

EPA/AFGE Settlement

I. The United States Environmental Protection Agency (“EPA” or “Agency”) and the American Federation of Government Employees, AFL-CIO¹ (“AFGE” or “the Union”) will bargain in good faith as required by 5 USC 7101 et. seq. and as required by this Settlement Agreement over: a) the articles and sections (if not the complete article) of the existing July 8, 2019 National Agreement that the parties agree will be negotiated in Section IV; and b) the articles from the 2007 Agreement that are not in the July 8, 2019 National Agreement that the parties also agree to negotiate in Section IV.

II. AFGE hereby withdraws the three pending ULPs:

- CH-CA-190290 filed June 25, 2019; and
- WA-CA-19-0373 filed August 23, 2019;²
- ULP filed by Cathie McQuiston on October 24, 2019 alleging that EPA unilaterally implemented a contract without bargaining with the union and without going through impasse procedures;

and four grievances:

- FMCS #180906-08130;³
- June 17, 2019 “Ground Rules” Grievance;
- July 23, 2019 “Official Time” Grievance; and
- September 30, 2019 “Sign in/Sign out” Grievance filed by Local 1110

The aforementioned ULPs and Grievances, are withdrawn with prejudice, as well as any other ULPs and grievances challenging the provisions, legality of the implementation of the July 8, 2019 Agreement, and/or that challenge the legality of any particular clause in the July 8, 2019 National Agreement that have been filed by AFGE.

¹ AFGE acknowledges that Council 238 and its constituent Locals are subject to this settlement agreement.

² In the process of being transferred to the Chicago Office.

³ This case is currently being excepted to the FLRA.

- III. AFGE agrees that it shall not file any new ULPs or national or local grievances on or related to (1) the legality of the implementation of the July 8, 2019 National Agreement or (2) the legality of any particular clause in the agreement implemented on July 8, 2019, regardless of whether the particular clause is subject to negotiation under this agreement. Subject to the two limitations above, the parties agree that AFGE may file ULPs or grievances over alleged violations of the agreement imposed on July 8, 2019, applicable laws and/or rules and regulations. Nothing in this section shall affect AFGE's rights under any new collective bargaining agreement reached after the completion of bargaining pursuant to this settlement agreement.
- IV. The parties agree to bargain in good faith as required by 5 USC 7101 et. seq. and as required by this Settlement Agreement over the following articles and sections (if not the complete article) of the existing July 8, 2019 National Agreement,

Article	Section(s)	Notes
2 Official Time	Section 1 Section 2B Section 2C Section 2D Section 4 Section 6 Section 7 Section 8	
3 Use of Agency Facilities	All	
4 Dues Deductions	All	
6 Negotiated Grievance Procedure	3B	The Union's proposal combined the grievance and arbitration processes; we do not agree to open the arbitration article.
9 Leave	1A	
12 Work Schedules	All	EPA will not negotiate work schedules at the local level, but it is willing to discuss the negotiable provisions of the article.
13 Telework	3, 5A	

14 Duration	2, 4	
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The parties agree to bargain in good faith as required by 5 USC 7101 et. seq. and as required by this Settlement Agreement over the following articles from the 2007 National Agreement that are not in the July 8, 2019 National Agreement:

Article
Union Rights
Employee Rights
Career Ladder Promotions
Drug Free Workplace
Health and Safety
Position Classification (Sections 1 and 10)
Awards

July 8, 2019 National Agreement in Effect: All articles and sections of the July 8, 2019 National Agreement are in full force and effect until all bargaining required by this Settlement Agreement has concluded. Bargaining includes FSIP procedures, ratification procedures, and agency head review. Except that the agency agrees not to enforce and/or implement Article 4, Section 3 regarding implementation of a single dues rate. Unless within the ratification process or under agency head review, if an article mentioned in these ground rules is not subject to a negotiability appeal or impasse by April 15, 2020, the parties agree that such articles of the July 8, 2019 Agreement will remain in full force and effect per its provisions and will not be subject to further negotiations.

V. **Ground Rules:** The following are the sole and exclusive Ground Rules to govern all negotiations required by this Settlement Agreement:

A. General

1. A single term CBA between the parties will cover all AFGE bargaining units at EPA certified by the Federal Labor Relations Authority

2. This Agreement is to be interpreted in accordance with all applicable laws, rules, and regulations.
3. These ground rules are not anticipated to address every item that may arise during the negotiation process. The ground rules may be modified by mutual consent, but proposed changes to the ground rules cannot go to impasse and will not delay negotiations.
4. Unless otherwise noted, “days” refer to “calendar days.”
5. The ground rules in this Settlement Agreement are effective when the Settlement Agreement is signed by both parties.
6. An initialed article or section is considered to be an agreed upon and not subject to further negotiation unless, by mutual agreement, the Parties agree to reopen the article during the course of negotiations.

B. Teams:

1. Each team may have up to 5 members, including a Chief Negotiator. AFGE representatives can be unit or non-unit employees. Non-unit employees will not get official time. Each party may designate an alternate to serve in the absence of any team member. The alternate will be entrusted with the same rights and authorities as the member he/she replaces. When an alternate is to be used, the Chief Negotiator of the other team shall be notified in advance of the session.
2. Both Parties will identify a Chief Negotiator and an Alternate Chief Negotiator who will be the official spokesperson for his/her team and other members and alternates. Each Chief Negotiator will have the full authority to make a commitment on any matter negotiated.
 - A. The initial Chief Negotiator for the contract will be designated to the other Party in writing 10 workdays in advance of the initial negotiation session.
 - B. All changes to the Chief Negotiator will be designated in writing.
 - C. The Parties agree that any changes to Chief Negotiator designations shall not delay the negotiation schedule.

3. Both parties will exchange all proposals at least two weeks prior to the beginning of negotiations. No additional articles will be opened except by mutual consent of the parties.
4. Only those designated as Chief Negotiator may make a tentative agreement on behalf of a Party. Per above, changes in designation must be in writing and provided to the other Party prior to the start of a negotiation session.
5. Bargaining unit members participating in negotiations as one of the union bargaining team members are entitled to official time to attend each session.
6. Chief Negotiators for each Party may permit up to two observers to attend the negotiating sessions at that party's expense. These observers will not participate in discussions and will otherwise abide by all ground rules agreed to by the Parties. Subject matter experts will be permitted to offer information by the calling party. Subject Matter experts will not serve as team members. Subject matter experts who are agency employees are not entitled to official time, but will be on duty time
7. Members of the Union's negotiating team who are also bargaining unit employees will be authorized official time for negotiations pursuant to 5 U.S.C. § 7131(a) and existing agreements, including for attendance at mediation and impasse proceedings, during time the employee would otherwise be in a duty status. Negotiation team members may spend caucus time during bargaining sessions (after the beginning of the negotiation session and prior to the conclusion of the negotiations session) on official time, consistent with § 7131(a), but time spent in such sessions will not otherwise alter or extend the bargaining schedule set forth in this Settlement Agreement. To ensure team members are available for bargaining sessions, individual managers will consider reasonable requests for adjustments to employee work schedules. Bargaining team members may use up to 40 hours of official time to prepare for negotiations. Official time will be recorded as "Term Negotiations."
8. Each party will be responsible for its own travel and per diem expenses.
9. Each Party shall keep its own notes. Verbatim and electronic recording of negotiations sessions or meetings between the Parties is not permitted.
10. While either party may call a caucus, caucuses will be limited in number and duration since the purpose of bargaining is to negotiate with the other party in the same room. The length of the caucus will be determined by what is reasonable by the Party calling the caucus. However, caucuses shall not normally exceed 30

minutes and shall be at the beginning or end of the day. During the caucus, the requesting Party will adjourn to another location designated for such purpose.

C. Schedule/Dates:

1. The parties will bargain for two weeks consecutively, with a week hiatus, then two weeks consecutively, with a week hiatus, until the conclusion of the bargaining schedule.
2. Normally, bargaining will be conducted on Monday thru Friday. Bargaining will normally be conducted according to the following schedule:
 - Week 1:
 - Monday is a travel day/caucus day
 - Tuesday 9:00 AM to 5:00 PM
 - Wednesday 9:00 AM to 5:00 PM
 - Thursday 9:00 AM to 5:00 PM
 - Friday 9:00 AM to 3:00pm
 - Week 2:
 - Monday 10:00 AM to 5:00 PM
 - Tuesday 9:00 AM to 5:00 PM
 - Wednesday 9:00 AM to 5:00 PM
 - Thursday 9:00 AM to 5:00 PM
 - Friday Travel/caucus day
3. Bargaining will begin 30 days after this Settlement Agreement is executed.
4. Bargaining, including mediation, will not proceed beyond April 15, 2020.
5. By March 15, 2020, the parties agree to schedule mediation with FMCS (though either party may involve FMCS at any time). The parties will schedule sufficient mediation sessions to ensure mediation concludes by April 15, 2020. The parties agree to request jointly to proceed to the Federal Service Impasses Panel by April 15, 2020 on any issues that have been bargained. If any issues have not been bargained or the Panel does not take jurisdiction over any articles because they have not been bargained sufficiently, those articles will revert to the July 8, 2019 National Agreement and the parties will request that the Panel proceed to address those Articles that have been bargained.

6. All articles or sections that have been bargained but not been agreed upon will be submitted by either or both parties to the FSIP. Neither party will seek FSIP assistance of just some of the non-agreed upon articles and sections.
7. The Party requesting FSIP assistance will notify the other party at the time the assistance is sought.
8. The utilization of mediation and the involvement of the FSIP does not, in any respect, preclude the parties from engaging in direct negotiations at any time to attempt to resolve the disputes at issue.
9. The Negotiations will be conducted at an agency provided location or AFGE National Headquarters. Negotiations will be held in a suitable meeting room to include a caucus room, such as a conference room or other private meeting space which is in close proximity to the negotiation room. During the course of negotiations, the agency will allow the union negotiating team to have customary and routine use of office equipment, supplies, and services, including but not limited to computers, internet access, laptops, telephones and agency email.

D. Negotiability Appeals


1. The filing of a negotiability appeal does not impact the duty to bargain all other articles and even clauses in the same article where the arguably nonnegotiable clause resides.
2. If agreement is reached on all articles and clauses, except those specific clauses subject to a petition for review of a negotiability issue filed with the FLRA or a court, the agreed upon portions of the newly negotiated term collective bargaining agreement will proceed to agency head review.
3. If EPA withdraws the allegation of non-negotiability, the parties, within three weeks of the withdrawal, will reopen negotiations and negotiate over the negotiable AFGE proposal(s). When disputed matters are resolved, they will be incorporated into the newly negotiated term collective bargaining agreement without retroactivity.
4. If the FLRA determines that the proposal declared nonnegotiable is negotiable, the parties shall, within three weeks of the FLRA decision, and absent a petition for court review, reopen the negotiations and negotiate over the negotiable proposal(s). When disputed matters are resolved, they will be incorporated into the newly negotiated term collective bargaining agreement.

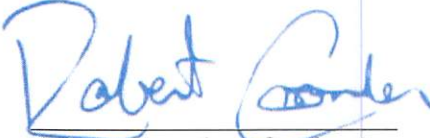
E. Ratification and Agency Head Review

1. The parties will sign the newly negotiated term collective bargaining agreement within three (3) business days of agreement, notwithstanding those proposals pending a negotiability determination.
2. If the Union elects to allow for ratification, it will inform the Agency of this within three (3) business days of the final signature between the parties.
3. AFGE will schedule a ratification vote to be held within thirty (30) days after receipt of the newly negotiated term collective bargaining agreement being signed. AFGE will notify the Agency in writing of the results of the ratification vote no later than three (3) business days following the ratification vote. The date EPA receives AFGE's written notice of ratification, or when the time period for ratification has expired, will begin the thirty (30) day period for Agency Head Review, pursuant to 5 U.S.C. 7114(c)(1), or when the time period for ratification has expired. Implementation will occur within fifteen (15) days following Agency Head Review. The 15 days for implementation shall not extend the period for Agency Head Review.
4. If the Union fails to conduct a ratification vote or fails to timely notify the Agency it held a ratification vote (and the results), that lack of action will constitute an acceptance of the newly negotiated term collective bargaining agreement reached by the parties (absent any appeals filed prior to the ratification deadline).
5. If the Union advises Management that the negotiated agreement was not ratified on the vote of membership, either party may re-open any or all articles for renegotiation by providing written notice to the other party regarding which specific articles it seeks to re-negotiate within three (3) working days. Failure to notify the other party by the above deadline of the specific articles it seeks to bargain constitutes a waiver of the right to bargain over that/those article(s). Within ten (10) days of such notice, the parties will commence face-to-face negotiations for ten (10) consecutive work days. Such negotiations will be completed within thirty (30) days from the date the Union notified the Agency that the ratification failed. If after the 10 consecutive work-day period the parties are unable to reach an agreement on any remaining issues, either party will request assistance from the FMCS. The parties recognize that FMCS shall determine under what circumstances and in what manner it shall provide service and assistance. However, either party will schedule mediation with an FMCS mediator (if a mediator has not already been involved in the bargaining process) beginning no later than 7 calendar days from the conclusion of negotiations, subject to the mediator's availability, with a goal of mediation lasting for 5 contiguous workdays, which the parties agree will be sufficient to address any

remaining issues. After those 5 contiguous workdays, either party may proceed to FSIP.

6. The time limit for 7114(c) agency head review starts when AFGE notifies the EPA that the newly negotiated term collective bargaining agreement has been ratified by AFGE, or when the time for ratification has expired.
7. If the Agency Head disapproves any provision of the agreement under 7114(c) of the Statute, the parties agree to implement all portions of the newly negotiated term collective bargaining agreement not disapproved by the Agency.
8. If the parties seek FSIP assistance over any article, there will be two separate 5 USC 7114(c) agency head reviews. 1) Articles agreed to at the bargaining table and ratified will be considered to be “executed” in order to trigger the time frame for agency head review under with 5 USC 7114(c) when the parties agree that either i) all articles in Paragraph IV. above have been agreed to; or 2) the parties have initialed off on agreed upon articles and the non-agreed upon articles are all the subject of an FSIP request. If any articles are submitted for FSIP assistance, the EPA will perform a separate 5 USC 7114(c) review of the FSIP order as provided for by law. If the Agency Head disapproves any provision of the agreed upon clauses or any parts of an FSIP order under 7114(c) of the Statute, the parties will implement all portions of the agreed upon articles and all portions of the FSIP order not disapproved by the Agency.
9. If the Union files a petition for review following the Agency Head’s disapproval of a contract provision under 5 U.S.C. 7114(c), the parties agree to sever the challenged provision(s) from the agreement and the remaining provisions will go into effect.
10. If the FLRA determines that any of the articles or sections agreed to at the bargaining table that were disapproved under section 7114(c) are negotiable, the parties, within one week of the FLRA decision, and absent an EPA petition for U.S. circuit court review, will reopen the negotiations and negotiate over the negotiable AFGE proposal(s). When disputed matters are resolved, they will be incorporated into the Master Agreement without retroactivity. If the FLRA determines that any portion of the FSIP order disapproved is negotiable, the EPA will implement that portion of the FSIP order without retroactivity.


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12/5/19
Date


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11/27/2019
Date