Pdf Copies of EPA-AFGE Tentative Agreements

PART 1 –

AGENCY FACILITIES

ALCOHOL & DRUG FREE WORKPLACE

AWARDS

CAREER LADDER PROMOTIONS

DUES DEDUCTIONS

DURATION

EMPLOYEE RIGHTS
USE OF AGENCY FACILITIES

The purpose of this Article is to provide reasonable facilities to assist the Union in carrying out its legitimate activities as the exclusive representative of the EPA bargaining unit employees covered by the Agreement.

Section 1. Permitted Use of Agency Resources

The Union may make use of the following Agency facilities, services and equipment during non-duty time or during pre-approved official time for union-related activities as specified and in accordance with applicable Agency policy governing the use of those facilities, services, and equipment as long as such use does not interfere with official Agency business and subject to the availability of funds:

A. Reasonable use of meeting/conference rooms on a space-available basis;
   • To reserve a conference room, a Union representative shall follow local procedures.
B. Reasonable use of scanner, copiers, fax, computers, telephone service and equipment, and bulletin boards;
C. Reasonable use of Agency internal mail services and electronic mail to Bargaining Unit Employees to communicate announcements, newsletters, educational materials, and other information related to the Union’s role as the exclusive representative of Bargaining Unit Employees; and,
D. An Agency intranet page providing national and local Union officials' contact information and the current Collective Bargaining Agreement as well as one or more electronic links to external Union-hosted websites. All content submitted for posting will be reviewed and approved/disapproved by Agency management.
E. In each Agency location with an AFGE Local, the Union may use one (1) lockable file cabinet, or small closet, for storage only. This storage cabinet or closet will be provided at no additional cost to the Agency, in otherwise unused Agency space.

Section 2. Other Use of Agency Resources

A. Except as provided in Section 1. E. of this Article, the Agency will not provide resources for the exclusive use of the Union, to include offices, conference rooms, computers, printers, scanners, mobile devices, office supplies, etc.
B. To further clarify the appropriate use of Agency resources, the following are examples of practices that are prohibited:
   1. Mass mailings (paper or email using Agency-maintained email lists), and mass copying (paper or email using Agency-maintained email lists), without prior explicit approval from management.
   2. Using Agency mail, fax, or electronic mail for solicitation of membership, electioneering or campaigning for office, debating internal Union policy or organizational matters, or other similar activities.
   3. Using Agency facilities, services, and equipment to support, promote or report on any partisan political activity.
Alcohol and Drug-Free Workplace

Section 1: Purpose

The Agency will administer its Alcohol and Drug-free Workplace program in cooperation with the Union in accordance with this Agreement and all applicable laws, regulations, and rules including Executive Order 12564 dated 9/15/1986, EPA Order 3120.3A dated 3/18/1980, and US EPA Drug-free Workplace Plan (1000) dated 1/16/1998.

Section 2: Agency Responsibilities

It is the responsibility of EPA Management to take disciplinary and/or adverse action when the use of alcoholic beverages and/or drugs impairs an employee’s performance, attendance or conduct, when an employee uses federally illegal drugs on or off duty, or when an employee possesses federally illegal drugs on duty or in a federal facility.

Disciplinary action is not required if an employee:

a. Voluntarily admits his/her drug use before being:
   1) identified by other means, or
   2) notified to report for a drug test; and

b. Thereafter, obtains counseling or rehabilitation through EAP or other approved health care provider; and

c. Thereafter refrains from illegal drug use. To ensure that such employees do refrain from illegal drug use they will be subject to testing on a more frequent basis as stipulated in §X(C) of the US EPA Drug-Free Workplace Plan dated 1/16/98.

It is the responsibility of the Agency to refer any employee who is found to use federally illegal drugs to an Employee Assistance Program for assessment, counselling, and referral for treatment or rehabilitation as appropriate.

EPA shall not allow any employee to remain on duty in a sensitive position who is found to use illegal drugs, prior to successful completion of rehabilitation through the Employee Assistance Program or other approved rehabilitation program. However, as part of a rehabilitation or counselling program, the head of an Executive agency may, in his or her discretion, allow an employee to return to duty in a sensitive position if it is determined that this action would not pose a danger to public health or safety or the national security.

Section 3: Employee Responsibilities

As a condition of continued employment, employees must refrain from the use of federally illegal drugs, on or off duty, and the possession of federally illegal drugs on duty or in a federal facility. Employees must refrain from the use of alcohol while in a duty status, and/or being under the influence of alcohol while in a duty status. The only exception to this standard is when alcohol consumption is approved by management at an agency-sanctioned event.

Employees who suspect that they have a drug or alcohol problem are encouraged to voluntarily seek information and counselling through the Agency EAP or other approved health care...
provider on a confidential basis at the earliest opportunity. It is agreed that employees will not be subject to discipline for self-reporting as set forth in Section 2a – c above, unless there has been other misconduct for which discipline would normally be appropriate. An employee’s cooperation of availing himself or herself of professional health care assistance may be considered by the Agency when proposing or deciding disciplinary action related to the conduct or performance of the employee due to the use of drugs and/or alcohol.

Section 4: Random Testing of Employees in a Testing-Designated Position.

A. The Agency will designate positions subject to random drug testing referred to as Testing-Designated Positions (TDP). If an employee’s position is changed to a TDP, the employee will be notified in writing at least 30-days prior to the change. Such notices will include at a minimum:

1. That the employee is subject to mandatory random testing;
2. The consequences of a positive result or refusal to cooperate, including adverse action;
3. That after any confirmed positive drug test there will be an opportunity for them to submit supplemental medical documentation to support the legitimate use of a specific drug;
4. That drug and alcohol abuse counseling and referral services are available through the employee Assistance Program (EAP). The employee can seek counseling and or treatment voluntarily prior to testing without reprisal. The notice will contain information on how to contact the EAP.

B. Bargaining unit employees selected for random testing will be selected randomly on the basis of neutral criteria. The basic required random testing program shall not be used to single out any individual employee or group of employees for increased frequency of testing.

C. An employee who is selected to report for random drug testing shall be notified orally two (2) hours prior to the time he/she is to report. Whenever possible, this oral notification will be confirmed promptly by electronic mail. Oral notification will be made as discretely as possible. The employee will be provided the following information at a minimum:

1. That he/she was randomly selected and is not under suspicion of taking illegal drugs;
2. Where and when to report for testing;
3. The consequences of refusing to report for testing, including possible removal;
4. The employee will be required to sign in at the collection site and provide a picture identification.

Section 5: Reasonable Suspicion Testing.

A. Reasonable suspicion testing may be required of:
(1) Any employee in a testing designated position (TDP) when there is reasonable suspicion that the employee uses federally illegal drugs, whether on or off duty, or
(2) Any employee in any position when there is reasonable suspicion of on duty use or on duty impairment.

B. Prior to directing an employee to testing based on a reasonable suspicion that the employee uses federally illegal drugs, the supervisor ordering such testing will receive concurrence from a higher level official or authorized management official. A written statement will be prepared that will document the concurrence and articulate the reasons for testing.

Section 6: Methods and Procedures for Testing.

A. All drug testing will be conducted in accordance with the HHS scientific and technical guidelines. The methods and equipment used will meet the requirements set forth in the guidelines. The Agency agrees that the following procedure will be utilized to assure drug testing is reliable:

(1) Affected employees will report to the designated location to be tested;
(2) Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided;
(3) Laboratory analysis will comply with the HHS technical guidelines in effect at the time of testing;
(4) If sufficient volume of urine is not initially able to be provided the Agency will ensure that collection site personnel allow the employee a reasonable amount of time to produce a sufficient volume;
(5) The collection, handling and transportation of all specimens will be in accordance with the HHS chain of custody procedures;
(6) An authorized agent will collect all drug testing specimens.

Section 7: Confidentiality and Safeguarding Information.

(1) All samples will be subject to a strict chain of custody in accordance with the HHS technical guidelines.
(2) Employees will be guaranteed confidentiality in all matters relating to drug and alcohol testing as set in Sections XII.A and C of the US EPA Drug-Free Workplace Plan dated 1/16/98.
(3) Employees will be given access to all records relating to his/her drug and/or alcohol test.

Section 8: Counseling and Rehabilitation.

A. Employees whose tests have been confirmed positive will be referred to
the Employee Assistance Program, which provides counseling services at no cost to the employee.

B. When feasible, the services of the EAP will be offered at no cost to family members of employees with substance abuse problems and offered to employees who have family members with substance abuse problems.
Awards

Section 1: Introduction.
The EPA award program reflects the Agency’s commitment to promote continuous improvement in the Agency's performance. It is recognized that the use of both monetary and non-monetary awards has a significant effect on employee morale, motivation and performance. The EPA award program is an incentive program that provides recognition based on employee achievements that contribute to the Agency's mission. The EPA award program is intended to motivate and reward employees to continually strive for excellence. In addition, the program provides for monetary and non-monetary awards for suggestions, inventions and special acts of service or heroism.

Section 2: Authorities.
In the administration of all matters covered by this Article, the Union, the Agency and employees shall be governed by 5 CFR Parts 451 and 531; EPA Order 3130, this Agreement, and all other applicable policies and procedures.

Section 3: Additional Provisions.
Recognition will be granted in accordance with this Agreement, and all other applicable policies and procedures:

A. EPA Awards Board. The EPA Awards Board shall include representation from AFGE.

B. If local management elects to establish a local awards board which includes participation of bargaining unit employees, the Union will also be invited to participate and provide input to that board. Management will consider, and may elect to incorporate/accept, the Union’s input.

C. Awards Budgets. At the beginning of each appraisal period or as soon as available, information concerning the amount and allocation of the awards budget will be provided to the union. The Union will also be provided with periodic updates on the expenditure of awards budgets.

D. Peer Awards. The nominator and nominee must have an established working relationship. The monetary amount will be determined by the recommending/approving official(s).

E. Employee awards information, including names, award types and dollar amounts will be provided to the National union on a quarterly basis. Such information will be electronically sortable by organization and location. This data will be treated by the union in a confidential manner. At least annually, each organization will electronically publish the names of award recipients and the types of awards they received.
Career Ladder Promotions

Section 1: It is the policy of the Agency to provide appropriate opportunities for bargaining unit employees to develop and advance in their careers.

Section 2: Employees in career ladder positions will be given reasonable opportunity to reach the full potential of their assigned career ladders. Upon placing an employee in a career ladder position, the supervisor will discuss the job requirements and expectations for the employee to reach the next higher level. The supervisor will hold these discussions at each level of the employee's progression within the career ladder.

Section 3: The following conditions, prescribed by law and regulation (including 5 CFR § 335.104, eligibility for career ladder promotions) must be satisfied for an employee to be eligible for a career ladder promotion:

1. The employee's performance demonstrates the ability to perform the duties of the next higher grade level;

2. The current rating of record is at the "fully successful" level or above;

3. The employee has completed the minimum waiting period in the lower-graded position (52-week period pursuant to 5 CFR § 300.604); and

4. Pursuant to 5 CFR § 335.104, no employee may receive a career ladder promotion who has a rating below "Fully Successful" on a critical element that is also critical to performance at the next higher grade of the career ladder.

Section 4: At the time an employee meets time-in-grade and any other legal promotion requirements, the supervisor will make a decision regarding promotion. This decision will be made in a timely manner.

Section 5: The supervisor will periodically provide feedback to the employee about their performance in the career ladder position, but no less frequently than at mid- and end-of-year performance reviews.

Section 6: Employees not meeting the criteria for promotion will be counseled by their supervisor regarding areas needing improvement before the promotion can be effected in accordance with applicable law, rules, or regulation.
Dues Deductions

Section 1. Eligibility

To be eligible to make a voluntary Union dues allotment, an employee must:

A. Be an employee in the unit covered by this Agreement;
B. Be a member in good standing with the Union;

C. Have a net salary, after other legal and required deductions, sufficient to cover the amount of authorized allotments; and

D. Submit an SF-1187, Request and Payroll Deduction for Labor Organization Dues, to a designated Union representative.

Section 2. Withholding

As authorized by Title 5 United States Code (U.S.C.) § 7115, employees may have their Union dues withheld through payroll deductions as governed by this Article.

Section 3. Dues Withholding

The Agency's payroll/HR system provider allows for electronic distribution of an employee's allotment to AFGE National (Washington D.C.) the amounts may vary from local to local as well as within a local.

Section 4. Responsibilities of the Union

The Union shall:

A. Regular Dues: Submit SF-1187 allotment for only those dues which are the regular and periodic dues required by the Union for that employee; Initiation fees, special assessments, back dues, fines, and similar items are not considered dues and shall not be deducted;

B. Forms: Provide forms SF-1187, Request and Payroll Deduction for Labor Organization Dues, to employees;
C. **SF-1187:** State on the SF-1187 the allotment amount to be withheld each bi-weekly pay period;

D. **SF-1187's:** Promptly sign and forward properly completed SF-1187 forms to the Human Resources Office for submission to the payroll office;

E. **Authorized Union Officials:** Furnish a written statement to the Agency’s payroll office, listing the names and titles of local Union officials authorized to sign the form SF-1187;

F. **Notice to Agency of Changes:** Provide the Agency’s payroll office, via the Human Resources Office, with written notification concerning:

   (1) Changes in the amount of Union allotments at least 60 days before the pay period in which the change is requested. The amount of dues withheld cannot be changed more than once per year.
   (2) Changes in the Union officials who are authorized to certify and submit SF-1187.
   (3) Any change in the bank routing number and/or account number used by the Union for the receipt of dues allotments.
   (4) The name of any employee who has been expelled or ceased to be a member in good standing with the Union within 15 calendar days of the date of final determination.

**Section 5. Agency Responsibilities**

The Agency agrees to:

   A. Withhold dues on a bi-weekly basis, at no charge to the Union;

   B. Within ten (10) days of the close of each pay period, transmit employee dues withholdings to the bank account designated by the Union.

C. Promptly forward to the designated Union officials copies of SF-1188s received directly from Union members before processing;

D. The Agency will neither encourage nor discourage union membership; it will not interfere with employees' right to pay, withhold or revoke union dues

**Section 6. Processing Steps to Effect Allotment Withholding**

Bargaining unit members, who decide to join the Union, may have their dues, fees and assessments, known collectively as allotments, withheld by payroll deduction by properly completing a form SF-1187 and submitting it to officials designated by the Union. These Union officials will certify the form and include the amount of allotment to be withheld. The
Union will forward the certified form SF-1187 to the Agency Human Resources Office for transmittal to the payroll office for processing. Allotments will be withheld by the Agency beginning the first bi-weekly pay period after receipt by the payroll office.

Section 7. Revocation of Allotments.

A. “As required by 5 U.S.C. § 7115(a), employees may not revoke their dues withholding for at least one (1) year after the first deduction.
B. Employees may submit to the Human Resources Office a SF-1188, "Cancellation of Payroll Deductions For Labor Organization Dues" to cancel dues at any time after their first anniversary date.
C. “Anniversary date” means the documented date of the first deduction of union dues via payroll deduction. For individuals who were members prior to the effective date of this Agreement, and evidence of an anniversary date was not in the Agency’s records, the “anniversary date” is September 18th.
D. If the employee believes the anniversary date of record is in error and they have such evidence (i.e. earnings and leave statement, etc.), they should attach it to any SF 1188 submitted to the Human Resource Office.

Section 8. Reinstatement of Allotment Withholding

A. When the employee is temporarily detailed, reassigned or promoted to a position outside the bargaining unit, the Union allotment withholding will restart automatically when the employee returns to their position in the bargaining unit.
B. When an employee previously on dues allotment returns to pay status from non-pay status, the Agency will automatically reinstate the allotment withholding at the rate in effect at the time the employee returns to pay status. The Agency is not normally responsible for additional dues withholding when/if an employee returns from a non-pay status. The only exception is in the case of a furlough where employees later receive backpay. In that case, the Agency will calculate and retroactively collect any Union dues which would have been paid during the furlough period.

Section 9. Correction of Errors

A. Under-Withholding - Any substantiated under-withholding errors made by the Agency shall be corrected as soon as practical after the error is discovered by the Agency or after the Agency has received a written notification from the Union’s designated representative of the error.
B. Correcting Under-Withholding - If an under-withholding occurs, the Agency will provide the employee with a written explanation that indicates the additional amount to be withheld each pay period and paid to the Union and the number of pay periods over which the additional amount will be withheld to correct the error.
C. Over-Withholding - If the Agency, through an administrative error, does not process an approved SF-1188 timely (or otherwise over-collects from the employee), and the Union collects more dues than is authorized, the Union will be responsible for re-payment of the
over-collected amount to the employee.

Section 10. Continuation of Existing Agreements.

Employees who have a current dues withholding agreement in effect on the date this Agreement is effective need not execute a new SF 1187 to come under the provisions of this Agreement.
Duration

Section 2. Duration of Agreement

A. This Agreement shall remain in effect for five (5) years from the effective date of this Agreement.

B. Either party may serve the other party with written notice, not more than sixty (60) calendar days nor less than thirty (30) calendar days prior to the start of the 24th full month that this Agreement has been in effect, of its desire to modify or renegotiate up to two (2) existing or new Articles, for a potential total of four (4) Articles if both parties choose to open two (2). If this provision is exercised, negotiations will be commenced within thirty (30) calendar days after such notice or as may be otherwise mutually agreed upon by the parties.

C. In addition, at any time 24 to 48 months after this Agreement has been in effect, either party may reopen Article X Dues Deduction one (1) time, if there is a change in law or guidance that union members may submit SF-1188s at any time after their first anniversary.

D. In the event that one of the parties notices the other to modify this Agreement as provided in Section 2. B. or C., the parties agree to follow the ground rules in Section 5 of Article 5, Mid-term Negotiations, for those negotiations.

Section 4. Negotiation Procedures for a Subsequent Agreement

A. For a subsequent agreement, the parties shall exchange bargaining team members and agree to a bargaining schedule within six (6) weeks after notice is provided or as may be otherwise mutually agreed upon by the parties.
Employee Rights

Section 1: General. All agency employees shall be treated with mutual respect, which means a workplace free of discriminatory harassment. The Agency will comply with all laws and Government-wide regulations prohibiting discrimination against employees on the basis of race, color, religion, national origin, sex, union activity, political affiliation, marital status, age, sexual orientation, a qualified person with a disability and genetic information. EPA also will not tolerate harassment of any type. Assignment of work by a supervisor, a difference of opinion, a disagreement on a work-related matter, or any other similar communication that is expressed in a professional manner, are not considered harassment. The Agency will comply with the Privacy Act of 1974. The Agency will comply with employees' rights under the United States Constitution. The Agency will consider impacts on employee morale, as it exercises its right to ensure that its mission is accomplished in an effective and efficient manner.

Section 2: Right to Union Membership.

A. Pursuant to 5 U.S.C. Section 7102:

"Section 7102 Employee rights

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes 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 this chapter."

B. Employees temporarily assigned to a managerial or supervisory position or a position outside the bargaining unit may not serve as a Union representative and are temporarily outside of the bargaining unit.
Section 3: Right to Private Lives. Employees shall have the right to pursue their private lives, personal welfare and personal beliefs without interference, coercion or discrimination by the Agency if those activities do not conflict with any applicable law, Government-wide regulations, and Agency rules, regulations, policies, directives, guidance and manuals; and if such activities do not conflict with job responsibilities. Prior to making changes to Agency rules, policies, directives, guidance and manuals which constitute negotiable changes in conditions of employment under 5 USC 7103(a)(14) the Agency will provide notice to the Union and negotiate per the Mid Term Negotiations Article of this Agreement (Article XXX).

Section 4: Merit Systems Principles. As required by 5 U.S.C. 2301(b) (1) through (9), the Agency's personnel management program will be implemented consistent with the following merit system principles quoted verbatim:

“(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

2
(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—
   (A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
   (B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—
   (A) a violation of any law, rule, or regulation, or
   (B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”

Section 5: Prohibited Personnel Practices. The following personnel practices are prohibited pursuant to 5 U.S.C. 2302(b)(1) through (14) and are quoted verbatim:

“(1) discriminate for or against any employee or applicant for employment—
   (A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);
   (B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);
(C) on the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));
(D) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or
(E) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;

(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—
   (A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or
   (B) an evaluation of the character, loyalty, or suitability of such individual;

(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

(4) deceive or willfully obstruct any person with respect to such person’s right to compete for employment;

(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;
(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

(8) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of—
   (A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—
      (i) any violation of any law, rule, or regulation, or
      (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or
   (B) any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—
      (i) any violation (other than a violation of this section) of any law, rule, or regulation, or
      (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—
   (A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation—
      (i) with regard to remedying a violation of paragraph (8); or
(ii) other than with regard to remedying a violation of paragraph (8);
(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A)(i) or (ii);
(C) cooperating with or disclosing information to the Inspector General (or any other component responsible for internal investigation or review) of an agency, or the Special Counsel, in accordance with applicable provisions of law; or
(D) refusing to obey an order that would require the individual to violate a law, rule, or regulation;

(10). discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States;

(11) (A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or
(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement;

(12) take or fail to take any other personnel action if the taking or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title;

(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: "These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or
mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”; or

(14) access the medical record of another employee or an applicant for employment as a part of, or otherwise in furtherance of, any conduct described in paragraphs (1) through (13). This subsection shall not be construed to authorize the withholding of information from Congress or as the taking of any personnel action against an employee who discloses information to Congress. For purposes of paragraph (8), (i) any presumption relating to the performance of a duty by an employee whose conduct is the subject of a disclosure as defined under subsection (a)(2)(D) may be rebutted by substantial evidence, and (ii) a determination as to whether an employee or applicant reasonably believes that such employee or applicant has disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee or applicant could reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.”

Section 6: Additional Principles. The Union and the Agency further agree to the following principles:

A. Assign Work and Direct Employees: This Agreement is not to be interpreted or applied by the Union or by an arbitrator to prevent, limit or interfere with management’s reserved right to assign work, including determining the method and manner to assign work and direct employees, except as provided by 5 USC 7106(b)(2) and (3).
B. **Working Conditions:** This Agreement is not to be interpreted or applied by the Union or by an arbitrator to prevent, limit or interfere with management’s reserved right to determine the day-to-day circumstances under which an employee performs his or her job.

C. **Service of a Warrant or Subpoena:** If an employee is to be served with a warrant or subpoena, to the extent it is within the Agency’s control, the service will be done in private without the knowledge of other employees.

D. **Supervisory Instructions and Orders:** Employees are expected to follow all lawful supervisory instructions and orders. The employee may discuss an instruction or order with the employee’s supervisor to address conflicting instructions, questions or concerns. The employee is not excused from timely following the instruction or order unless otherwise directed to do so by the supervisor. In the case of an emergency or inability to communicate with the supervisor, the employee is expected to act with appropriate prudence and responsibility.

E. **Personal Belongings and Agency Equipment:** The Agency is not responsible for personal belongings brought to the workplace by an employee. Employee’s personal belongings may not be searched without reasonable suspicion and notice. All furniture and equipment furnished by the Agency for an employee’s use in carrying out the employee’s duties is the property of the Federal government and may be: (1) recalled by the Agency at any time without notice; and (2) may be searched by the Agency at any time without notice.

F. **Resign/Retire:** An employee may resign or retire at any time, to set the effective date of his/her resignation or retirement, and to have his/her reasons for resigning/retiring entered in his/her official records. An employee may request to withdraw his/her resignation/retirement at any time before it has become effective. The Agency may accept or deny an employee request to
withdraw a resignation/retirement before its effective date. An employee will be informed of the reason(s) when a request to withdraw a resignation/retirement is denied. Reasons to deny a request include, but are not limited to, administrative disruption, the hiring or plans to hire a replacement, the acceptance of a VERA/VISP signified by submitting retirement forms to HR, and the presence of an executed settlement agreement.

G. Methods to Evaluate Employees: This Agreement is not to be interpreted or applied by the Union or by an arbitrator to prevent, limit or interfere with management's reserved right to determine the methods it will use to evaluate employees.

H. The Agency will make every reasonable effort to continue to provide for the secure storage of personal belongings. When new furniture is installed, the furniture will contain lockable, secure space for storage of personal belongings.

I. No Recording Protected Union Activity: No recording will be made without mutual consent by the Agency or by the Union or by a unit employee of any conversation involving 5 U.S.C. 7102 protected Union activity.

J. Recording Other Conversations: No recording will be made without mutual consent by the Agency or by the Union or by a unit employee of any conversation involving any management official involving work related matters, except for Inspector General Investigations, or other law enforcement investigations conducted by the Agency or agencies outside of the Agency. When a transcript is made from a recording, except for Inspector General Investigations, or other law enforcement investigations conducted by the Agency or agencies outside of the Agency, the employee will be given the opportunity to review the transcript for accuracy and the employee will be provided a copy of both the tape and the transcript if any. Information obtained in conflict with this section will not be used as evidence against any
employee. This provision does not apply to the video taping of training sessions.

K. Outside Employment: Employees may work at outside employment only when consistent with applicable law, Government-wide regulations, and Agency rules, regulations, policies, directives, guidance and manuals; and if such activities do not conflict with job responsibilities, and do not raise a real or an apparent conflict of interest. Prior to making changes to Agency rules, policies, directives, guidance and manuals which constitute negotiable changes in conditions of employment under 5 USC 7103(a)(14) the Agency will provide notice to the Union and negotiate per the Mid Term Negotiations Article of this Agreement (Article XXX). When Agency approval of outside employment is required, the Agency agrees to approve or disapprove an employee’s written request to engage in outside employment within a reasonable timeframe. The Ethics Officer or designee will respond in writing and if the request is denied, the reason for the doing so will be included.

Section 7: Right to Obtain Information:

A. Right to Voice Concerns: An employee may discuss a condition of employment or potential grievance with a Union representative per the procedure in Article XX.

B. Work Related or Personnel Related Issues: An employee may discuss work related or personnel related issues with the Union, their supervisor the Human Resources Office, the Equal Employment Opportunity Office, and the Payroll Office.

Section 8: Right to Representation: In matters under the negotiated grievance procedure in Article XX, an employee may only be represented by him/her self or by a Union representative. Except as provided by this Agreement and applicable law,
Government-wide regulations, and Agency rules, regulations, policies, directives, guidance and manuals, an employee is not entitled to be represented in conversation with any Agency official concerning work-related or personnel related matters. This Section does not prohibit Union representation in matters where all parties agree to such involvement.

**Section 9: Right of Access to Documentation:** The Agency will maintain and utilize records covered by the Privacy Act of 1974 in accordance with that law. Employees may review and/or copy the records and/or make comments and recommendations on corrections with regard to the records maintained under the Privacy Act of 1974 as provided for in that law. As workload permits, employees shall be granted a reasonable amount of duty time to perform these activities during their regular work hours.

**Section 10: Participation in Voluntary Activities.** Employees have the right to participate or decline to participate in voluntary activities publicized by the Agency. The Agency will not require or coerce employees to participate in any way in voluntary activities. Employee participation or non-participation in any of voluntary activities will not be a consideration in any work related or personnel related matter.

**Section 11: Right to Debt Collection:** The Agency will comply with: 5 C.F.R. Part 581 regarding Processing Garnishment Orders for Child Support and/or Alimony, and 5 C.F.R. Part 582 regarding Commercial Garnishment. The Agency agrees to hold in confidence all matters related to this Section. Notice to employees regarding debts will be sent in accordance with applicable law and regulation.

**Section 12: Right to Proper Payment:** The Agency will comply with applicable Government-wide regulations, including 5 C.F.R. 5584 and Agency regulations and polices regarding: the delivery of employee pay; overpayments; waiver of overpayment and underpayments. When an employee becomes aware of an overpayment, it is the
The responsibility of that employee to notify the Agency of the overpayment immediately. If an employee notifies the Agency that they have been overpaid, the Agency will explain to the affected employee the circumstances of the overpayment and will explain the process for completing a Request for Waiver of Claim for Erroneous Payment.

Section 13: Right to Notice of Benefits:

A. Notices: The Agency will notify employees using electronic messaging systems designed to send individual notification regarding OPM announcements of the following events:

1. Open season for the Thrift Savings Plan;
2. Open season for Federal Employee Health Benefits (FEHB);
3. How to obtain copies of FEHB provider brochures;
4. Discontinued service by an FEHB provider;
5. Open season for Federal Group Life Insurance.

B. FEHB and Non-Pay Status: The Agency will comply with applicable law and Government-wide regulations regarding the coverage under the FEHB when an employee is on a non-pay status.