods and inform their supervisors if they intend to leave the premises.

## **Article 11 - Pay Administration**

### **Section 1 - Applicable regulations**

With respect to the administration of pay, bargaining unit employees shall be regulated by applicable USDA Departmental Regulations and/or RD Instructions.

### **Section 2 - Guidelines**

- A. Overtime shall be distributed fairly and equitably to all bargaining unit employees;
- B. Overtime shall not be distributed or withheld as a reward or penalty;
- C. The Employer shall, to the maximum extent reasonably possible, notify the employees of the opportunity to overtime work.
- D. The Employer shall, to the maximum extent reasonably possible, give notice three days in advance to employees who will be required to work after their normal tour of duty.

## **Article 12 - Holiday Work**

Work on holidays shall be avoided to the maximum extent reasonably possible. In the event holiday work is needed, the State Director or other authorized official may approve work on holidays. However, holiday work shall normally be performed only by employees who volunteer.

- A. First consideration for holiday work assignments shall be given to employees currently assigned to the office in need of the overtime work. Second consideration shall be given to other employees who have the required skills to do the job. Work on holidays shall not be assigned as a reward or penalty, but solely in accordance with actual needs.
- B. In order to ensure consistency, the Employer agrees that, upon reasonable request, the State Director or designee shall normally excuse employees from working on a holiday if another employee with the required skills is readily available and willing to work.
- C. The business rationale concerning holiday hours worked shall be made available, when requested, to employees and/or the Union to aid in resolving specific complaints concerning distribution of work on holidays. If a dispute arises, the grievance procedure shall be followed.
- D. The Employer shall notify those employees who are needed for holiday work assignments as far in advance as reasonably possible.
- E. If an employee is not more than thirty (30) minutes late in reporting for a holiday work assignment, he/she shall not be denied the remainder of the holiday work assignment. It is further agreed and understood that if an employee who has been assigned holiday work cannot report for the assignment due to illness or emergency, such employee shall notify the appropriate available supervisor. However, the Employer agrees to give consideration to an employee who, because of special or unique circumstances, is unable to meet these requirements. In this connection, all employees shall be informed as to the proper procedure to use for notification of absence.
- F. Federal holidays

The following Federal designated holidays shall be granted to all bargaining unit members unless changed by law and/or regulations.

### **Holidays by Federal Statute**

New Year's Day - January 1

Martin Luther King - Third Monday in January

Washington's Birthday - Third Monday in February

Memorial Day - Last Monday in May

Independence Day - July 4

Labor Day - First Monday in September

Columbus Day - Second Monday in October  
Veterans Day - November 11  
Thanksgiving Day - Fourth Thursday in November  
Christmas Day - December 25

In the event Congress chooses to designate a day not listed above as a Federal holiday, the same shall also be granted to all bargaining unit employees.

G. Local Puerto Rico holidays

In addition, to the extent it is possible to do so while maintaining constant coverage of office operations adequate to provide excellent customer service and to accomplish the Agency's mission, Management intends to be generous when it considers requests from employees to be absent on the following local Puerto Rico holidays.

Three Kings Day - January 6<sup>th</sup>  
Good Friday - date varies between March and April

Except for employees requesting scheduled annual leave (see Article 31, "Time and Leave"), supervisors shall approve/deny employee requests to be absent on these holidays according to the following procedure.

1. No later than close of business on the 21<sup>st</sup> calendar day preceding each holiday, bargaining unit employees who wish to be absent on that holiday shall submit to their supervisors their requests for supervisor approval to do so. Supervisors shall decide the number and types of workers required to work the holiday, and notify the employees of their decisions no later than close of business on the 14<sup>th</sup> calendar day preceding the holiday.
2. If the number and types of employees required to provide adequate coverage requires that a supervisor deny any requests, the supervisor shall ask for volunteers. If there are insufficient volunteers to provide adequate coverage, the supervisor shall approve those requests from employees with the greater/greatest:  
(a) federal government service as measured by Service Computation Date;  
(b) continuous seniority in Rural Development agencies; then (c) continuous USDA seniority.
3. In order to minimize the likelihood that it will be necessary for the same individual employee to work two or more holidays consecutively (and in order to encourage volunteering), employees shall not be approved to be absent on a holiday if another employee in the relevant worker group who has worked such a holiday more recently has requested approval to be absent on that holiday and is denied.

Employees providing coverage on such holidays may request flexible hours, and supervisors shall give such requests their reasonable consideration.

Employees approved to observe such holidays may choose to use any or all of the following: accrued annual leave; accrued compensatory time; accrued religious compensatory time; accrued credit hours; and leave without pay.

## **Article 13 - Use of Facilities**

### **Section 1 - Office Space and Furnishings**

- A. The Employer shall provide adequate space for confidential discussions between bargaining unit members and designated Union representatives, when such discussions are part of or reasonably necessary so the Union can perform its representational role. When available and suitable, during and after duty hours, the Union may reserve and use the Employer's conference rooms or other suitable spaces for meetings of its officers, stewards, and members to conduct internal union business so long as employees of the Employer are neither in duty status nor on official time. The Union agrees to pay for any extra cost of using facilities outside of normal business hours, if such payment is required by the lease contract. The payment shall not exceed the net cost to the Agency.
- B. The Employer shall provide the Union with a private office space, with a telephone line, a fax machine, a computer with internet access, a printer, a desk with two chairs, four filing cabinets with locks, and a table with five (5) additional chairs.

### **Section 2 - Issuances**

- A. Although the Union has been provided with free internet access, the Employer shall permit the Union to use a copier to make one copy of any non-confidential document issued by the Employer or the Department concerning personnel policies, practices, or working conditions, organizational structures, labor-management relations, or any other matter that may have an impact on the conditions of employment of bargaining unit employees. Confidential documents shared by either party will be based in trust and respect and must not be duplicated or shared with others without expressed consent of the sharing party.
- B. The Union shall be permitted access to personnel manuals and guidelines, and may, on request, make copies of such materials.
- C. Usually, all distribution of issuances under this Article shall be at no cost to the Union.

### **Section 3 - Other Facilities and Services**

The Employer shall continue to furnish Union representatives, including those performing representational duties on official time away from their permanent duty stations, customary routine services that are consistent with the best interest of the Employer, employees and the Union. Such services include the use of the internal mail distribution (for other than mass mailing), trivial amounts of photocopying, and the like.

**NOTE:** The Union's use official facilities under this Article shall ONLY be for the purpose of representing employees of Rural Development Puerto Rico, except to the extent that issues related to USDA Field Service Centers or Service Center Initiatives within the Department may

affect those employees. Any misuse of equipment and facilities may result in the temporary or permanent loss of these privileges.

## **Article 14 - Communications**

### **Section 1 - Bulletin Boards**

- A. The Employer shall provide the Union not less than 36 inches x 36 inches of bulletin board space in areas accessible to bargaining unit employees.
- B. Union bulletin boards shall be identified as such by the Union. All postings shall be marked prominently as “Union Notices”, and only the designated Union bulletin boards shall be used for such postings.
- C. The Union bulletin board shall be used solely for Union materials. The employer shall not post any material on the bulletin board without the consent of an elected official of the Union.

### **Section 2 - Distribution and Content of Union Publications**

- A. Official publications of the Union may be distributed on USDA, Rural Development property by Union representatives during the non-duty time of the Union representatives who are distributing, and of the employees receiving the materials; distribution shall not disrupt operations. All such materials shall be properly identified as official Union issuances.
- B. Union literature, whether posted on bulletin boards or distributed, must not violate any law, regulations, security of the office, or provisions of this agreement. Union Statements shall not include defamatory or derogatory remarks that undermine the authority of the agency and its officials, when the remarks have no reasonable nexus to legitimate representational issues. Any complaint concerning the Union’s compliance with these requirements may be made the subject of a grievance in the Negotiated Grievance Procedure.

### **Section 3 - Space for Pamphlet Racks**

To the extent needed and reasonably practicable, the Employer shall provide floor space for Union-supplied publication racks.

### **Section 4 - New Bargaining Unit Member Employees**

- A. When the Employer orients a new bargaining unit employee who has come on board, and/or when an employee who was not previously a bargaining unit member becomes a member, the Employer shall: (1) give the Union an opportunity to designate a representative and give the Union’s representative an opportunity, usually not lasting more than thirty (30) minutes, to address the employee; and (2) provide the employee an electronic copy of this Agreement and information about how to contact the Union if the Union’s representative has not addressed the employee.

- B. The Employer shall notify the Union of any new bargaining unit members sufficiently far in advance of their entering the unit that the Union's representative may address the employee at that time.

**Section 5 - Use of Office Equipment and Supplies**

The Employer shall permit reasonable use of office equipment and supplies so the Union can reproduce materials for use in Labor-Management relations.

**Article 15 -  
Parking and Parking Areas**

- A. The Employer shall, insofar as reasonably possible, locate offices in areas where there is sufficient parking space for all employees.
- B. When the use of parking spaces by bargaining unit employees is to be assigned, the Employer shall notify Union Officials and permit the Union an opportunity to invoke negotiations about the matter.
- C. After a physically handicapped employee has submitted a written request for a parking space or spaces and it has been certified that the employee's handicap is of such a nature as to warrant reserving such space, the Employer shall reserve the required space or spaces.

## **Article 16 - Reduction-In-Force and Transfer of Function**

### **Section 1 - Negotiations**

- A. The Employer and the Union recognize that unit employees may be seriously and adversely affected by a reduction-in-force (“RIF”) and/or transfer of function (“TOF”). In the event of a RIF and/or TOF, the Employer shall notify the Union and fulfill its obligation to bargain consistent with 5 USC 71.
- B. The Employer shall provide the Union with all available information relevant to bargaining about the RIF and/or TOF in accordance with 5 USC 7114(b)(4).

### **Section 2 - Notification to the Union**

When it is anticipated that a RIF and/or TOF will affect bargaining unit employees, the Union President shall be given the earliest reasonably possible preliminary notification in writing prior to employee notice. The preliminary notice shall, as applicable, include the following information:

1. Specific functions to be transferred and identification of employees assigned to this function;
2. The reason for the RIF or TOF;
3. The competitive area and personnel levels (type of positions and approximate number of employees) that may be affected initially;
4. The anticipated effective date that the action will occur; and
5. The manner in which Management anticipates exercising its discretion under 5 CFR 351.

### **Section 3 - Impact and Notification to Employees**

- A. The Employer shall attempt to minimize the adverse effects on employees of actions exercising management rights. All RIFs shall be carried out in strict compliance with all applicable laws and regulations.
- B. The Employer shall give an advance general notice of 90 calendar days to employees who may be affected by a RIF, and a specific notice of 60 calendar days to individual employees who will be affected by a RIF.
- C. Employees receiving a RIF notice have the right to review retention lists pertaining to all positions for which they are qualified within their competitive area. This includes the retention register for their competitive level and those for other positions for which they are qualified, down to and including those in the same or equivalent grade as the position

offered by the Agency. If separation occurs, this includes all positions to or below the grade level of their current positions in their competitive areas. Affected employees shall have the right to the assistance of the Union when reviewing such lists or records.

- D. Any career or career-conditional employees whose last performance rating of record is above unacceptable and who are separated because of a RIF must be given information concerning their right to reemployment consideration and career transition assistance plans, among other rights to which they may be entitled. It is understood that acceptance of a temporary appointment shall not alter the employee's right to be offered permanent employment.

Bargaining unit employees have the right to outplacement services described in the Department of Agriculture and Rural Development Career Transition Assistance Plans and 5 CFR 351.

## **Article 17 - Contracting Out Bargaining Unit Work**

### **Section 1 - Notification to the Union**

- A. When the Employer anticipates contracting out work presently being performed by bargaining unit employees and that doing so would result in a RIF or in the demotion of any bargaining unit employee, it shall notify the Union at least 60 calendar days in advance. The notice shall identify in general terms the employees who may be affected. Time frames hereby established may be extended by mutual consent.
- B. Following such notice, upon request from the Union, the Employer shall meet with the Union to discuss the information contained in the notice.

### **Section 2 - Management Decisions**

The Employer agrees that the decision to possibly contract out work presently being performed by bargaining unit employees shall be made in accordance with OMB Circular A-76, applicable rules and regulations, and in keeping with those, shall ensure the Union is represented in any “Most Efficient Organization” (MEO) team established as the MEO competes with private enterprises to perform the duties described in the Statement of Work.

### **Section 3 - Statement of Work**

The Employer shall provide the Union with a copy of any Statement of Work which has been developed for the proposed contracting out, and which deals with work currently performed by bargaining unit employees. The Union shall be given ten (10) calendar days to comment regarding the Statement of Work. Time frames hereby established may be extended by mutual consent.

### **Section 4 - Impact and Implementation**

The Employer agrees that prior to implementing a decision to contract out, the Union shall be given the opportunity to timely negotiate regarding the impact and procedures for implementing such decision.

Management and Union officials shall meet to resolve any differences and reach agreement.

### **Section 5 - Access to Regulations**

The Employer agrees to provide the Union access to all regulations maintained on-site that are relevant to contracting out.

### **Section 6 - Adverse Effects on Bargaining Unit Employees**

If bargaining unit employees are adversely affected (RIF or demotion) by the decision to contract out work presently being performed by bargaining unit employees, the Employer shall proceed in

accordance with Article 16, “Reduction-in-Force and Transfer of Function”) of this Agreement.

### **Section 7 - Placement Assistance**

The Agency agrees to assist in locating suitable employment for bargaining unit employees who are displaced as a result of contracting out, including:

- A. Giving priority consideration for suitable vacant positions within Rural Development - Puerto Rico in accordance with Agency policies and procedures;
- B. Paying reasonable costs for training and relocation in accordance with applicable law, rule and regulation;
- C. Making reasonable efforts to arrange for gradual transition when conversions are made to provide greater opportunity for attrition and placement; and,
- D. Implementing the Career Transition Assistance Plan (“CTAP”) and the Interagency Career Transition Assistance Plan (“ICTAP”) programs.

## **Article 18 - Training and Career Development**

### **Section 1 - Statement of Policy**

The primary function of training is to assure the optimum use of human resources in attaining organizational needs. The Employer is responsible for determining training needs, and shall consider input from employees when doing so. The Employer should provide training necessary for the performance of employee's assigned duties, and for improvement of organization and individual performance. Given and likely future limitation of funds and the need to provide training, USDA is relying on the robust capabilities of AgLearn to meet most USDA RD training needs.

### **Section 2 - Non-Discrimination**

The parties agree that nomination and/or selection of employees to participate in training and career development programs and courses shall be non-discriminatory and made without regard to sex, race, religion, age, marital status, ethnic group, disability, and Union membership or activity, and shall be in accordance with equal employment opportunity guidelines, and consistent with other applicable laws.

### **Section 3 - Individual Development Plan**

Employees may initiate Individual Development Plans ("IDPs") with the Employer (usually their supervisors). The supervisor shall assist the employee in the preparation of the IDP and shall review it with the employee to assure conformance with organizational needs and individual career needs. The plan shall be referred to the designated approving official and the employee shall be notified of the approval/disapproval or the need for modification.

### **Section 4 - Employee Training Counseling**

The Employer and the Union recognize that each employee should apply effort, time and initiative in increasing his/her potential through self-development, training and job performance. When requested by an employee, the Employer (usually the supervisor) shall provide counseling concerning skills the employee might consider developing.

### **Section 5 - Training Expenses**

When local training is approved, the Employer shall pay the costs of tuition and required textbooks and other expenses as appropriate whenever reasonably possible, and may pay travel costs, subject to travel regulations and fiscal considerations. If travel funds are not authorized and the training would otherwise be approved, the employee shall be notified and given the option of attending the training without travel reimbursement. Duty time shall be approved for training, when it is scheduled during the employee's basic workweek, unless the training is deferred or cancelled.

## **Section 6 - Training Needs**

The supervisors of bargaining unit employees shall compile training needs as identified in employees' Individual Development Plans (IDPs) and program trainings and report them to the respective subject area program directors. Based on these needs, and in consideration of changes in regulations, results of internal and external audits, and changes in technology, the Employer shall plan training subject to funding availability.

## **Section 7 - Enhancing Career Opportunities For Employees**

Federal agencies are required, and it is USDA policy, that employees who are in positions or occupational series which do not enable them to realize their full work potential shall receive the maximum opportunity to develop to their highest potential and attain their highest career opportunities. Among the means sometimes used for this purpose are details and rotational assignments (see Article 28, "Details and Reassignments"), Individual Development Plans, formal study, and mentoring, job shadowing, cross-training and developmental assignments, and a "Career Enhancement" ("CE"; formerly called "Upward Mobility") program.

- A. Programs to Enhance Career Opportunities for Employees
1. USDA offers a wide variety of skill-enhancing courses, usually at no cost to employees, through AgLearn (presently available at <https://aglearn.usda.gov/>).
  2. Mentoring is a formal or informal relationship between two people, i.e., a senior mentor (usually outside the protégé's chain of supervision) and a junior protégé. Mentoring has been identified as an important influence in professional development in both the public and private sector. The war for talent is creating challenges within organization not only to recruit new talent, but to retain talent. Benefits of mentoring include increased employee performance, retention, commitment to the organization, and knowledge sharing. See USDA Departmental Regulation 4740-001, "USDA Mentoring Program" (February 1, 2012).
  3. A government-wide detail registry known as "Open Opportunities" presently available at <https://openopps.usajobs.gov/>) lists opportunities for details on which employees may expand their skills and knowledge. See also Article 28, "Details and Reassignments".
  4. Coaching is designed to provide employees with the support they need to become better performers, and so it is common practice to preface coaching with some form of performance assessment or evaluation. Like mentoring, coaching programs can be formal or informal.
  5. A Career Enhancement Program ("CEP") is a system which the Employer may conduct and which focuses on Federal personnel policies and practices in developing and implementing specific career opportunities for lower-level (GS-1

through GS-9) employees who are in positions or one-grade interval occupational series that do not enable them to realize their full potential.

- a. The goals of the CEP are to:
  1. Provide a vehicle through which employees with demonstrated potential may be competitively selected and thereafter trained for new career fields;
  2. Provide the opportunity for further career enhancement in the chosen field, depending on work performance and capabilities;
  3. Provide a planned selection, training, and development process for employees who have demonstrated the talent and potential to move to a more technically advanced job and to qualify them in the career area;
  4. Obtain a more effective use of the employee's capabilities;
  5. Provide employees with opportunities to enhance their qualifications in their career fields;
  6. Motivate employees and create a climate conducive to an increase in productivity;
  7. Prepare the trainee to function effectively in a target position and to utilize the skills of the employee while he or she is functioning in the trainee position; and
  8. Provide a broader base for the selection of personnel for technical, administrative, program, and professional positions and thus, diversify the employee population in those careers.
- b. The following definitions apply:
  1. "Trainee position" is the position in a technical, professional, program, or administrative career area to which a CEP participant will be assigned when selected for the program. In the position, the trainee shall receive on-the-job and/or formal training necessary to achieve the skills, knowledge, and technical ability to successfully perform in the target position.
  2. "Target position" is the position in a technical, professional, program, or administrative career area that a participant selected for a trainee position will normally be promoted into after the successful completion of training and demonstrated performance at intermediate grade levels.

- c. After an employee is selected for a CE position, the Employer shall ensure that an employee assigned to a CE position will be provided such assistance as would normally be necessary to assure success in the position. Upon satisfactory completion of training and successful performance on the job, the employee shall normally progress at a regular rate through job levels toward and into the target position. Ordinarily, the target position shall be one or two grades higher than the trainee's present grade. This is dependent upon whether the target position is normally classified at one- or two-grade intervals. This does not preclude the Employer from establishing a target position more than two grades higher than the trainee position. Additional development of program participants beyond the target position shall follow normal promotion procedures. As soon as possible after being selected, the trainee shall be reassigned to the appropriate office and begin in the trainee portion of the program.
- d. Once an employee has been accepted into the program, the Employer will make reasonable efforts to ensure that funding for the trainee is made continuously available.

**B. Requesting to Participate in such Opportunities**

An employee who wishes to request such training or opportunity may do so in the manner appropriate for that program. Subject to budgetary limitations, the Employer shall approve the length and timing of the training or developmental assignment, provided neither interferes with the work of the employee. The official responsible for approving or disapproving a request for training or developmental assignment shall respond in writing within twenty-one (21) calendar days. If the official denies the request, he/she shall state the reasons for denial.

**C. Changes to Programs to Enhance Career Opportunities for Employees**

If the Employer decides to establish, change or end any program of activities to enlarge employees' career opportunities, it shall notify the Union and give it an opportunity to bargain about the matter.

## **Article 19 - Incentive Awards**

### **Section 1 - Purpose and Policy**

- A. The parties agree that a motivational Incentive Awards Program is one of the mechanisms through which employees' accomplishments are recognized. Employees and Managers can take an active part in the program by objectively recognizing and rewarding contributions which increase productivity, empower employees, and promote team building.
  
- B. An effective incentive awards program should result in a more effective workforce, higher productivity, and improved working environment. Within the context of budgetary considerations and limitations, the Employer may provide incentive awards to employees whose performance is substantially in excess of normal expectation and to employees who submit suggestions that result in measurable improvements in efficiency. Therefore, the Employer shall follow RD Instruction 2063-B, "Recognition Program".

## **Article 20 - Equal Employment Opportunity**

### **Section 1 - Equal Employment Opportunity**

- A. Equal Employment Opportunity (“EEO”) shall be advanced in accordance with Title 5 USC, Executive Order 11478, authorizing legislation, applicable USDA regulations and RD Instructions.
- B. The Employer shall make available to employees written information describing the EEO complaints procedure.
- C. The Employer shall make available to the Union as requested, information concerning the workforce profile (i) by grade according to gender and race, (ii) by occupation according to gender and race, and (iii) concerning promotions according to gender and race.
- D. Guidelines on EEO policies and related subjects are disseminated by the Agency through Ag Learn.

### **Section 2 - Complaints**

- A. Any employee who wishes to file or has filed a complaint shall be free from coercion, interference, and reprisal, and shall be entitled to expeditious processing of the complaint within the time limits prescribed by regulations. Any employee who seeks to file a complaint shall have the right to select a representative as provided by 29 CFR 1614.
- B. An employee has the option of filing a complaint under Article 25, “Negotiated Grievance Procedure”, or under the Agency EEO complaint procedure, but not both. An employee shall be deemed to have exercised his or her option at such time as the employee timely files under the statutory procedure or the Negotiated Grievance Procedure, whichever occurs first. EEO counselors shall provide employees with written descriptions of both procedures.

### **Section 3 - Duty Status**

Employees participating in discussions of informal EEO complaints under this Article shall be on official time as provided by 29 CFR §1614.605(b).

### **Section 4 - Reasonable Accommodation**

The Employer is committed to providing reasonable accommodation in accordance with law and regulations. Employees are responsible for communicating the need for accommodation and for following established procedures.

## **Article 21 Telework**

Bargaining unit employees shall be covered by the provisions of the USDA Departmental Regulation 4080-811-002, "Telework Program".

## Article 22 Performance Management System

### Section 1 - Statement of Policy

- A. Management and the Union agree that the purpose of the performance management system is to improve individual and organizational performance, program effectiveness, and accountability by focusing on results, service quality, and customer satisfaction, and by aligning standards and elements with organizational goals and strategic plans.
- B. Management and the Union have agreed to implement the Agency's Performance Management policy in accordance with the provisions of applicable law, Government-wide rules and the USDA Departmental Regulation governing the management of the performance of bargaining unit employees, currently DR-4040-430, "Employee Performance Management" (February 6, 2019).

Employees should pay special attention to the following Section 14, "ADDRESSING PERFORMANCE PROBLEMS"

- a. Prerequisites to Addressing Issues. Before performance problems can be officially addressed, the following must be in place:
  - (1) A current, accurate position description; and
  - (2) A current, accurate performance plan, including standards and measures that clearly articulate the expectations at the FS level.
- b. Distinction and Overlap Between Performance and Conduct.
  - (1) Conduct and performance management problems may coincide, but they are distinct issues.
    - (a) Misconduct is generally a failure to follow a regulation, policy, or workplace rule, whether written or unwritten. Examples include:
      - 1 Tardiness;
      - 2 Absenteeism;
      - 3 Insubordination;
      - 4 Falsification;
      - 5 Misuse of Government computer systems;
      - 6 Prohibited personnel practices;

7 Retaliation;

8 Failure to follow safety regulations; and

9 Failure to protect personally identifiable information (PII).

(b) Poor performance is the failure of an employee to do the job at the FS level, as defined in the performance plan.

(2) A pending conduct consideration will have no bearing on conducting progress reviews and/or issuing a timely rating of record.

(3) Accountability for poor performance, by means of a Demonstration Opportunity (DO) and/or a rating of record, does not preclude consequences for misconduct.

- c. Immediacy. As described in Section 11, Rating Officials must identify potential issues with any employee meeting his or her performance expectations, and address the issues with the employee, before performance falls below the standards defined at the FS level for any element as documented in the employee's performance plan.
- d. Reassignments. An employee may be reassigned at any time for performance that fails to meet the FS level as documented in the employee's performance plan.
- e. Adverse Actions. Subject to the provisions of 5 U.S.C. 75, Adverse Actions, and 5 CFR 752, Adverse Actions, an agency may, to promote the efficiency of the service, take action for performance or related conduct.
- f. Performance-Based Actions. Subject to the provisions of 5 U.S.C. 4303 and 5 CFR 432, Performance Based Reduction in Grade and Removal Actions, an agency may reduce in grade or remove an employee for failing to perform at the FS level in a critical element.
- (1) If the employee's performance falls below the standards for FS on any critical element, prior to taking a performance-based action, the Rating Official must:
- (a) Notify the employee in writing of the critical element(s) for which performance is below the FS level;
- (b) Inform the employee that unless he/she demonstrates performance in the critical element(s) identified in the notice at the FS level, the employee may be reduced in grade or removed; and

- (c) Afford the employee a reasonable opportunity to demonstrate FS performance on the critical element(s) by giving the employee a DO.
- (2) Neither an interim rating nor a rating of record is required before taking a performance-based action.
- (3) The requirement to establish a DO excludes employees listed in 5 CFR 432.102(f), including an employee in the competitive service who is serving a probationary or trial period under an initial appointment.

## **Article 23 - Within Grade Increases**

### **Section 1 - General**

Pursuant to 5 USC 5335, an employee is entitled to receive a within-grade increase subject to completion of the appropriate waiting period and a determination that the employee's work is of an acceptable level of competence. Such determination must be made upon completion of the waiting period.

### **Section 2 - Basis for Granting or Denying**

Within-grade increases shall be granted or denied on the basis of whether an employee attains an acceptable level of competence and meets other statutory requirements.

### **Section 3 - Supervisory Responsibilities**

- A. The decision to grant or withhold a within-grade increase must be supported by the employee's most recent rating of record.
- B. Denial of a within-grade increase may not be used in lieu of disciplinary action.

### **Section 4 - Decisions**

After completion of the waiting period, if the within-grade increase is to be denied, the employee shall be given the supervisor's official determination in writing. The determination shall include:

- A. A statement of the reasons for the negative determination;
- B. Identification of the areas in which the employee must improve in order to be granted a within-grade increase;
- C. The right to file a written request for reconsideration not more than fifteen (15) days after receiving the negative determination;
- D. The name and address of the official, usually the State Director or the State Director's designee, who will reconsider the official determination and with whom the request for reconsideration should be filed.

### **Section 5 - Appeal Rights**

When a determination is made that an employee's job-related activities are not at an acceptable level and the determination is final, an employee may file a grievance/complaint or appeal the adverse action to the Merit Systems Protections Board.

## **Section 6 - Effective Date/Administrative Error**

A within-grade increase shall be effective on the first day of the first pay-period following completion of the required waiting period and the employee meets conditions for eligibility, within technical limitations by the National Finance Center. When, due to administrative error, oversight or delay, a positive determination made after the waiting period is completed, the effective date of the within-grade increase shall be retroactive to the original due date.

## **Article 24 - Disciplinary and Adverse Actions**

### **Section 1 - Statement of Assumptions, Purpose and Policy**

- A. The objective of discipline is to correct and improve employee behavior so as to promote the efficiency of the Agency. The Agency usually disciplines progressively for the purpose of correcting and improving employee behavior. However, there may be circumstances when progressive discipline is not appropriate and more immediate action is required.
- B. Early communication between the-affected employee and supervisor to achieve resolution is encouraged. If either party (employee or supervisor) believes that resolution would be aided if the Union were involved in these early discussions, he or she is encouraged to contact the applicable Union Steward. The Agency shall make a reasonable effort to assure that actions/agreements are fair and equitable to both parties involved.

### **Section 2 - Obligations: General**

- A. Bargaining unit employees shall be the subject of disciplinary or adverse action only for just cause.
- B. All disciplinary and adverse actions shall be consistent with Agency regulations, government-wide regulations, and laws in effect at the time.

### **Section 3 - Definitions**

- A. Day - For the purpose of this Article, the word “day” means calendar day unless otherwise specified.
- B. Disciplinary action - Refers to a letter of official reprimand or a suspension for fourteen (14) calendar days or less as outlined in 5 U.S.C. Chapter 75, Subchapter I.
- C. Adverse action - Refers to a removal, suspension for more than fourteen (14) calendar days, reduction in grade, reduction in pay or furlough of thirty (30) calendar days or less as outlined in 5 U.S.C. Chapter 75, Subchapter II.

### **Section 4 - Counseling and Warnings**

- A. Discipline may be preceded by counseling and assistance including oral warnings that are informal in nature.
- B. Counseling, assistance and warnings shall be conducted privately and in such a manner so as to avoid embarrassment of the employee.

## **Section 5 - Reprimand**

- A. An official reprimand is a written disciplinary action that specifies the reasons for the action. The reprimand shall specify that the employee may be subject to more severe disciplinary action upon any further offense and that a copy of the reprimand shall be made a part of the personnel folder for up to two (2) years.
- B. The letter of reprimand shall inform the employee that he/she has the right to file a grievance on the reprimand under the negotiated grievance procedure, and the right to Union representation.

## **Section 6 - Short-term Suspensions**

- A. An employee against whom a suspension for fourteen (14) calendar days or less is proposed is entitled to:
  - 1. An advance written notice stating the specific reasons for the proposed action;
  - 2. A reasonable time, usually fourteen (14) calendar days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer; and
  - 3. Be represented.
- B. After considering the employee's response, the Employer shall issue a written decision. If the decision is unfavorable to the employee, the decision may be grieved, beginning at the last step of the grievance procedure, i.e. to the State Director.

## **Section 7 - Removal, Suspension For More Than Fourteen (14) Days, Reduction-in-Grade, Reduction-in-Pay, Furlough of 30 days or Less.**

- A. An employee against whom such action is proposed is entitled to:
  - 1. Thirty (30) calendar days advance written notice stating the specific reasons for the proposed action. This does not apply in instances where the Employer invokes the "Crime Provision."
  - 2. Ten (10) calendar days to answer orally and in writing, and to furnish affidavits and other documentary material evidence in support of the answer.
  - 3. Be represented.
- B. After considering the employee's response, the Employer shall issue a written decision.
  - 1. If the decision is to effect an action specified in this section, it shall specify the reason therefore, the effective date, the action to be taken, and the right to grieve or appeal the decision but not both.

2. In accordance with 5 U.S.C. chapter 71, the employee may either: (1) appeal the matter to the Merit Systems Protection Board or raise the matter with the Equal Employment Opportunity Commission; or (2) grieve the matter under the terms of this negotiated Agreement at the final pre-arbitration step. The choice of forum is irrevocable. An employee shall be deemed to have exercised his or her option at such time as the employee timely files under the statutory procedure or the negotiated grievance procedure, whichever occurs first. The Union reserves the right to invoke arbitration, and if so, it must be invoked no later than thirty (30) calendar days after the effective date of the action.
- C. Employees shall be entitled to representation in all phases of the procedure.

## **Article 25**

### **Negotiated Grievance Procedure**

#### **Section 1 - Purpose**

The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable settlement of grievances filed by bargaining unit employee(s), the Union or the Employer. The Employer shall not construe the filing of grievances as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the organization, nor shall the Union or employees file grievances in order to affect adversely the perception of the person or reputation of any representative of the Employer.

#### **Section 2 - Definitions, Coverage and Scope**

A grievance means any complaint subject to the control of the Employer, which seeks personal relief:

- A. By an employee in the bargaining unit concerning any matter relating to the employment of the employee;
- B. By the Union concerning any matter relating to the employment of any employee in the bargaining unit; and
- C. By any employee in the bargaining unit, the Union, or the Employer concerning:
  - 1. The effect or interpretation, or a claim of breach of this collective bargaining agreement; or
  - 2. Any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment.
- D. Grievances on the following matters are excluded from the scope of this procedure:
  - 1. Any claimed violation of 5 USC 73 relating to prohibited political activities;
  - 2. Retirement, life insurance or health insurance;
  - 3. A suspension or removal under 5 USC 7532 relating to national security;
  - 4. Any examination, certification, or appointment; or
  - 5. The classification of any position which does not result in the reduction in grade or pay of an employee.

### **Section 3 - Exclusivity**

Grievances may be initiated by employee(s) covered by this Agreement and/or their Union representative, or by the Employer. Representation of bargaining unit employees shall be the sole and exclusive province of the Union. This is the exclusive procedure available to bargaining unit employees, the Union or the Employer for the resolution of grievances arising under this Agreement.

### **Section 4 - Representation**

- A. Bargaining unit employees filing a grievance under this procedure may represent themselves or be represented by a designee of the Union.
- B. When an employee is self-represented, the Union has a right to be present during grievance proceedings as an observer.
- C. When a grievant elects Union representation, meetings, communications and resolution discussions shall be made through the designated Union representative.

### **Section 5 - Resolution of Grievances and Employee Standing**

- A. Employees dissatisfied with an order properly grounded in supervisory authority must follow the order first and then grieve the matter, except in situations posing a real and immediate hazard to the employee's health and safety.
- B. The Union and the Employer agree that grievances should be settled in an orderly, prompt and equitable manner so that the efficiency of the Employer may be maintained and morale of employees shall not be impaired. Every effort shall be made by the Employer and the Union to settle grievances at the first level of supervision. Employees and their representatives shall be unimpeded and free from restraint, interference, coercion, discrimination or reprisal, consistent with 5 USC 71 and this Agreement, in seeking adjustment of grievances.
- C. Both the Union and the Employer shall conduct themselves according to the articles on Union/Management rights and responsibilities, and/or Alternative Dispute Resolution.

### **Section 6 - Grievability/Arbitrability Questions**

In the event either party should declare a grievance non-grievable or non-arbitrable, the original grievance shall be considered amended to include this issue. All disputes of grievability/arbitrability shall be referred as threshold issues in the related grievance, except where the parties agree to hear the threshold issue and merits of the grievance separately.

### **Section 7 - Time Limits**

- A. Grievances must be presented within twenty-one (21) calendar days of the action or date the party became aware of it.

- B. Proof of service shall be either: (1) a return post office receipt executed by the person served; or (2) a written acknowledgment from the person served when hand-delivered; or (3) electronic receipt or confirmation.
- C. All the time limits in this Article may be extended by mutual consent.
- D. In the event of an emergency situation (including a furlough/shutdown), all time limits shall be suspended until the situation ends and Agency operations resume.

### **Section 8 - Options**

- A. Concerning complaints about matters covered under Section 4303 (Unacceptable Performance) and 7512 (Adverse Actions) and about a prohibited personnel practice under Section 2302(b)(1) of the Civil Service Reform Act, in accordance with 5 USC chapter 71, employees may either: (1)°appeal the matter to the Merit Systems Protection Board or raise the matter with the Equal Employment Opportunity Commission; or (2)°grieve the matter under the terms of this Negotiated Grievance Procedure (“NGP”) at the final pre-arbitration step. However, the employee may not exercise both options. The choice of forum is irrevocable; an employee shall be deemed to have exercised his/her option at such time as the employee timely files under the statutory procedure or this NGP, whichever occurs first. The Union reserves the right to invoke arbitration, but must do so no later than thirty (30) calendar days after the effective date of the action. If the Agency has taken disciplinary or adverse action already, the Union may elect to proceed straight to arbitration instead of using this NGP.
- B. Before filing a grievance that alleges discrimination, the employee may first discuss the allegation with an EEO counselor. Time limits for filing such complaint must be in accordance with all applicable current and future laws, rules and regulations governing EEO. If the employee elects to file under the NGP, he/she shall proceed under Section 9 of this Article within twenty-one (21) calendar days after the alleged discriminatory act. Starting with the State Director, that official shall have thirty (30) calendar days to attempt to resolve the matter and issue a decision.

### **Section 9 - Procedures for Employee Grievances**

- A. The Employer and the Union agree that reasonable efforts should be made to settle complaints at the lowest possible level. Employees are encouraged to resolve complaints between themselves and their immediate supervisors without resorting to the NGP.
- B. The Union or the employee shall raise the issue with the complaining employee’s immediate supervisor within twenty-one (21) calendar days of the date of the incident underlying the complaint, or the date the occurrence became known to the Union or employee, by filing a written grievance. The written grievance shall include, at a minimum, the known details of the incident being grieved, and the specific remedy being sought.

- C. Within fourteen (14) calendar days of receiving the written grievance, the supervisor shall review the matter being grieved and hold a meeting to include the supervisor, the grievant and the designated Union representative. The supervisor may have a labor advisor present to discuss the issue(s). Within fourteen (14) calendar days of that meeting, the supervisor shall respond to the grievance in writing by granting and/or denying the requested remedy in whole or in part.
- D. If not satisfied with the supervisor's response, the Grievant and/or Union has twenty-one (21) calendar days to request in writing a review by the State Director of the supervisor's decision. The State Director shall meet within fourteen (14) calendar days of receiving the request with the Union's representative and the Grievant, together with the Agency representatives, including the State Director or designee and any other person whose presence the State Director deems desirable. Within twenty-one (21) calendar days of that meeting, the State Director shall submit his/her written decision.
- E. If the Grievant and/or Union is not satisfied with the State Director's response, the Union may proceed to arbitration as provided in Article 26, "Arbitration".

#### **Section 10 - Union-Management Grievances**

- A. Either party may opt to submit grievances through their respective representatives.
- B. A grievance alleging a continuing violation may be presented at any time, but any remedy shall be limited to violations that occurred within twenty-one (21) calendar days before the date of filing unless a longer period is provided by statute or regulation. A grievance concerning a particular act or occurrence must be presented to the other party within twenty-one (21) calendar days of the act/occurrence or of the date the grieving party became aware of it.
- C. When a grievance is filed, the parties shall meet and/or discuss the matter within fourteen (14) calendar days. A written decision shall be issued within fourteen (14) calendar days of the meeting. If the grievance is not settled by this method, either party may invoke arbitration within 30 calendar days following receipt of the final decision.

#### **Section 11 - Failure to Meet Requirements**

- A. In employee grievances, failure on the part of the Employer to meet any of the time requirements of this procedure shall permit the grievance to advance to the next step.
- B. A party's failure to issue a written decision in a timely manner shall not prevent the grieving party from pursuing the grievance to the next step in accordance with the terms of this agreement. If the Employer fails to meet a deadline at the final stage of grievance processing and the grievant wishes to pursue the grievance, the Union may, at its option, submit the matter to arbitration within 30 calendar days of the missed deadline.

## **Article 26**

### **Arbitration**

#### **Section 1 - Invoking Arbitration**

- A. A grievance that remains unresolved after being processed under the preceding article of this Agreement may be referred to arbitration as provided for in this Article. A referral to arbitration can be made only by the Union or the Employer, and shall be in writing. Such referral shall be made within thirty (30) calendar days after receipt of the written decision rendered in the final step of an action processed under Article 25, “Negotiated Grievance Procedure”.
- B. Within seven (7) calendar days from the date of the request for arbitration, the party invoking arbitration shall request from the Federal Mediation and Conciliation Service (“FMCS”) a list of seven (7) impartial persons qualified to act as arbitrators. The parties shall, within seven (7) calendar days after receiving the list of names, select one of the arbitrators. If they cannot mutually agree upon a selection, the parties shall alternatively strike one name from the list until the list contains only one name. The initial strike on the list shall be made by the party who wins the flip of a coin. This person shall be the duly selected Arbitrator. If for any reason either party refuses to participate in the selection of the Arbitrator, the other party chooses the Arbitrator.
- C. If the parties fail to agree on a joint submission of the issue(s) for arbitration, each shall submit a separate submission and the Arbitrator shall determine the issue(s) to be heard.

#### **Section 2 - Procedures**

- A. The arbitration hearing shall be held during the regular day-shift work hours of the basic workweek. The grievant, representative, and any employee witnesses necessary to the proceedings, who are otherwise in a paid duty status, shall be excused from duty without loss of pay or charge to annual leave to participate as necessary in the arbitration hearing.
- B. The Arbitrator’s fee and all related expenses shall be borne equally by the parties.
- C. The Employer shall reimburse bargaining unit member representatives of the Union and witnesses for travel and related expenses in accordance with applicable rules and regulations.
- D. The Arbitrator shall be requested to render the decision as quickly as reasonably possible, but in any event not later than thirty (30) calendar days after the conclusion of the hearing, unless the parties mutually agree to extend the time limit.
- E. Issues concerning the arbitrability of a grievance presented for arbitration under the terms of this agreement shall be resolved by the Arbitrator.

- F. If the Arbitrator requests a court reporter's transcript, the cost shall be borne equally by both parties.
- G. If either party requests a court reporter's transcript, that requesting party shall bear all costs. If the parties both wish a copy of the court reporter's transcript, the costs shall be borne equally.
- H. The Arbitrator's findings shall be final and binding on both parties, except that either party may file exceptions to arbitrators' awards as provided by the Federal Service Labor-Management Relations Statute.

## **Article 27**

### **Merit Promotion**

The Union recognizes that the Employer retains the right to fill bargaining unit positions through all proper methods including non-competitive sources and OPM-authorized lists of eligible applicants. If the Employer chooses to use the Merit Promotion Plan to fill a bargaining unit position, the Employer shall follow the provisions of USDA Departmental Regulation DR 4030-335-002, "Merit Promotion and Internal Placement", consistent with this Agreement, government-wide regulations and statute.

## **Article 28 - Details and Reassignments**

### **Section 1 - Details**

- A. The Employer has the right to assign work and to detail bargaining unit employees in a manner that does not compromise the merit principles of federal employment, and the Union has a responsibility to represent employees with respect to the adverse impact on employees of such details. The Employer shall make reasonable efforts, consistent with meeting its business needs, to consider employee claims of personal hardship, minimize the adverse effects of details, and confine the duties assigned to detailed employees having medical limitations to duties within the capacity of the employee.
  
- B. Definitions.
  - 1. Detail – a detail is the temporary assignment of an employee to a different or equal position within his same or a different duty station, for a specified period of time, after which the employee returns to his/her regular duties.
  - 2. Commuting Area – the commuting area is 50 miles from the duty station or the principal residence of the employee.
  
- C. Details for the purpose of training and professional development shall be handled in accordance with the Article of this Agreement devoted to that subject.
  
- D. All other details shall be handled in the following manner.
  - 1. The Employer shall notify the Union President or his/her designee in writing of its intent to detail an employee: (a) for a period of five (5) consecutive days; or (b) for two or more periods of less than five (5) consecutive days each when they occur within 30 calendar days; or (c) when the alternate duty location is outside the employee's commuting area. Details should not compromise the open competitive Principles of the Merit Promotion System.
  - 2. The Union shall have seven (7) calendar days after receiving written notice to request to bargain.
  - 3. The Employer may require employees who claim medical limitations on their capacities to submit reasonable medical documentation in support of their claims.
  - 4. Merit promotion procedures do not apply when a detail is to a position of the same grade and promotion potential.
  - 5. The Employer shall not assign an employee to a detail or deny an employee such an assignment, including those to special projects, solely in order to reward or punish the employee.

6. If an employee is detailed to a higher graded position for more than 120 days, the employee shall be temporarily promoted into that position, if the employee is qualified.
  7. Generally, the State Director or designee may designate an acting official for any position.
  8. To the extent that doing so is reasonably practicable, the Employer shall not detail employees to lower-graded duties.
  9. The Employer shall make reasonable efforts to avoid placing a Union official on a detail that would prevent that official from performing his/her representational functions.
  10. The employer shall provide the detailed employee adequate work space, equipment, and access to computer systems at the detail location.
- E. This section shall not be construed in a manner that restricts the Employer's exercise of rights enumerated in §7106(a) of the Federal Service Labor-Management Relations Statute or that is inconsistent with applicable law, government-wide regulation, and other provisions of this Agreement.

## **Section 2 - Reassignments**

- A. Whenever any employee submits a request for reassignment, the Employer shall consider the request and any documentation submitted to demonstrate the existence of hardship in light of the needs of the agency. The Employer shall not pay for relocation expenses as a result of voluntary reassignments.
- B. Whenever a reassignment results from the Employer agreeing to an employee request or from the employee's response to the Employer's solicitation of volunteers, the Employer shall not be required to provide the Union with notice in advance or to bargain about the impact and implementation of the reassignment as might otherwise be required by contract, regulation or statute.

## **Article 29 - Position Description/Classification**

### **Section 1 - General**

The parties agree that position descriptions (“PDs”) shall accurately reflect the principal duties and responsibilities of positions. If the duties of a position change significantly, the employee shall be provided with an accurate, updated PD.

### **Section 2 - Position Description**

- A. The Employer shall prepare Position Descriptions (“PDs”) and those PDs shall contain the principal duties and responsibilities for the purpose of classification. The Employer shall provide each bargaining unit member with an official description of his/her duties and responsibilities in the form of a PD within 30 days after the employee assumes their duties.
- B. Disputes about the appropriate schedule, title, series or grade of an employee’s position are covered by statutory classification appeal procedures.
- C. When an employee believes the PD of his or her position does not accurately reflect his or her regularly assigned responsibilities and regularly performed duties, the employee may: (1) talk to his or her supervisor to resolve the alleged discrepancy; (2) request a desk audit by the Personnel Office; and (3) file a classification appeal to OPM. The foregoing three (3) steps are the sole means of determining the grade level of the duties permanently assigned to, and performed by, an employee. Any employee may file a statutory classification appeal of his/her position at any time in accordance with appropriate rules and regulations.
- D. The Parties agree that phrases such as “other related duties” or “other duties as assigned” used in PDs mean assignments reasonably related to duties or responsibilities or qualifications for the particular employee.
- E. The Employer shall provide any employee with a copy of his/her PD if the employee’s position changes significantly or the employee changes to a different position.
- F. A reclassification to a higher grade shall be effective at the conclusion of the first full pay period following final approval by the Servicing Personnel Office if the incumbent of that position is promoted non-competitively to the position whenever budget and staffing ceilings allow it.
- G. Collateral duties (duties not requiring more than 25% of an employee’s total productive work-time) may be part of PDs. Employees shall be afforded reasonable time to complete collateral duty assignments.

## **Article 30 Official Time**

The Employer shall approve reasonable amounts of official time authorized by § 7131 of the Federal Service Labor-Management Relations Statute (“the Statute”) as follows.

### **Section 1 - Official time**

Official time is paid duty time during which bargaining unit employees, without loss of pay or charge to leave, serve as union representatives to perform various labor relations and representational obligations on behalf of bargaining unit employees. The Statute entitles Union representatives to official time in order to negotiate collective bargaining agreements (including impasse proceedings) and to participate in proceedings before the Federal Labor Relations Authority. In addition, the Statute authorizes an agency and union to agree that additional official time is reasonable, necessary, and in the public interest.

- A. Reasonable official time shall be granted to elected/appointed Union officers, designated stewards, and other representatives authorized by the Union, in accordance with this Article and to the extent that official time falls within the duty hours of the Union officer, steward, and/or representative affected;
- B. The Union and the Agency recognize that the granting of official time may ultimately lead to improved labor management relations. Such a relationship is in the interest of all parties, including the public; and
- C. Except when specifically agreed to in advance, travel-related expenses for the Union’s use of official time shall not be paid by the Employer.

### **Section 2 - Procedures for Approving Official Time**

The procedures for approval of official time shall be:

- A. If an employee has a problem or situation which the employee desires to discuss with the Union during working hours, upon request to their supervisor in advance and workload permitting, the employee may report to the Union official as approved. If the employee cannot be made available at that time, the supervisor shall inform the employee when he/she can be made available.
- B. Union representatives shall be permitted to leave their work to perform and discharge their representational responsibilities once approved. This shall be done in accordance with the following:
  - 1. Local Union representatives desiring to perform and discharge their responsibilities must request the time from their supervisor prior to leaving their work. When Management initiates the need for a representative, Management shall coordinate with the affected supervisor and secure, if necessary, the

representative's relief. If initiated by the Union, the representative shall inform the supervisor of the anticipated time that the representative shall be away from their work, where the representative may be contacted, and the general nature of the function to be performed (i.e., meeting, complaint, etc.). Specific individuals or problems shall not be disclosed to the supervisor;

2. For the purpose of representation (i.e., investigatory examinations, to assist an employee with a problem, disciplinary meetings, etc.), the supervisor shall ensure that the designated representative is, when necessary, expeditiously relieved. If the representative is unable to be relieved, the function for which the representative requested to be relieved shall be rescheduled to a time when the representative is able to attend;
3. For the purpose of meetings of groups on which the Union has representatives, the Employer shall provide the Union with a list of scheduled meetings for the month. If the Union designates a representative for these meetings, the supervisor shall ensure that the designated representative is relieved to attend the meeting; and
4. Upon returning to work, representatives shall accurately report all official time used in the Employer's Time and Attendance reporting system (currently webTA) using the codes identified in the Appendix to this Article.

### **Section 3 - The Purposes for Which Official Time May be Granted**

The Agency may approve official time for designated Union representatives for the following purposes:

- A. Attending formal discussions and any other meeting with Agency (Management) officials concerning personnel policies, practices, or other general conditions of employment or any other matter covered by 5 USC Chapter 71;
- B. To prepare unfair labor practice charges (ULP's) or participate in any other proceedings before the FLRA in accordance with Section 7131(c) of 5 USC Chapter 71;
- C. When an employee elects to have a Union representative in the following circumstances:
  1. At oral responses for probationary bargaining unit employees when such responses are applicable;
  2. To present oral and/or written responses to disciplinary/adverse actions or unacceptable performance actions proposed against non-probationary bargaining unit employees;
  3. To present a response to the reviewing official after receiving notice from the rating official on a denial of a within-grade increase;

4. To represent an employee at an appropriate third-party hearing, as well as appeals (to include interviewing witnesses scheduled to testify); and
  5. In *Weingarten* (investigatory) meetings;
- D. To participate in committee meetings and/or work groups;
  - E. To participate with representatives of Management in negotiations at all levels;
  - F. To present the views of the labor organization to heads of agencies and other officials of the executive branch of the government, the Congress, or other appropriate authorities, when such matters may affect conditions of employment of bargaining unit employees as defined by 5 USC Section 7103;
  - G. To travel to and attend training that is mutually beneficial to the parties. The Agency at its option may pay any travel-related expenses;
  - H. To assist an employee in all steps of the grievance process;
  - I. To review and/or respond to memoranda, letters, new instructions, manuals, notices, etc., which affect personnel policies, practices, and/or conditions of employment;
  - J. To complete necessary reports and forms to meet requirements imposed by federal agencies upon the Union to disclose certain information about its operations;
  - K. To confer with national staff representatives of the Union in connection with a grievance, arbitration, and/or unfair labor practice charge;
  - L. For any other purpose agreed to by the parties; and
  - M. Preparation for the activities named above.

As required by 5 USC § 7131(b), official time shall not be used for internal Union business.

#### **Section 4 - Training**

- A. Employee Union representatives shall be excused from duty, workload permitting, to attend training which is designed to advise representatives on matters within the scope of 5 USC, and which is of mutual benefit to the Employer and the Union. The employee Union representative wishing to attend such training shall present to the Employer a written description of the course demonstrating which portion of the training is mutually beneficial. Union representatives attending training authorized under this section shall be assigned to the day shift, Monday through Friday, while attending training.
- B. The parties agree that training under this section is generally of mutual benefit when it covers areas such as contract administration, grievance handling, and information related

to federal personnel/labor relations laws, regulations, and procedures. Training is not mutually beneficial when it deals with matters related to internal Union business.

- C. The Union shall be entitled to 200 hours per calendar year of official time for such training during the term of this Agreement. The Agency may approve additional hours as reasonable, necessary, and in the public interest when requested.

**Appendix to Article 30, “Official Time”**

Guidance on Coding Official Time  
For Representational Functions by Union Officials or Other Bargaining Unit Employees  
In USDA

[NOTE: originally issued 6/24/02]

This guidance is intended to clarify instructions contained in Title 1, Chapter 7, Section 1 of the NFC Payroll/Personnel Manual, Time and Attendance Procedures, Time and Attendance Instructions for transaction codes (TC) 35, 36, 37, and 38, regarding the coding of official time used for representational functions authorized in the Federal Labor Statute or in a collective bargaining agreement. The accurate coding of official time is necessary in order to ascertain program costs, comply with OPM and other reporting requirements, and provide both USDA managers periodic feedback on program activity levels. This guidance is not an exhaustive listing of examples for when official time might be authorized, but rather an attempt to provide Labor Relations Practitioners and Supervisors with illustrative listing of representational functions to ensure consistent application of Employer time and attendance regulations.

<b>Transaction Codes and Applicable Representation Functions</b>			
<b>TC 35</b> <b>Union/Term Contract</b> <b>Negotiations (includes re-opening</b> <b>&amp; renegotiation of term</b> <b>agreement articles)</b> (Interest-based or traditional)	<b>TC 36</b> <b>Union/Mid Term</b> <b>Negotiations</b>  (Interest-based or traditional)	<b>TC 37</b> <b>Union/Ongoing LMR</b> <b>Act</b>  (Functions not covered under TC 36, & 38)	<b>TC 38</b> <b>Union/Grievance</b> <b>Appeal Representation</b>
<ul style="list-style-type: none"> <li>• Ground rules negotiations</li> </ul>	<ul style="list-style-type: none"> <li>• Ground rules negotiations</li> </ul>	<ul style="list-style-type: none"> <li>• Partnership &amp; labor-mgmt committee meetings or task forces</li> </ul>	<ul style="list-style-type: none"> <li>• Grievance or arbitration proceedings</li> </ul>
<ul style="list-style-type: none"> <li>• Negotiations</li> </ul>	<ul style="list-style-type: none"> <li>• Negotiations</li> </ul>	<ul style="list-style-type: none"> <li>• Attendance at formal discussions</li> </ul>	<ul style="list-style-type: none"> <li>• ULP proceedings</li> </ul>

<ul style="list-style-type: none"> <li>• Mediation with FMCS</li> </ul>	<ul style="list-style-type: none"> <li>• Mediation with FMCS</li> </ul>	<ul style="list-style-type: none"> <li>• Attendance at <i>Weingarten</i> meetings</li> </ul>	<p>Other dispute resolution processes where rep. functions are performed, including:</p> <ul style="list-style-type: none"> <li>• Adverse actions</li> <li>• EEO complaints</li> <li>• ADR</li> <li>• Other appellant processes</li> </ul>
<ul style="list-style-type: none"> <li>• Impasse proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• Impasse proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• Attendance at Union-sponsored training</li> </ul>	
<ul style="list-style-type: none"> <li>• Negotiability proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• Negotiability proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• Union representative on Employer teams or task forces</li> </ul>	
		<ul style="list-style-type: none"> <li>• Representation proceedings</li> </ul>	
<p>Note: For each of the representation functions listed, include preparation time and any travel time as authorized under terms of the Employer’s collective bargaining agreement or practice.</p>			

## **Article 31 - Time and Leave**

- A. All disputes concerning time and leave of employees and positions in the bargaining unit shall be resolved by applying the relevant provisions of RD Instruction 2066-A, “Rural Development Leave Program”, and applicable government-wide regulations and statutes such as the FMLA and Title 5 U.S.C. § 6307 and 5 CFR Part 630.
  
- B. Generally, supervisors shall approve or disapprove properly completed and submitted leave requests within five (5) workdays of submission. However, leave already approved may be cancelled in the event of a *bona fide* operational emergency of such magnitude or significance that the public business cannot be effectively conducted or accomplished without the services of the employee.

**Article 32 -  
Temporary, Probationary, Part-time, and Permanent Employees**

**Section 1 - Temporary Employees**

- A. Temporary employees who serve in excess of 90 consecutive days shall be covered by the provisions of this Agreement in accordance with Article 1, section 3-B.
- B. Temporary employees may be separated at any time upon notice in writing from the Agency. When the Employer determines that a temporary employee is to be separated, it shall make a reasonable effort to give the employee notice two (2) weeks in advance.
- C. When a temporary employee reaches his/her 91<sup>st</sup> day, the Agency shall inform the Union that the employee has become a member of the bargaining unit.

**Section 2 - Probationary Employees**

- A. Probationary employees shall be entitled to ongoing counseling about their conduct and performance and their standing through completion of their probationary period.
- B. Probationary employees have the right to Union representation in accordance with applicable laws, rules, regulations and this agreement.
- C. The Employer shall give probationary employees notice of termination two (2) weeks in advance, whenever reasonably possible, or such notice as the remaining probationary period permits.

**Section 3 - Part-time Employees**

- A. If a full-time employee wishes to convert to part-time, he/she shall make a request to his/her supervisor. The Employer shall consider the employee's request and circumstances in light of the needs of the Agency.
- B. Employees who accept or convert to part-time positions have no guarantee that they will subsequently be converted to full-time employment, but the Employer agrees to consider the employee's request based on the employee's circumstances and the needs of the organization. The Employer shall advise the employee of the effects of changing to part-time employment.
- C. Requests for changes to part-time and full-time employment shall be made in writing.

## **Article 33**

### **Workers' Compensation Program**

#### **Section 1 - Workers' Compensation Program**

When an employee suffers illness or injury that the employee believes is job-related and reports it to his or her supervisor, the Employer shall make available to the employee, on request, information and counseling or directions for obtaining information and counseling, about their rights and responsibilities under the Workers' Compensation Program.

#### **Section 2 - Employee Options**

- A. An employee with a job-related injury/illness (including conditions aggravated by job-related factors) may request to be placed on sick or annual leave instead of leave without pay, pending approval or disapproval of his/her compensation claim.
- B. Employees shall have the option of buying back the leave used and having it reinstated to their account if their claim for compensation is approved.

## **Article 34 - Official Personnel Records and Files**

### **Section 1 - Collection and Storage**

No official personnel file (“OPF”) or record may be collected, maintained, or retained except in accordance with law, government-wide regulation, and this Agreement. All personnel records are confidential, shall be viewed or disseminated only by officials and employees with a legitimate administrative need to know, and must be retained in a secure location by the servicing Personnel Office.

### **Section 2 - Access, Copying, and Printing**

Individual employees shall have access to their own electronic OPFs (eOPFs) according to procedures and conditions established on a uniform basis nation-wide for all employees of USDA Rural Development. They may access their OPF’s at any time and may print any desired documents. Employees may access the State Office hardcopy OPF documents (not available through the electronic OPF) at any time and may copy any desired documents.

## **Article 35 - Alternative Dispute Resolution**

### **Section 1 - Commitment**

The Employer and the Union believe the use of Alternative Dispute Resolution (“ADR”) problem-solving methods to resolve disputes are effective, timely, efficient, and foster a good labor-management relationship when appropriately applied and pledge themselves to exploring the possible use of such methods whenever reasonably possible.

### **Section 2 - Definitions and Intentions**

- A. ADR is a collection of informal processes and techniques by which parties may seek early resolution of disputes in a manner other than formal litigation.
- B. Any ADR process must be acceptable to both Union and Management.
- C. A resolution achieved by ADR shall not establish a precedent unless the parties specifically agree to the fact and manner in which it establishes or established a precedent.

## **Article 36 - Employee Attire**

- A. While on duty, employees will dress in a professional manner conducive to safety and consistent with the environment in which they work. Employees' attire will be in good repair and will not be inconsistent with or distracting from the business purposes of the office environment.
- B. The following are some examples of clothing that would be considered appropriate: clean orthopedic or dress shoes, suits, dress pants, trouser-like jeans in a dark wash, polo-shirts, dress shirts, skirts, dresses, blouses, and blazers. The following are some examples of clothing that would be considered inappropriate: athletic shoes, flip-flops, tank tops, low-cut blouses, shirts or t-shirts with slogans, and faded pants.
- C. Employees may be requested to dress in a more formal manner when there are visitors in the workplace. Employees will be provided prior notice regarding such visits.
- D. Employees representing the Agency at a meeting or conference, making a formal presentation, or delivering formal training should dress in a more formal manner, as appropriate for the occasion.

For USDA Rural Development/Puerto Rico  
Management Bargaining Team Members

For American Federation of Government  
Employees Local 0055  
Union Bargaining Team Members

/s/ Nereida Rodríguez                      06-20-2019  
Nereida Rodriguez                                      Date  
Community Programs Director  
Chief Negotiator

/s/ Nancy Planas                                      6-24-19  
Nancy Planas                                                              Date  
President  
Chief Negotiator

/s/ Hector R. Nuñez-Perez                      6/20/19  
Hector R. Nuñez-Perez                                      Date  
Area Director

/s/ Yarelis Rosado                                      6-24-19  
Yarelis Rosado                                                              Date  
Rural Development Unit Vice President

/s/ Angel Escudero                                      06-20-2019  
Angel Escudero                                                              Date  
Employee Relations Specialist  
USDA Rural Development

/s/ Ana T. Arce-Rivera                                      6/24/19  
Ana T. Arce-Rivera                                                              Date  
Treasurer

/s/ James A. Keim                                      24 Jun 19  
James A. Keim                                                              Date  
Labor Relations Specialist  
USDA Rural Development

/s/ Daniel P. Bethea                                      6/24/2019  
Daniel P. Bethea                                                              Date  
National Representative  
American Federation of Government Employees,  
5<sup>th</sup> District