MEMORANDUM OF UNDERSTANDING (MOU)
TRAVEL COMPENSATORY TIME OFF (TCTO)

I. INTRODUCTION

This Memorandum of Understanding ("MOU") between the American Federation of Government Employees ("AFGE") National Council of EPA Locals #238 ("AFGE Council 238" or "Union") and the United States Environmental Protection Agency ("U.S. EPA" or "Employer"), is entered into, by and between the U.S. EPA and AFGE Council 238.

II. PURPOSE

The purpose of this MOU is to establish procedures for the interim Agency policy for Travel Compensatory Time Off ("TCTO").

III. AUTHORITY

Section 203 of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, dated October 30, 2004) authorized a new form of compensatory time off for time spent by an employee in travel status away from the employee's official duty station when such time is not otherwise compensable. The U.S. Office of Personnel Management ("OPM") issued interim regulations implementing the authority effective January 28, 2005. U.S. OPM issued final regulations on April 17, 2007 (Federal Register, Vol. 72, No. 73, pp. 19093-19099), with an effective date of May 17, 2007. Entitlement to credit for TCTO hours is retroactive to travel that took place on and since January 28, 2005.

IV. ELIGIBILITY AND COVERAGE

This MOU covers all bargaining unit employees represented by AFGE Council 238 and its associated Locals throughout the U.S. EPA. The following EPA employees are eligible for TCTO:

- General Schedule and Merit Pay employees; and
- Senior Level ("SL") and Scientific/Technical ("ST") employees.

The following EPA employees are not eligible for TCTO:

- Employees on intermittent work schedules;
- Members of the Senior Executive Service ("SES");
- Part-time employees traveling during non-overtime hours. NOTE—part-time employees are paid their basic rate of pay for travel hours that, when added to their hours worked, are less than 8 hours in a day or 40 hours in a week;
- Prevailing Rate ("Wage Grade") employees; and
- Union representatives when traveling in connection with union activities or for the purposes of conducting union business.

Final MOU on TCTO
May 7, 2007
V. DEFINITIONS

A. Travel - is defined at 5 C.F.R. Part 550.1403 as: "Travel means officially authorized travel—i.e., travel for work purposes that is approved by an authorized agency official or otherwise authorized under established agency policies. Time spent traveling in connection with union activities is excluded."

B. Travel Status - The physical act of traveling plus usual waiting time. It includes only the time actually spent traveling between the official duty station and a temporary duty station or between two temporary duty stations and the usual waiting time that precedes or interrupts travel. This time includes time spent waiting on baggage that is checked and picked up at the baggage claim. Travel status does not include travel hours outside an employee's regular working hours that are compensable hours of work under any other authority. If the time is compensable under any other authority, even if the time does not result in additional compensation due to applicable maximum pay limitations, the employee is not eligible for TCTO for the time. The time is regarded as compensable under another authority. Time in a travel status ends upon arrival at the temporary duty station (either at the hotel or the temporary work site) and upon arrival at the employee's regular place of duty or residence (see Normal Home Commute Offset). Time spent at a temporary duty station, working or otherwise, is not time in travel status.

C. Usual waiting time - This includes reporting for flight departure one hour prior to a domestic flight and two hours before an international flight. Where this norm is replaced by a longer reporting time recommended or required by the travel terminal authority, airline, or other travel vendor, the actual alternative arrival time is to be credited to the employee. Normally, one hour for terminal arrival time for domestic rail and bus travel will apply, unless superseded by a local requirement. Additional time must be substantiated by the employee after travel via a request for credit for TCTO. With interrupted travel (travel to an intervening transportation terminal that includes a wait for a connecting flight), usual waiting time at the intervening terminal is creditable time in a travel status, excluding time for bona fide meal periods.

D. Bona Fide Meal Period - The time that an employee uses to eat a meal while waiting for a flight, bus, or train during which the employee has at least one hour in a departure, intervening, or final destination terminal and has at least thirty minutes to eat in a restaurant or waiting area. Usually, eating on a flight or train is not considered to be a bona fide meal period unless the employee has at least one hour in a terminal, but chooses to purchase a meal in the terminal to carry on the flight, bus, or train. In such case, the time during which the meal is eaten on the airplane, bus, or train is a bonafide meal period and not creditable time for TCTO purposes.

E. Extended Waiting Period - If a waiting period develops into an extended waiting period (an unusually long wait prior to the employee's initial departure or between actual periods of travel during which the employee is free to rest, sleep, or otherwise use the time for her or his own purposes), the extended waiting period that is outside the employee's regular working hours may not all be creditable time in a travel status. However, during
an extended waiting period, time spent changing reservations or making phone calls to reschedule meetings and reservations due to travel delays, etc., is creditable time in travel status.

F. **Normal Home Commute Offset** - Creditable time in a travel status is offset by the normal home to office commuting time of the employee when commuting from home directly to the temporary duty station, or to a transportation terminal outside the limits of her or his official duty station. This offset applies to outbound and return travel and is also applicable when the travel is performed on a non-workday.

G. **Mode of Transportation** - In the case of an employee who is offered one mode of transportation and who is permitted to use an alternative mode of transportation, or who travels at a time or by a route other than that selected by the agency, the agency must determine the estimated amount of time in a travel status the employee would have had if the employee had used the mode of transportation offered by the agency or traveled at the time or by the route selected by the agency.

H. **Official Duty Station** - Official duty station is defined in Title 5 of the Code of Federal Regulations (“CFR”) Part 550.112(j) and 551.422(d). An agency may prescribe a mileage radius of not greater than 50 miles to determine whether an employee's travel is within or outside the limits of the employee's official duty station for determining entitlement to overtime pay for travel.

I. **Travel Compensatory Time Off or TCTO** - is time in travel status that is for official travel for the performance of official duties or work, away from an employee's official duty station (generally greater than a 50-mile radius).

J. Although the U.S. EPA may adjust an employee's normal regularly scheduled administrative workweek solely to include travel hours that would not otherwise be considered hours of work, changes in work schedules will be made in accordance with the “Hours of Work” Article of the MCBA.

K. **Accrued Compensatory Time Off** – The compensatory time off earned by an employee that has not been used or forfeited.

VI. **POLICY**

A. **Scheduling**

1. To the maximum extent practicable, supervisors shall plan activities and schedule travel so that an employee performs necessary travel away from her or his official duty station during her or his regularly scheduled tour of duty. Except for situations related to emergency travel (or unanticipated delays in travel), an employee must obtain preliminary approval of potential TCTO credit at or around the time that he or she obtains supervisory approval for the travel.
2. Changes to an employee's established regular work schedule should be kept to a minimum. Nevertheless, when it is known prior to the pay period in which travel shall take place that a temporary duty work or training schedule will deviate significantly from an employee's regularly scheduled tour of duty, normally for a minimum period of one entire work week, supervisors may temporarily adjust the employee's work schedule to conform to the actual temporary work schedule needs in order to limit the number of hours for which the employee is paid though no work is performed. This includes the placing of an Alternative Work Schedule ("AWS") employee temporarily on a regular/standard work schedule, if appropriate.

For AFGE bargaining unit employees, changes in work schedules will be made in accordance with the applicable collective bargaining agreement. The "Hours of Work Article states "Except in situations where the organization would be seriously handicapped in carrying out its functions or where costs would be substantially increased, efforts will be made to give an employee two (2) weeks notice of a change in tour of duty."

An example would be a period of intermittent travel during which the employee might be traveling the majority of multiple days, but for hours that are fewer than those of the employee's regular work schedule. In extended travel overseas, a compressed work schedule employee has to travel four out of ten days that will average from six to seven hours of flight and airport time on days that the employee is normally scheduled to work nine hours. Temporary conversion to a standard eight-hour schedule may be warranted in this situation.

An example of the need to temporarily convert the employee to a standard schedule is temporary duty at a training program in which the employee is in class only six hours per day for five, or ten consecutive days.

B. Compensation

1. Travel compensatory time off must be accounted for (credited, tracked, and used) in minimum increments of 15 minutes, consistent with the majority of other categories of absence that may be taken by U.S. EPA employees.

2. For travel that crosses time zones, travel status and computation of TCTO credit is always determined by the local time from departure location.

For example, an employee leaves the office at 3:00 p.m. on a Thursday to go on a temporary duty assignment to Los Angles, California. The employee's regular work schedule is 7:30 a.m. to 4:00 p.m. The plane is scheduled to depart Washington, DC at 5:00 p.m. Eastern Standard Time ("EST"), but the flight is delayed for one hour due to weather. The employee finally departs at 6:00 p.m. and lands in Los Angeles at 10:00 p.m. EST. The employee drives from the airport to the hotel and arrives at the hotel at 11:00 p.m. EST (8:00 p.m. Pacific Standard Time ("PST"). The PST relationships are ignored and all calculations are
to be based on EST, the time in the zone from which the travel is commenced. In this example, the employee's TCTO entitlement is as follows:
Total Travel Time = 8 hours (3:00 p.m. EST to 11:00 p.m. EST)

Minus

Travel during duty hours = -1 hour (3:00 p.m. to 4:00 p.m. EST, office to airport)

Bona fide meal period = 0 hours

**TCTO Credit** = +7 hours (1 hour standard reporting time, 4:00 to 5:00 EST +1 hour weather delay wait at departure terminal; +4 hours flight time, 6:00 p.m. to 10:00 p.m. EST; +1 hour from airport to hotel, 10:00 p.m. to 11:00 p.m. EST.)

3. Irrespective of alternate PST, all above travel considerations are in EST. Upon the employee's return from Los Angeles to Washington, DC, all travel time computations will be based on PST, that of the time zone of return departure.

C. **Usual Waiting Time**

1. For domestic flights, a supervisor will normally credit an employee with one hour standard check-in time as usual waiting time. As an example of an exception to this standard, Atlanta Hartsfield Airport recommends or requires a two-hour pre-flight arrival/check-in time for domestic flights.

2. For international flights, a supervisor will normally credit an employee with two hours standard check-in time as usual waiting time. Publicly recommended or required local exceptions to this standard may take precedence.

3. When scheduled departure is delayed, additional time beyond the standard check-in time in preparing for the delayed flight time (recheck-in, reticketing, traversing to another gate at a remote part of the terminal, or any other necessary activity that does not constitute personal activity such as for a bona fide meal time, rest, sleep, etc.,) will be credited.

4. In a situation where the official travel is via a privately owned vehicle (POV), a supervisor may credit an employee with only actual travel time and any unforeseen or emergency circumstances. The rules and definitions applying to other modes of official travel also apply to travel via POV. The normal commute time is also subtracted in conjunction with POV travel.

5. For official travel via rail, a supervisor may credit an employee with the normal check-in time that the employee is instructed by the carrier to observe. Usually, this will be one hour, unless an earlier check-in time is recommended or required.
D. **Forfeiture of TCTO Credit**

1. TCTO must be used within 26 pay periods after the pay period in which it is credited. The 26 pay periods during which employees may use credited TCTO shall commence upon approval by the supervisor of the employee’s request for TCTO credit.

2. There are two (2) exceptions for which TCTO need not be used within 26 pay periods.

**Exception 1:** Employees who separated or are on or leave without pay (LWOP) for active military duty or uniformed service with restoration rights will have their 26 pay periods to use earned TCTO begin anew upon their return to EPA duty.

**Exception 2:** Employees who separated or are placed on LWOP status resulting from an on-the-job injury with entitlement to injury compensation under 5 USC Chapter 81, and who recover sufficiently to return to work, will have their 26 pay periods to use TCTO begin anew upon their return to duty.

3. Earned TCTO is forfeited under the following circumstances.

When not used within 26 pay periods after the pay period in which it is credited. For those hours earned on or after January 28, 2005 up to the date of this memorandum of understanding, TCTO is forfeited 26 pay periods after the date of the interim policy.

- Upon employee transfer to another Federal agency.
- Upon employee separation from Federal service, including retirement.
- When an employee moves to a position that is not eligible to earn TCTO. However, in this instance, where workload requirements permit, the employee will be provided an opportunity to use earned TCTO prior to leaving the TCTO covered position.
- When an employee takes a Union position where they will be on official time for one hundred percent (100%) of their compensated hours. However, in this instance, where workload requirements permit, the employee will be provided an opportunity to use earned TCTO prior to leaving the TCTO covered position.

4. Forfeited TCTO is lost entirely to the employee. There is no cash conversion value to forfeited TCTO. Under no circumstances may the employee be paid cash for unused TCTO.

5. Since TCTO is not convertible to cash under any circumstances, it is not included as premium pay in maximum pay limitation computations.
VII. PROCEDURES

A. Agency Procedures (In lieu of locally negotiated procedures)

1. TCTO will be accounted for using the U.S. EPA Interim Form for Requesting, Approving and Tracking TCTO. This form should be used for each official travel authorization (which may involve multiple travel dates).

2. TCTO will be tracked manually until the Agency’s automated payroll system is programmed to accommodate TCTO entries.

3. At or around the time of submission of the Travel Authorization to the supervisor for approval, the employee must also submit a preliminary request copy of U.S. EPA Interim Form for Requesting, Approving and Tracking TCTO for planned earning of TCTO. A copy of this interim form is attached. The supervisor must approve or disapprove the employee’s proposed travel dates and times and return the TCTO preliminary request copy to the employee. The supervisor should approve or disapprove the presented travel proposal as soon as possible, and if the supervisor disapproves of the employee’s travel schedule, itinerary or mode of travel, the supervisor must explain to the employee either verbally or in writing. The employee may request that the rationale for the disapproval be made in writing.

4. After completion of official travel and upon submission of the subsequent travel voucher, an employee who wishes to claim credit for TCTO must submit a final request for TCTO credit via the U.S. EPA Interim Form for Requesting, approving and Tracking TCTO. Final requests for TCTO credit must be submitted within thirty (30) calendar days of completion of the official travel.

NOTE: If an Unforeseen event, such as a flight delay results in an increase in the number of TCTO hours claimed in relation to those initially estimated in the preliminary request addressed in paragraph 3, above, the employee is not required to amend the original Travel Authorization form.

5. The U.S. EPA E-Forms 4.4 version of Standard Form 71 (Rev. 12/97), Request for Leave and Approved Absence, will be used for requesting approved absence using earned TCTO. Employees should check “Other Paid Absences” and enter “TCTO” in the Remarks Section of the E-Forms Standard Form 71. In the event that E-Forms is replaced by “Web Forms,” then an equivalent form to U.S. EPA E-Forms 4.4 version of SF 71 will be used. http://intrnanet.epa.gov/webforms/index.html,

6. In cases in which there are issues requiring resolution or an employee needs additional time to obtain materials to corroborate her or his request, the employee may request an extension of the final submission deadline from the supervisor. In the case of the latter, the employee must explain to her or his supervisor the reasons that more time is needed. It is a matter of supervisory discretion whether
or not to grant any additional time to the employee beyond the thirty-day deadline. Failure to submit a final request within 60 days after the completion of travel will result in forfeiture of all potential TCTO credit for the period of travel.

7. Agency policy (Office of the Chief Financial Officer Policy Announcement No. 05-04, April 19, 2005) requires that employees contact the Travel Management Center ("TMC") on its regular or emergency 800 number immediately after learning that an unforeseen event has caused a change in the employee's approved travel plans. Among other things, this communication is necessary to create a record of the unprogrammed change in the employee's travel arrangements so that a subsequent claim for greater TCTO credit may be verified by the employee's supervisor. Acceptance of explanation of a change to the employee's actual travel time is a matter of supervisory discretion. The supervisor may or may not require documentation from the employee, depending upon what the supervisor regards as reasonable representation on the part of the employee. If the employee fails to communicate and coordinate with the TMC when travel itineraries are altered, the employee may have difficulty in substantiating a claim that additional TCTO time is earned. When the furnishing of travel vendor or airport corroborating documentation is infeasible, and the employee has failed to communicate a travel itinerary change to the TMC, the supervisor may require the employee to provide a written personal statement explaining the circumstances warranting the additional time claimed.

8. When an employee submits her or his request for TCTO credit in conjunction with submission of her or his travel voucher, a supervisor or other travel approval authority may access the Travel Manager system ("TM+") to verify details of the employee's travel.

9. The employee's supervisor (even if the funding approval occurred outside of the organization) will review the TCTO request form, verify the accuracy of the travel circumstances presented, and assess the validity of any additional time claimed beyond the actual travel and usual waiting time.

10. TCTO will be approved only for the dates that correspond to the actual dates of travel.

11. If the supervisor disapproves any TCTO time claimed, additional communication with the employee should be pursued and reasons conveyed to the employee. The employee may request that the reasons for the denial be conveyed in writing.

12. Upon review and approval of the request for TCTO credit, the supervisor will sign the approval portion of the form.

13. A supervisor will retain a copy of the approved form and provide a copy to the employee.

14. Supervisors shall expeditiously review TCTO request forms and notify the
employee of the results of the review as soon as possible.

15. Approved TCTO may not be taken by the employee until he or she is notified by the supervisor that her or his requested TCTO credit has been approved and is available for use.

16. An employee is responsible for ensuring the use of TCTO to prevent forfeiture or credited TCTO.

17. Approved requests to use earned TCTO will result in a subtraction from the earliest earned TCTO.

18. An employee who believes that TCTO has been wrongly denied, in violation of a collective bargaining agreement or this policy, may use the appropriate negotiated or administrative grievance procedure. Should a decision be rendered sustaining the employee's grievance, the 26 pay periods to use the credited time shall begin on the date of the awarding of the decision.

19. Approved requests for TCTO credit are to be retained by the supervisor for six years. Documents associated with manual tracking of TCTO use by an employee are also to be retained by the supervisor for a period of six years.

B PeoplePlus Tracking:

Once PeoplePlus has been upgraded to include the ability to track TCTO, all future TCTO tracking will use the PeoplePlus system and discontinue all local and manual systems. However, until such time as the TCTO time is either expended or expired, the prior system(s) will continue to be used.

The PeoplePlus time and labor tracking system will maintain two TCTO balances---TCTO earned and TCTO used. New TCTO credit entered on any particular pay period will expire automatically 26 pay periods after the end of the first full pay period after the TCTO credit entry.

The following are the PeoplePlus Transaction Reporting Codes (TRC) that are to be used for TCTO PeoplePlus input:

TCTOE = Travel Comp Time Earned

TCTOU = Travel Comp Time Used

X. FUTURE NEGOTIATIONS AND SEVERABILITY

A. Any changes to this MOU will be made by mutual consent of the parties, in accordance with the MCBA Article dealing with Supplemental Agreements and Other Negotiations During
the Life and Term of This Agreement and Designated Representatives of the Parties. However, this does not diminish the rights of the Agency to modify the substance of the Agreement in accordance with 5 USC 7106. Should that occur the Union will have the right to negotiate Impact and Implementation issues attendant to such changes.

B. In the event that any provision (section, paragraph, sentence, etc.) of this MOU is held invalid by any arbitrator, court, regulation, rule or statute, the remaining provisions of this MOU shall not be held invalid and shall remain in full force and effect. The Union and the Employer shall immediately meet and attempt to renegotiate any provision found invalid.

XI. DURATION AND EFFECTIVE DATE

A. The duration of this MOU shall be consistent with the duration of the MCBA.

B. This MOU will be effective on the date it is signed, subject to Agency Head Review.

C. However, if, as a result of Agency Head Review, a proposal or section of this MOU is disapproved, the parties will exchange proposals and negotiate the affected proposal or section of this MOU within thirty (30) calendar days of the Agency’s notification. The MOU will not be implemented until new provisions is negotiated.

An item returned by Agency-head review shall permit the parties, at the request of either party, to renegotiate that item and all related items and provisions that are directly affected, to the extent negotiations of that item are permitted by law.

XIII. SIGNATURE/DATE

The parties agree to this MOU as written above.

FOR AFGE Council 238:

[Signature]
John J. O'Grady
Chief, Negotiator
AFGE Council 238

FOR EPA:

[Signature] 05/07/07
Lee W. Clark
Attorney, Labor and Employee Relations
U.S. EPA

Final MOU on TCTO
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XIV. REFERENCES


G. OPM Final Rule, 5 CFR Part 550, Pay Administration (Federal Register, April 17, 2007, Vol. 72, No. 73, pp. 19093-19099)