2002

National Agreement

Internal Revenue Service
and
National Treasury Employees Union

IRS
Department of the Treasury
Internal Revenue Service
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Preamble

WHEREAS the Internal Revenue Service (Employer) and the National Treasury Employees Union (Union), also referred to as the Parties, recognize that the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

WHEREAS the Employer and the Union recognize that the public interest demands the highest standards of employee performance and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government; and

WHEREAS the Employer and the Union recognize that a mutual commitment to cooperation promotes both the efficiency of the Employer's operations and the well-being of its employees; and

WHEREAS the Employer and the Union agree that the dignity of employees will be respected in the implementation and application of this Agreement as well as related personnel policies and practices;

NOW THEREFORE the Employer and the Union hereby further agree as follows:

Article 1
Coverage and Definitions

Section 1

A.

This Agreement covers all professional and non-professional employees of the Internal Revenue Service (IRS), excluding all employees of the Assistant Commissioner for Criminal Investigation; all employees of the Office of Chief Counsel; National Office employees of the Office of International Operations assigned to overseas posts-of-duty (POD); temporary employees with no reasonable expectancy of continued employment; management officials, supervisors, guards other than protective officers at the Martinsburg Computing Center at Martinsburg, West Virginia; and employees described in 5 U.S.C. § 7112 (b)(2), (3), (4), (6) and (7). Among the confidential employees excluded under 5 U.S.C. § 7112 (b)(2) are the following:

1. Secretary to the Commissioner;
2. Secretary to any management official designated to make decisions on grievances, except group clerks or unit clerks;
3. Secretary to any Assistant, Assistant to or Staff Assistant to any management official identified in subsection 1A2;
4. Secretary to Personnel Officers; and
5. Secretary to Employee Relations Specialists.

Section 2

If the Union becomes certified as the exclusive collective bargaining representative for any employees or bargaining unit not currently covered by this Agreement, this Agreement shall extend automatically to all employees covered by that certification on the sixtieth (60th) day following the certification of such unit. However, the dues withholding provisions of the Agreement shall be applicable upon certification of the Union.

Section 3

The following definitions shall apply for purposes of understanding this Agreement as determined by the Employer:

A.

"Division" means one (1) of ten (10) stand-alone Service-wide business units including:

1. four (4) Operating Divisions:
   Wage and Investment (W&I);
   Tax Exempt and Government Entities (TE/GE);
   Small Business/Self Employed (SBSE);
   Large and Mid-Size Business (LMSB); and
2. four (4) Functional Divisions:
   National Taxpayer Advocate (TAS);
   Appeals;
   Criminal Investigation (CI);
   Communications and Liaison; and
3. two (2) Shared Services/Support Divisions:
   Agency Wide Shared Services (AWSS); and
   Modernization and Information Technology and Security Services (MITS).

B.

Enter on Duty (EOD) means the date an employee entered on duty with the IRS as modified to include any prior IRS service. Employees hired with prior IRS service after September 15, 2001, will have their EOD adjusted in accordance with the NORD/NC 5.5 Agreement. The IRS EOD date will not be adjusted for time spent outside the IRS in Federal Service.

C.

"IRS Headquarters" includes:

the Office of the Commissioner of Internal Revenue;

Strategic Human Resources;

Chief Financial Officer;

Business Systems Modernization;

the Office of Tax Administration;

Equal Employment Opportunity (EEO) and Diversity; and

Research and Analysis.

D.

"Head of Office" means the highest ranking Executive in the Division.

E.

"Senior Commissioner Representative" (SCR) means the individual designated by the Commissioner of the IRS to serve as the point of contact on matters impacting more than one (1) Division in a specified geographical area. The Director, Submission Processing on Campuses is the SCR. With the exception of California, Texas and New York, each state is assigned a SCR (California is assigned three (3) SCRs and Texas and New York two (2) SCRs).

F.

"Site Coordinator" means the individual that reports to the Director of the Submission Processing Center at each Campus and has responsibility for coordinating issues that impact more than one (1) center on the Campus.

G.

"Campus" means the Submission Processing, Compliance Services and Accounts Management Centers plus the aligned Call Sites. "Center Campus" means the aforementioned three (3) center functions and the related satellite or auxiliary buildings, excluding the aligned Call Sites.

Article 2
Precedence of Law and Regulation

Section 1

In the administration of all matters covered by this Agreement, the parties are governed by the following: existing or future laws; Government-wide rules or regulations in effect upon the effective date of this Agreement; and Government-wide rules or regulations issued after the effective date of this Agreement that do not conflict with this Agreement.

Section 2

To the extent that provisions of the Internal Revenue Manual (IRM) are in specific conflict with this Agreement, the provisions of this Agreement will govern.

Section 3

IRS will make an electronic link available from the IRS web site to OPM directives, GSA Federal Travel Regulations, Treasury regulations, DOL Office of Workers' Compensation Programs, IRMs, etc.

Section 4

In accordance with Article 47, the Employer will notify the Union of Internal Revenue Manual (IRM) changes affecting conditions of employment as required by 5 U.S.C. § 7114.

Article 3
Employer Rights

Section 1

A.

The Employer retains the right:

1. to determine the mission, budget, organization, number of employees, and internal security practices of the Agency;
2. to hire, assign, direct, layoff and retain employees, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against employees;
3. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which operations shall be conducted;
4. with respect to filling positions, to make selections for appointments from:
   (a) among properly ranked and certified candidates for promotion; or
   (b) any other appropriate source; and
5. to take whatever actions may be necessary to carry out the mission during emergencies.

Section 2

The Employer retains all other rights in accordance with applicable laws and regulations, except for those specific modifications contained in this Agreement.

Article 4
Protections Against Prohibited Personnel Practices

Preamble

The parties mutually recognize that personnel management should be implemented consistent with the following merit system principles:

1. Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society. 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. 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.
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. 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.

In recognition of the above the parties agree to the following:

Section 1

A.

For the purpose of this article, prohibited personnel practice means any action described in Section 2 below.

B.

For the purpose of this article, “personnel action” means:

1. an appointment;
2. a promotion;
3. an action under chapter 75 of the Civil Service Reform Act of 1978;
4. a detail, transfer, or reassignment;
5. a reinstatement;
6. a restoration;
7. a reemployment;
8. a performance evaluation under chapter 43 of the Civil Service Reform Act of 1978;
9. a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this subsection; and
10. any other significant change in duties or responsibilities which is inconsistent with the employee’s salary or grade level.

Section 2

The Employer shall not:

A.

Discriminate for or against any employee or applicant for employment:

1. on the basis of race, color, religion, sex, or national origin, as prohibited under Section 717 of the Civil Rights Act of 1964; and
2. on the basis of age, as prohibited under Sections 12 and 15 of the Age Discrimination in Employment Act of 1967;
3. on the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938;
4. on the basis of handicapping condition, as prohibited under Section 501 of the Rehabilitation Act of 1973;
5. on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation.

B.

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:

1. an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or
2. an evaluation of the character, loyalty, or suitability of such individual.

C.

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 reprisal for the refusal of any person to engage in such political activity.

D.

Deceive or willfully obstruct any person with respect to such person’s right to compete for employment.

E.

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.

F.

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.

G.

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 Title 5 of the United States Code) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in Title 5 of the United States Code) or over which such employee exercises jurisdiction or control as such an official.

H.

Take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for:

1. a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences:
   (a) a violation of any law, rule, or regulation; or
   (b) 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 required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or
2. a disclosure to the Office of Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, or information which the employee or applicant reasonably believes evidences:
   (a) a violation of any law, rule, or regulation; or
   (b) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

I.

Take or fail to take any personnel action against any employee or applicant for employment as a reprisal for:

1. the exercise of any appeal right granted by any law, rule, or regulation;
2. testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subsection I1above;
3. cooperating with or disclosing information to the Inspector General of an agency, or Special Counsel, in accordance with applicable provisions of law; or
4. for refusing to obey an order that would require the individual to violate a law.

J.

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 subsection 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.

K.

Take or fail to take any other personnel action if the taking of, or failure to take, such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in the Civil Service Reform Act of 1978.

Section 3

An employee aggrieved under Section 2 above, may raise the matter under a statutory procedure or under the employee grievance procedure outlined in Article 41 of this Agreement, but not both.

Section 4

In reviewing grievances on the provisions of this article, arbitrators will apply the same standards of evidence and burden of proof as those applied by the Merit Systems Protection Board.

Article 5
Employee Rights

Section 1

A.

Employees may be eligible to receive transit subsidies, child care subsidies, monetary awards, training funds, retention, relocation and/or recruitment bonuses, as well as repayments of student loans, subject to the terms and conditions of those respective negotiated agreements.

B.

The initiation of grievances in good faith by employees will not cause any reflection on their standing with their managers or on their loyalty or desirability to the organization. Employees and Union stewards who have relevant information concerning any matter for which remedial relief is available under this Agreement will, in seeking resolution of such matter,

be assured freedom from restraint, interference, coercion or discrimination, intimidation or reprisal. The Employer will not impose any restraint, interference, coercion or discrimination against any employees in the exercise of their right to designate a Union steward for the purpose of representing to the Employer any matter of concern over the interpretation or application of this Agreement or of representing the employees to any Government agency or official other than the Employer. The parties recognize that this section grants such employees or stewards no time for performing duties under provisions of this Agreement.

C.

Grievances alleging violations of subsection 1B above may be filed at the second step of the grievance procedure.

D.

Discussions between a Union representative and an employee seeking counsel or advice regarding non-criminal investigations are confidential. The Employer agrees not to solicit information from any Union representative concerning the nature of such confidential discussions.

Section 2

Nothing in this Agreement will require an employee to become or remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary written authorization by a member for payment of dues through payroll deductions or by voluntary cash dues payment by a member.

Section 3

Except as otherwise expressly provided in this Agreement and in the Civil Service Reform Act of 1978, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organizational representative, including presentation of views to officials of the Executive Branch, the Congress, or other appropriate authority.

Section 4

A.

1. Any employee who is the subject of a conduct investigation, or is being interviewed as a third party witness, and who reasonably believes that an interview with Internal Security or any other representative of the Employer may result in disciplinary action has the right to representation by a person designated by the Union.
2. At the time the employee is contacted to schedule such an interview, the employee will be provided the following information:
   (a) the subject matter of the interview in as much specificity as possible, including whether the interview involves criminal or non-criminal matters, if known, except when doing so would undermine the investigation;
   (b) that he or she is the subject of the conduct interview or whether the employee is being interviewed as a third party witness;
   (c) that if the employee reasonably believes that the interview may result in disciplinary action, the employee is entitled to representation during the interview by a person designated by the Union;
   (d) that the interview will be scheduled to allow the employee an opportunity to seek the counsel of a Union representative, such counseling shall not unduly delay the interview; and
   (e) that if he or she is the subject of the conduct interview, he or she will be given an IRS Form 8111 (Exhibit 5-1). The employee will execute Form 8111. Employees shall be given a copy of the executed Form 8111 for their own records and will provide the original Form 8111 to the Inspector prior to the inter-view. Should the employee fail to bring the Form 8111 to the interview, the employee will either be instructed to retrieve the original Form 8111 or to execute a new Form 8111.
3. Prior to beginning interviews with employees who are being interviewed as third party witnesses, the employees will be provided with IRS Form 9142 (Exhibit 5-4). When employees are provided Form 9142 they shall acknowledge receipt and be given a copy of the executed form for their records.
4. If the interview is initiated by the employee, there is no obligation to inform the employee of the right to Union representation before beginning the interview. However, at the time the Inspector or any other representative of the Employer should reasonably believe that the information offered by the employee indicates that the conduct of the employee could reasonably result in discipline to the employee, the employee must then be advised of the right to Union representation as provided in subsection 4A1 above.
5. If an employee appears for a scheduled interview without representation and reasonably believes, because the subject of the interview has changed, that disciplinary action may result, the employee may request a brief delay to secure such representation.

6. If an employee is represented in an interview and the subject of the interview changes to subjects over which the employee and the representative have not conferred, the employee or the representative may request a brief recess to confer on such issues.

B.

When an employee is interviewed by the Employer or an agent of the Employer (e.g., a representative of the Treasury Inspector General for Tax Administration), and the employee is the subject of an investigation, the employee will be informed of the subject matter of the interview in as much specificity as possible, except when doing so would undermine the investigation, and whether it concerns criminal or administrative misconduct at the time the interview is scheduled. If in cases solely involving administrative misconduct the employee refuses to respond to questions, the employee shall be advised of the following:

Pursuant to 31 CFR 0.207, when directed to do so by a competent Treasury (e.g., the Treasury Inspector General for Tax Administration) or Internal Revenue Service authority, employees must testify or respond to questions in matters of official interest. Employees must give such testimony, or respond to questions, under oath when required or requested to do so. Your failure to respond as required may result in severe discipline including removal.

C.

When the subject of an investigation is being interviewed regarding possible criminal conduct and prosecution, and the interview is custodial in nature, at the beginning of the interview the employee shall be given a statement of Miranda rights contained on IRS Form 5228 (Exhibit 5-2). If the employee waives his or her rights, the employee shall so indicate by signing the above referenced form, and shall be given a copy of said executed form.

D.

When the subject of an investigation is being interviewed regarding possible criminal conduct and the interview is non-custodial, at the beginning of the interview the employee shall be given a statement of rights contained in Form 12036 (Exhibit 5-6). If the employee waives his or her rights, the employee shall sign the above referenced form and shall be given a copy of said executed form.

E.

In an interview involving possible criminal conduct where prosecution has been declined by appropriate authority, at the beginning of the interview the employee shall be given a statement of the Kalkines warning. The warning shall contain the following language: "You are here to be asked questions pertaining to your employment with the Internal Revenue Service and the duties that you perform for IRS. You have the option to remain silent, although you may be subject to removal from your employment by the Service if you fail to answer material and relevant questions relating to the performance of your duties as an employee. You are further advised that the answers you may give to the questions propounded to you at this interview, or any information or evidence which is gained by reason of your answers, may not be used against you in a criminal proceeding except that you may be subject to a criminal prosecution for any false answer that you may give."

When employees are given the Kalkines warning, they shall be given IRS Form 8112

(Exhibit 5-3). Employees will acknowledge on IRS Form 8112 the receipt of the above warning. Employees shall be given a copy of the executed IRS Form 8112 for their own records.

F.

When the person being interviewed is accompanied by a representative furnished by the Union, in both criminal and non-criminal cases, the role of the representative includes, but is not limited to, the following rights:

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

However, a representative may not transform the interview into an adversarial contest. Once it is determined that an investigation is not criminal in nature or once prosecution is declined, the Union and the employee may request a reasonable delay of the interview; such request shall not be unreasonably denied.

G.

In interviews regarding possible criminal conduct when the employee interviewed is represented by counsel, and when a representative of the Treasury Inspector General for Tax Administration or any other representative of the Employer is on reasonable notice of such representation, the employee's counsel shall have authority to represent the employee during the interview. Case Inspectors and other agents of the Employer on reasonable notice of such representation shall not initiate ex parte communication with the employee. It will continue to be the practice of agents of the Employer (e.g., the Treasury Inspector General for Tax Administration) and the Employer to contact the employee's supervisor to arrange an interview or other contact.

H.

Interviews conducted by agents of the Employer (e.g., the Treasury Inspector General for Tax Administration) may be manually and/or mechanically recorded by either party. The role of any person other than employees or their representatives in the recording of the interview shall be subject to applicable disclosure provisions. The recording may not unreasonably delay the interview.

I.

The Employer will issue a notice to all employees on a semi-annual basis that states, in part, the following:

1. Employees have the right to be represented by the Union in an examination in connection with an investigation if:
   (a) the employee reasonably believes that the examination may result in disciplinary action against the employee; and
   (b) the employee requests such representation; and
2. Employees may exercise this right if the above conditions are met whether the employee is the subject of the investigation (including a background investigation) or is a third party witness. The IRS fully supports the aforementioned right.

J.

When the Employer has determined to use a Statement Analysis Questionnaire in an investigation, employees are entitled to all the applicable rights of this Agreement that apply to the subjects of investigations, including Miranda and Kalkines, if appropriate.

K.

As prescribed by the Privacy Act (and only in non-criminal matters), the Employer shall collect information to the greatest extent practical directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits and privileges under federal programs.

L.

The Employer recognizes the importance of completing an investigation of an employee in as timely a manner as practicable. When an employee has been the subject of an investigation, and a determination is made not to propose disciplinary action, the designated proposing official will issue the appropriate letter (i.e., clearance or closed without action) to the employee within a timely fashion, normally within thirty (30) days of when the case involving the employee is closed.

M.

On a quarterly basis (i.e., April 30, July 31, October 31, and January 31), the IRS will issue a report to the Union which, at a minimum, provides information on when each investigation of a bargaining unit employee was opened and closed during the preceding period, and the date of issuance of the clearance letter or notice of proposed disciplinary or adverse action. Representatives of the IRS and the Union will meet reasonably in advance of the issuance of the first report to agree upon the format and other relevant information that will be contained in the report, subject to existing laws, rules, and regulations on privacy.

Section 5

A.

The questions whether, and on what date, to resign are voluntary matters of free choice for each employee. When an employee is faced with the prospect of Employer-initiated action such as termination or removal, the employee shall have the right not to resign or, if the employee chooses, to make a resignation effective at any time prior to the effective date of the Employer's action. When authorized by a settlement agreement, the employee's record shall only state that he/she resigned: no reference shall be made to such action occurring "for cause" when an employee voluntarily resigns. The employee will be advised that he or she may consult with a Union representative and have a representative present prior to making a decision. This advice will be acknowledged in writing by the Employer and the employee. A copy of this acknowledgment will be provided to the employee. Resignations shall not be secured by coercive or deceptive means.

B.

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

C.

The Employer recognizes that, pursuant to law and regulation, certain resignations can be considered involuntary. The Employer will attempt to avoid causing such resignations.

Section 6

The Employer is entitled to require truthful answers from employees in response to questions in matters of official interest. An employee who fails to provide such answers is subject to disciplinary action, including removal. An employee may properly refuse to answer questions regarding matters in which the Employer has no official interest. The Employer has determined that no employee shall be required to play the role of a corrupt employee, or be required to operate undercover.

Section 7

Relationships between employees and their managers should be mutually conducted in a businesslike, courteous and tactful manner.

Section 8

The Employer is committed to providing a work environment free of discrimination because of sexual preference or orientation.

Section 9

A Statement of Basic Employee Rights appears in Exhibit 5-5 of this Agreement. The Employer will post the Statement on all official bulletin boards and the Union may post it on all of its bulletin boards. Further, the Union may discuss these rights in orientation or pre-orientation sessions. The Statement will be jointly signed by the Employer and the Union.

Section 10

To promote the ethical conduct of all employees and to minimize misunderstandings, the parties will maintain, as an adjunct to the national LMRC process, a standing subcommittee consisting of not more than four (4) Union representatives, to serve as a confidential forum wherein issues involving employee investigations by agents of the Employer (e.g., the Treasury Inspector General for Tax Administration) in which the Union has a representational interest will be discussed in order to provide the Union with background information in accordance with law, rule and regulation.

Section 11

The Employer has determined that employees shall not be required to disclose an arrest or conviction that a court has ordered purged from the employee's record in any interview, on any official form or statement, or during any investigation with the Employer or an Employer representative.

Section 12

Employees will be authorized up to a maximum of one (1) hour of official time annually to consult with a national Union-sponsored Benefits Counselor in accordance with Article 36.

Section 13

Nothing in this Agreement shall prohibit an employee from being represented by a Union steward at any stage of the EEO complaint process including the counseling stage.

Section 14

An employee must obey lawful orders from management officials in his or her chain of command. However, no employee will be subject to disciplinary or adverse action for refusing to obey an unlawful order.

Section 15

A.

Should the Employer determine to use covert video surveillance in conducting administrative investigations and/or the monitoring of electronic mail, the Employer will provide notice to the Union at the national level and afford the Union the opportunity to bargain to the fullest extent of the Statute.

B.

Any evidence derived from phone monitoring, that is used as support for a proposed disciplinary or adverse action, shall be provided to the employee and/or the employee's designated representative, where not prohibited by law, rule or regulation.

Section 16

The Employer recognizes the right of every bargaining unit employee to be free from reprisal for providing information in connection with a violation of any law, rule, regulation, or provision of any collective bargaining agreement, and/or evidence supporting mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Section 17

The Employer has determined that any employee, who is the subject of a Section 1203 complaint from a taxpayer or a taxpayer's representative, will not meet with the taxpayer or the taxpayer's representative, until the Employer has made a determination regarding the reassignment of the case. If the Employer determines to not reassign the case, the employee has the right to seek and obtain an opinion from the Deputy Agency Ethics Official, or designee, concerning any conflict of interest situation and related matters. All decisions in this respect are grievable under Article 41.

Section 18

NTEU filed a national grievance against the IRS to protest the failure of the Treasury Inspector General for Tax Administration (TIGTA) to provide Union representation and other rights specified in the NORD and NC V Agreements in connection with investigatory interviews of IRS employees. Settlement agreements were reached between the IRS and NTEU and NTEU and TIGTA. The Agreements may be found in Appendix I to this Agreement.

Article 6
Outside Employment

Section 1

The Employer will approve or disapprove an employee's written request to engage in outside employment as soon as possible, but not later than (10) workdays from receipt of the employee's fully completed request. An employee will use the form in Exhibit 6-1 when making a request for outside employment. If a response is not received within the period prescribed, the request will be considered denied and the employee may proceed to the streamlined grievance process described in Section 2 below.

Section 2

The Employer will include a statement of its reasons for disapproving any such request. Employee grievances concerning the Employer's disapproval must be presented within ten (10) workdays of receipt by the employee to the streamlined grievance process. Any such grievance that is not resolved within the time limits set forth in Article 41, Section 17, may be appealed to arbitration in accordance with applicable provisions of this Agreement.

Section 3

Upon denial of a grievance regarding outside employment, if there is no dispute as to the facts, the Union may appeal to an outside arbitrator, designated nationally, to hear such cases in accordance with Article 43, subsection 1B4. Such an appeal must be filed within thirty (30) workdays of the denial of the grievance.

Section 4

Seasonal employees may not engage in any activity prohibited by the applicable Interim Handbook of Employee Conduct and Ethical Behavior. While in non-duty status, such employees may engage in outside employment without obtaining prior written permission that is otherwise required. Upon return to duty status, employees must submit a written request to engage in outside employment if such activity continues.

Article 7
Personnel Records

Section 1

A.

Employees or their personally designated representatives will, upon request, have access to records or information pertaining to them with the exception of records restricted by law or Government-wide rule or regulation. Examination of actual physical records (as opposed to receipt of copies) will take place in the general presence of those having custody of the records. Before disclosure of a record is made to employees or their personally designated representatives, the identities of both must be verified. Form 5394 (Sections A and B) may be used for this purpose. Employees must provide their prior written consent to the Employer before disclosure of their written record will be made to a designated representative or in the presence of a designated representative. Access shall be on official time.

B.

Employees or their personally designated representatives may obtain a photocopy of documents pertaining to the employees with the exception of records restricted by law or Government-wide rule or regulation. Charges, if any, for photocopies supplied shall be in accordance with 5 CFR 297.206.

Section 2

No record, file, or document pertaining to an employee will be made available to any unauthorized persons for inspection or photocopy. Further, such information will be made available to authorized persons (as defined by 5 USC 552(a) and as further provided in IRM 0293) only for official use as provided in the Privacy Act of 1974, in the Office of Personnel Management (OPM) Notices of Systems of Records for OPM records, and/or in the Treasury/IRS Notices of Systems of Records for Treasury/IRS records.

Section 3

A.

Official Personnel Folders (OPF), including records maintained by employees' managers, will be purged in accordance with current applicable regulations provided, however, employees may at their option request that a clearance letter be included or removed from their OPF.

B.

The following procedures apply to the process of obtaining the OPF by the employee:

1. An OPF will be provided to an employee within seven (7) workdays of a request. When employees make a written request for their OPF and the OPF is checked out, then the employee will be promptly provided with a copy of the OPF sign-out sheet within seven (7) workdays. If it is checked out of the Transactional Processing Site or other permanent Agency storage locations when requested, the Service will then take all steps practical to provide it to the employee within fifteen (15) days of the original request.
2. If access to the information is delayed, NTEU may either move forward or request an extension of time to file a grievance or to submit an oral or written reply in the case of a disciplinary, adverse, within-grade or unacceptable performance action. Extensions requested as a result of a delay described above will be granted by the Employer.
3. In situations where the employee or the Union has requested a copy of an employee's OPF and it is not provided prior to the time arbitration is invoked, the Employer will pay for any fees assessed by an arbitrator for cancellation of the arbitration when the file is provided after the invocation and the Union thereupon withdraws its invocation because of the new information.

Section 4

The Employer will maintain an Employee Performance Folder (EPF) for each employee separately from other personnel records such as drop files or OPF's. No documentation related to disciplinary or adverse action will be placed in an employee's EPF unless such action was based on performance reasons. Neither the EPF nor individual documents contained therein shall be identifiable by an employee's date of birth. The placement of documents into EPF's shall be subject to the recordation provisions of Article 12, Section 9 of this Agreement. An EPF is a record of personal data. Access to EPF's is limited to management officials with a need to know and those others referenced in the current published system of records description in accordance with the Privacy Act, 5 USC 552(a). Access to such documents will be subject to IRM 0434.

Section 5

The parties recognize that developing automation technologies have enabled some information that is presently stored in paper-based systems to be stored in other systems. If the Employer elects to change its method of storing any information which is subject to the terms and conditions of this article, the Employer will assure all employees, or their personally designated representatives, continued access to such information or its equivalent provided, however, that nothing in this section shall require the Employer to maintain any information which is not otherwise required to be maintained by law, higher level rule or regulation, or by agreement between the parties.

Section 6

The Employer will normally inform the Union within ten (10) days whether information requested under 5 USC 7114(b)(4) will be supplied. Where the Employer has determined to supply such information, the Union may either move forward with the grievance or may request an extension of time to file or appeal to subsequent steps.

Article 8
Union Rights

Section 1

A.

The Union will have the right and obligation to represent all employees in the unit and to present its views to the Employer on matters of concern, either orally or in writing. The Union, after reasonable notification, will be given the opportunity to be represented at formal discussions.

1. In accordance with 5 U.S. C 7114(a)(2)(A), the Union's right is established when 1) there is a discussion; 2) which is formal; 3) between a representative of the IRS and a unit employee or the Union; 4) concerning any grievance, personnel policy, practice, or other general condition of employment.
2. Factors which would indicate that a meeting was "formal" include, but are not limited to:
   (a) the status of the individual who held the discussion(s);
   (b) whether any other management representatives attended;
   (c) the location of the discussion(s);
   (d) how the meeting was announced;
   (e) the length of the discussion;
   (f) whether an agenda was established; and
   (g) the manner in which the discussion(s) was conducted.

3. The Union is also entitled to attend "last chance" meetings, and settlement discussions to resolve employee problems, and, to the extent not prohibited by law, discrimination complaint settlement meetings. The chapter president or chief steward will be notified of, and be allowed to attend such meetings. Where the Union does not attend a settlement meeting, and the settlement agreement impacts bargaining unit working conditions, (e.g., grants, promises, or gives priority consideration for a promotion, reassignment, training, etc.) the settlement agreement will contain the following statement:

"This settlement agreement is subject to approval for compliance with negotiated agreements between the IRS and NTEU. Accordingly, it will be forwarded to the appropriate NTEU chapter president or the NTEU National President, with a copy to the appropriate servicing personnel office, for a ten (10) day period of consideration. If NTEU alleges the settlement conflicts with any negotiated agreements between the IRS and NTEU, or other non-discretionary requirements, you will be notified."

Any challenges by the Union to EEO settlement agreements will be filed with the IRS Director of Strategic Human Resources.

4. For regularly scheduled formal discussions, the notice and a meeting agenda will be provided no less than five (5) workdays in advance. Designation of the Union's meeting representative and the reporting of the steward's time will be in accordance with Article 9.

B.

Notice to the Union of a formal meeting will be sufficient if provided to the chapter president (i.e., the one whose bargaining unit members will be attending the meeting). The Union shall provide the Employer with a list of the chapters chartered to represent employees along with a description of the boundaries of the chapter.

C.

When training, including orientation sessions for new employees, is scheduled more than two (2) weeks in advance, the appropriate chapter(s) will be given notice ten (10) workdays prior to the session.

D.

The appropriate chapter(s) will be given a copy of all commitment letters at the same time that such letters are sent to prospective employees. The letters will contain, at a minimum, prospective employees' names, position titles, and grades, but will be sanitized to conform to the requirements of the Privacy Act. If commitment letters are not used, the appropriate chapter(s) will be given a list of prospective employees' names, position titles, grades, and posts-of-duty prior to their orientation session. If commitment letters are not used, the Employer will distribute a Union-provided letter or brochure as soon as possible before the orientation session.

E.

If the local chapter requests, the Employer will include with its commitment letters a brochure, agreed to by the National parties, which outlines the benefits of membership in the Union.

F.

In any formal meeting held pursuant to this section, the Union representative will be identified. The representative may ask relevant questions and may make a statement of the Union's position respecting the subject of the meeting. At the conclusion of formal meetings addressing Service-wide issues impacting all or a significant part of one (1) or more Divisions in the SCR's area, the Employer will provide the Union with up to thirty (30) minutes to meet with employees without managers present. The Union has determined that if more than one (1) chapter is represented at the meeting, the representatives will either split the time or, if reasonable, they will meet separately with those employees in their chapter's jurisdiction. At any formal meeting, the Union representative may inform employees that if any of them wish to discuss the meeting topics with him or her further or in private, the employee may come to the Union office or other area to meet with the steward once they have checked out of the unit.

G.

Formal meetings include any formal discussion between one (1) or more representatives of the Employer and one or more bargaining unit employees or their representatives concerning any

Grievance or any personnel policy or practice or other general conditions of employment, and for

1. orientation and pre-orientation sessions, both group and individual; and
2. presentations by a representative of the Treasury Inspector General for Tax Administration and/or Labor Relations at training sessions.

H.

The Union will be provided a thirty (30) minute period, or more if such is the local past practice, for employee orientation and pre-orientation sessions (but not both for the same employee). This time will normally be provided immediately preceding a break. The Union has determined that if more than one (1) chapter is represented at the meeting, the representatives will either split the time or, if reasonable, they will meet separately with those employees in their chapter's jurisdiction. The local parties will agree

upon the time that this meeting will occur on the schedule. No Employer representatives will be present during the period of time that the local chapter representative(s) meet with the employees. The Union may distribute copies of the Agreement, provided by the Employer, during this session. If not, copies will be distributed by the Employer. The Employer will introduce the Union during each orientation and pre-orientation by showing an NTEU video, not to exceed twelve (12) minutes, when video equipment is available. If such a video is shown, the time to show such a video will be in addition to the Union's time for orientation as discussed above. When the Employer schedules the orientation session outside of the tour of the Union representatives directed to attend the session, that representative will be given credit hours for attending, in accordance with this Agreement. In the alternative, by mutual agreement between the parties, the representative's tour of duty may be changed.

I.

Union representatives may address a training class during the non-duty hours of the class members.

J.

The Union shall provide the Employer with a list of the chapters to represent employees along with a description of the boundaries of the chapter. In addition, every six (6) months, beginning with the effective date of this Agreement, the parties will exchange a listing of all managers and Union officials. The listing will include the phone number, FAX number as appropriate, VMS number and e-mail address of the person, their organizational location and area of representational responsibility. This latter list will be exchanged at the local level.

Section 2

If an employee will not be included in a group orientation, the appropriate chapter will be afforded thirty (30) minutes on the employee's first day. If no orientation is held, the appropriate chapter will be afforded thirty (30) minutes to meet with the employee on his or her first day.

Section 3

One (1) week of each year, to be agreed upon between the parties annually at the national or local level, will be recognized by the Employer as Labor Recognition Week. During that week, local chapters may use the Employer's cafeterias, break rooms and snack bars in headquarters offices and posts-of-duty to set-up exhibits to publicize the contributions of organized labor, particularly NTEU, to society. Meeting rooms may also be made available in accordance with Article 11, subsection 2A3. All employees will be provided with one (1) hour of administrative time to participate in Labor Recognition Week activities. Local chapters shall be provided with twenty (20) hours of official time to prepare and conduct Labor Recognition Week activities.

Section 4

The Union may refuse to represent employees in proposed disciplinary actions and in statutory appeals (for example, adverse actions, unacceptable performance actions, Equal Employment Opportunity complaints).

Section 5

The appropriate local chapter(s) shall have the right to include articles in the Employer's newsletters. The number of articles will be limited to one-half (½) of the issues. The length will be determined by the parties locally. Such articles shall be limited to general topics, as opposed to individual cases or disputes between the parties, and shall be subject to the "posting" rules of Article 11, Section 4. The Union's National Office shall have the right to include such articles of not more than one (1) typed page in length in national newsletters or publications intended for all employees.

Section 6

A.

1. Within sixty (60) days of the approval of the Department of Treasury appropriation, the Employer will meet with national Union representatives to review and discuss its budget, annual business and staffing plans and any transition/reorganization issues. A copy of the initial approved budget, a full description of each line item and the annual financial operating guidelines will be provided during this meeting. Thereafter, the Employer will provide additional Service-wide budget briefings on a quarterly basis. These meetings shall be conducted on official time and will include any changes and/or reprogramming of funds to the annual budget.
2. Within sixty (60) days of the approval of the Department of Treasury appropriation, each Division will meet with designated Division-level Union representatives, in accordance with Article 9, to review and discuss the budget, annual business and staffing plans and any transition/reorganization issues. A copy of the Division's initial approved budget, a full description of each line item and the annual financial operating guidelines will be provided during this meeting. Thereafter, the Employer will provide additional Service-wide budget briefings on a quarterly basis. These meetings shall be conducted on official time and will include any

changes and/or reprogramming of funds to the annual budget.

B.

Upon request and subject to local availability, chapter presidents or their designee may view on-line budget information where available.

Section 7

The Union will not encourage or initiate any unlawful, concerted activity on the part of an employee or group of employees which would harm or adversely affect the operation and/or mission of the Employer. It will not condone any such activity by failing to take affirmative action to prevent or stop it.

Section 8

A.

A copy of any local survey, which is intended to be distributed to bargaining unit employees by the Employer, will be first provided to the appropriate Union chapter for comment at least fifteen (15) days in advance of distribution to bargaining unit employees. At the national level, surveys, whether Service-wide or within an entire Division or Function, will be provided to the NTEU National Office at least thirty (30) days in advance of distribution to bargaining unit employees.

B.

The Employer will provide copies of workload studies to the appropriate divisional or functional Partnering Council, and upon request, to local NTEU chapter(s).

Article 9
Stewards and Official Time

Section 1
Designation

A.

The Employer and the Union recognize that the use of official time to conduct authorized representational activities is in their mutual interest. The Parties share the responsibility to insure that such time is used effectively and appropriately accounted for. In this regard, the use of time by a Union representative in the conduct of his or her representational duties shall be charged to either “official time” or “bank time” (as defined herein below) in accordance with the Parties’ Letter of Understanding on this subject, unless otherwise approved by the Employer. Whenever the term “steward” is used in this article, it shall include assistant chief stewards, chief stewards, chapter presidents, joint council chairpersons, and any other individuals authorized by the Union in advance to act on its behalf.

B.

The Union may designate stewards to act on its behalf in accordance with the following:

1. In addition to a President and a Chief Steward, each NTEU Chapter shall be authorized, and have the authority to appoint and assign as the chapter deems appropriate, up to a total of one (1) steward for every forty (40) bargaining unit employees, plus one (1) steward for each post-of-duty or Division with less than forty (40) bargaining unit employees;
2. All stewards, except chapter presidents and chief stewards, must be bargaining unit employees or IRS retirees in good standing.
3. The Union will provide the Employer with a roster of the names of stewards appointed pursuant to this subsection; the roster will be posted on the Union portion of all official bulletin boards.
4. One (1) steward per chapter will be designated as a chief steward, unless there is more than one (1) shift operating within the chapter’s jurisdiction, in which case the Union may designate one (1) chief steward per shift.
5. Each steward, Chief Steward, and Chapter President may cross Division or Function lines to represent employees in any other Division, Function or work group within that Chapter’s jurisdiction; and in cases where the local chapter represents employees of more than one (1) Division or Function, cross those Division or Function lines to perform representational duties. However, all stewards (except retired stewards) must be employed within the jurisdiction of their assigned chapter.

Section 2
Official Time

A.

The Employer fully recognizes that whatever reasonable time is spent in the conduct of Union/Employer business is spent as much in the interest of the Employer as that of the employees.

B.

Stewards shall be provided official time, as determined by the Federal Labor Relations Authority (FLRA or Authority), for participation for or on behalf of the Union in any phase of proceedings before the Authority during the time the steward would otherwise be in a duty status.

C.

Stewards shall be granted official time for participation in the meetings with the Employer and any other activities described in subsection 2D below (including official time to travel to and from such meetings). For each of the meetings with the Employer described in subsections 2D1 through 9 below, the number of stewards entitled to time is equal to the number of Employer representatives at such meetings, not to exceed two (2).

D.

The "official time" meetings referred to in subsection 2C above (including communications with management, whether written, electronic, or telephonic) are:

1. meetings with the Employer concerning personnel policies, practices or other general conditions of employment, or any other matter covered by 5 USC 7114(a)(2)(A);
2. meetings to discuss or present unfair labor practice charges or unit clarification petitions;
3. meetings with the Employer for the purpose of presenting replies to proposed termination of probationers;
4. oral replies to notices of proposed disciplinary, adverse or unacceptable performance actions;
5. meetings to present appeals in connection with statutory or regulatory appeal procedures in which the Union is designated as the representative;
6. meetings with the Employer for the purpose of presenting reconsideration replies in connection with the denial of within-grade increases;
7. meetings with the Employer for the purpose of presenting an employee's request for review and/or reconsideration (grievance) of that employee's performance appraisal, as set forth in Article 12;
8. examinations of employees in the unit by a representative of the Employer in connection with an investigation if:
   (a) the employee reasonably believes that the examination may result in disciplinary action against the employee; and
   (b) the employee requests representation;
9. tax audits of unit employees that are conditions of employment when the employees request representation;
10. grievance meetings and arbitration hearings, in accordance with the applicable articles of this Agreement;
11. meetings of committees on which Union representatives are authorized membership pursuant to this Agreement;
12. negotiations with the Employer;
13. participate in an Authority investigation or preparation for a hearing as a representative of the Union;
14. activities authorized under the Parties Service-wide Partnering Agreement, including meetings of various partnering councils and related activities at the national, division, and/or local level, as applicable;
15. to the extent permitted by law, participation in Union-sponsored training designed primarily to further the interest of Government by bettering the labor-management relationship, where the agenda has been reviewed in advance by the Employer and the amount of time has been approved. In the event the parties are unable to agree upon a reasonable amount of time for a specific training event, the Union may use bank time and address the dispute through the streamlined grievance and arbitration procedures of this Agreement;
16. to participate in other third party proceedings, to the extent authorized by governing law, regulation, and/or this Agreement; and
17. to attend OSHA Field Council meetings.

E.

A number of bargaining unit employees, as outlined in Article 47, Mid-Term negotiations, will be granted official time to represent the Union in Mid-Term negotiations during the life of this Agreement. The granting of time will include a reasonable amount of time to travel to and from the negotiation sessions.

F.

For other activities associated with the maintenance of an effective labor-management relationship, as described in subsection 2G below, stewards shall be provided official time, hereinafter referred to as "bank time," in amounts determined in accordance with the provisions of subsection 2I below and the check-in/check-out procedures described in subsections 2P through 2T.

G.

The following activities (including related communications, whether written, electronic, or telephonic) are covered by "bank time," as provided in subsection 2F above:

1. to confer with employees with respect to any matters for which remedial relief may be sought pursuant to the terms of this Agreement;
2. to prepare grievances;
3. to prepare witnesses in any proceeding for which official time is authorized;
4. to review documents that are not available during non-duty hours;

5. to prepare a reply to a notice of proposed disciplinary, adverse, or unacceptable performance action;
6. to prepare for arbitration;
7. to prepare a reconsideration statement in connection with the denial of a within-grade increase;
8. to meet with national staff representatives of the Union in connection with a grievance, arbitration or ULP charge;
9. to travel to and from meetings and other activities for which the steward receives bank time;
10. to prepare for local and National Labor Management Relations Committee meetings, as well as negotiations conducted pursuant to Article 47;
11. to prepare and maintain records and reports required of the Union by 5 USC 7120(c);
12. meeting with an employee to prepare a request for review and/or reconsideration (grievance) of that employee's performance appraisal, as set forth in Article 12; and
13. coordinating labor-management meetings and other representational activities authorized by this article, where otherwise warranted by a chapter's level of activity, as provided by the Parties' local Official Time Plan.

H.

Notwithstanding any other provision in this Agreement, the parties agree that any activities performed by stewards relating to the internal business of the Union (including the solicitation of membership, election of officials, otherwise lawful political activities and collection of dues) shall be performed during the time the stewards are in non-duty status.

I.

Bank time as referred to in subsection 2F above will be made available as follows. As a general principle, the aggregate amount of "bank time" allocated to an NTEU chapter in any given period shall be based on the parties' estimate of actual usage in a comparable prior period according to the reporting procedures and categories described in the parties' Letter of Understanding on this subject.

1. The parties shall meet at least thirty (30) days prior to the effective date of this Agreement to establish each chapter's initial overall allocation of "bank time" for the period July 1, 2002 through December 31, 2002; each chapter will be credited with one-half of the amount of time determined by multiplying the total number of bargaining unit employees it represented as of April 1, 2002 by 2.25 if there are more than 500 employees on that date, and by 2.50 if there are 500 or fewer bargaining unit employees on that date. In no case will a chapter receive an initial allocation of more than 3,750 hours of "bank" time for this six-month period; however, such time may be adjusted by the local parties as part of their local official time utilization plan, in accordance with Section 9 of this article. Disputes shall be resolved in accordance with subsection 2J of this article.
2. The parties shall meet again no later than November 1, 2002 to establish each chapter's allocation of "bank time" for the period January 1, 2003 through June 30, 2003. That allocation shall be one-half of the amount of "bank" time actually used by the chapter, as determined by the parties for the twelve (12) month period covering October 1, 2001 through September 30, 2002. In no case will a chapter receive an allocation of more than 3,750 hours of "bank" time for this six-month period; however, such time may be adjusted by the local parties as part of their local official time utilization plan, in accordance with Section 9 of this article. Disputes shall be resolved in accordance with subsection 2J of this article.
3. The parties shall meet again no later than May 1, 2003 to establish each chapter's allocation of "bank" time for the period July 1, 2003 through June 30, 2004, based on the amount of "bank" time actually used during the twelve (12) month period covering April 1, 2002 through march 31, 2003. In no case will a chapter receive an allocation of more than 7,500 hours of "bank" time for this twelve-month period; however, such time may be adjusted by the local parties as part of their local official time utilization plan, in accordance with Section 9 of this article. Disputes shall be resolved in accordance with subsection 2J of this article.
4. For "bank" time allocations thereafter, the parties shall meet annually, at least sixty (60) days prior to the anniversary date of this Agreement, to establish each chapter's allocation of "bank" time for the ensuing twelve (12) month period, based on the amount of "bank" time actually used during the preceding twelve (12) month period. In no case will a chapter receive an allocation of more than 7,500 hours of "bank" time for this twelve-month period; however, such time may be adjusted by the local parties as part of their local official time utilization plan, in accordance with Section 9 of this article. Disputes shall be resolved in accordance with subsection 2J of this article.
5. Beginning on the effective date of this Agreement and annually thereafter, chapters or joint councils may not carry over any unused bank time to the next year.

6. The parties recognize the importance of using official Government time for activities that are authorized by this Agreement, and accurately recording such time as it is used. In this regard, the parties will make every effort to schedule labor-management activities so as to facilitate the effective use of official time (e.g., conducting formal meetings and grievance meetings or bargaining sessions on the same day). However, the Employer recognizes that chapters or joint councils are likely to use their allotments of bank time, and other time in such a way that may result in a limited number of representatives who engage in labor-management activities permitted under this Agreement on a full time or virtually full time basis. The use of such time by a Union representative in the conduct of his or her representational duties shall be charged according to the procedures set forth in the parties' Letter of Understanding on this subject, unless otherwise approved by the Employer.
7. In the case of a chapter president, his or her use of "bank" and "official" time shall be estimated and planned on a monthly or quarterly basis, as appropriate. Disputes in this regard shall be resolved in accordance with the procedures set forth in subsection 2J of this article and/or the streamlined procedures of Articles 41 and 43. Official time not otherwise pre-scheduled in the plan shall be authorized in accordance with subsections 2P through 2S below, unless otherwise approved by the Employer.

J.

When a chapter or joint council uses 70% of its allotted bank time, it can enter into negotiations with the Employer for more bank time. Such negotiations shall occur between the national parties or their designees, if efforts by the parties at the local level have not resolved the matter. If no agreement is reached within fifteen (15) calendar days after notice is served on the Employer by the Union of the Union's desire to negotiate, the Union can invoke arbitration by serving a second letter on the Employer. Either or both parties will then contact an appropriate umpire who will be retained to resolve these disputes. The umpire will assist the parties to reach agreement through appropriate means including the issuance of a final and binding arbitration award. Disputes regarding whether chapter representatives should be authorized to pursue labor-management duties on a full time or virtually full time basis shall also be subject to the expedited resolution process as described in this subsection.

K.

1. On an annual basis, the parties will conduct joint training on the reporting and use of bank and official time.
2. The Employer will provide each chapter and the NTEU National Office with a monthly accounting of the amount of time used by each NTEU chapter under this article. If the Union does not submit any disagreement (in writing) within ten (10) workdays following receipt, the accounting shall be considered accurate through that period of time. If the Employer fails to provide the monthly reports in a timely manner, no request by a chapter for "bank" time will be denied on grounds that it has insufficient bank time.
3. On a monthly basis, the local parties [that is, a management official designated by the Employer and the applicable chapter president(s) or designee(s)] shall meet to discuss the use of bank and official time, the reporting of such time, and any other related issues.
4. The Employer may place a steward or officer on special reporting requirements over and above those set forth in this article, if, after discussing the matter with the appropriate NTEU chapter (or where applicable, the Union's National Office), the Employer's concerns are not resolved. The Union retains the right to challenge such restriction under the streamlined grievance and arbitration procedures of this Agreement.
5. For any situation where the Employer refuses to release a steward and/or an employee to use bank or official time under this article, the Employer will provide the steward and/or the employee with a written explanation for the denial of time (i.e., the reason(s) and/or rationale for the denial, including any data, etc., as appropriate). On a semi-annual basis, the Employer will provide NTEU with a report on official/bank time denials by Division/Function and location.
6. On an annual basis, the Employer will provide the Union with an accounting of bank time and official time usage by chapter, including time used to process complaints of discrimination and to conduct partnership activities.

L.

For Union representatives who report their IRS time on the Employer's electronic Form 3081, the electronic Form 3081 is to be used as the exclusive mechanism for the reporting of time used by Union representatives under this Agreement, regardless of whether such time is authorized as "bank" or official time. The reporting of such time will be consistent with the representative's current time reporting cycle

(for example, weekly basis). Such time shall be reported in accordance with the parties' Letter of Understanding on "Use and Recordation of Official, Bank, and Partnering Time by NTEU Representatives" dated September 28, 2001. (Exhibit 9-1)

M.

A grievant, appellant, a witness who has been called upon to provide testimony or an employee who is the subject of an examination in connection with an investigation will receive official time and reimbursement and/or per diem for travel to and attendance at the following:

1. grievance meetings;
2. arbitration hearings;
3. oral reply meetings for a notice of proposed adverse, disciplinary or unacceptable performance action;
4. an adverse action hearing, if the employee is still on the rolls;
5. other statutory or regulatory appeal hearings, if the employee is still on the rolls;
6. meetings for the purpose of presenting replies to proposed termination of a probationary employee if the employee is still on the rolls;
7. meetings for the purpose of presenting reconsideration replies in connection with the denial of a within-grade increase;
8. an examination by a representative of the Employer in connection with an investigation which may lead to disciplinary action; and
9. meeting for the review and/or reconsideration (grievance) of that employee's performance appraisal, as set forth in Article 12.

The Employer will reimburse travel and per diem expenses for stewards attending meetings referenced in this subsection on official time, consistent with the provisions of this article.

N.

Employees will receive official time when being interviewed by:

1. a steward who is using time pursuant to subsections 2C or 2F above; or
2. by a national representative of the Union, in connection with a matter for which remedial relief may be sought pursuant to this Agreement. Employees who are witnesses in arbitrations will receive official time as follows:
   (a) when being interviewed by national representatives of the Union in connection with an arbitration; and
   (b) when testifying during the arbitration.

O.

Employees will receive a reasonable amount of official time to prepare responses to actions proposed by the Employer.

P.

Stewards and employees requesting official or bank time, as appropriate, under this article will check with their immediate supervisor and if official or bank time is otherwise permitted for this activity by this Agreement, will be released provided their work requirements or work schedules do not prohibit release. In this regard, the steward or affected employee will inform their supervisor(s) as to where they will be and the approximate time that they will be away from their work areas. If there is a disagreement over the amount of time requested, and/or when the steward/employee is to be released, the supervisor may refer the matter to a higher level management official (e.g., the designated management Official Time Coordinator) for review and determination. That management official should make a reasonable attempt to contact the appropriate chapter president in an attempt to resolve the matter. Denial of release and/or disagreement over the amount of time may be challenged under the negotiated streamlined grievance and arbitration procedures set forth in Articles 41 and 43 of this Agreement. The first step grievance meeting will include the affected steward/employee, as appropriate the official(s) who did not grant the request for time, and a representative appointed by the chapter. To the extent such disputes are decided in favor of the Union by an aribtrator, the provisions of subsection 4A1 of Article 43 will apply.

Q.

Stewards who enter work areas pursuant to this section will check in with the supervisors in those work areas before contacting the employee to be visited.

R.

When stewards or employees have completed the use of time under this article, they will check back in with their supervisors upon returning to their work areas and will inform the supervisors of the amount of time they used and record the amount in accordance with subsection 2L above.

S.

In the case of a management-initiated meetings, as set forth in subsection 2D above, the management official calling the meeting shall, consistent with the local official time utilization plan, arrange for the release of the steward and/or employee, as applicable, by contacting their immediate supervisor(s). The attendance of stewards at a management-called meeting will be scheduled in advance with the local chapter president.

T.

As noted above, normally, the steward and/or employee will be released if workload conditions permit; however, where they do not permit release, any applicable time frames (for example, grievance filing deadlines) will be extended until workload conditions permit such release. In the case of formal meetings conducted in accordance with Article 8, the management official will not conduct the meeting until a steward is available, unless the chapter president is unable to assign another representative to attend the meeting, or otherwise declines attendance.

Section 3
Campus and Call Site Business Modernization Coordinators

A.

In those Campuses and/or Call Sites that have a Business Systems Modernization (BSM) manager, the applicable Chapter may designate one (1) Business System Modernization (BSM) coordinator who will work the same schedule as that of the BSM manager. The BSM coordinator:

1. may represent the Union regarding business systems modernization and transition issues;
2. may not also hold the position of chapter president or chief steward;
3. may only perform representational duties which address issues related to business systems modernization and transition issues or mid-term agreements arising out of such issues; and
4. may delegate a steward in the field to perform specific actions in order to ensure the effective utilization of time and resources.

B.

Each Business System Modernization (BSM) coordinator shall be provided official time in accordance with the terms of this article to participate for, or on behalf of, the Union in meetings with the Employer, including time to travel to and from such meetings, concerning personnel policies, practices or other conditions of employment or any other matter covered by 5 USC 7114(a)(2)(A) relating to business systems modernization and/or transition issues.

C.

The BSM coordinator shall be provided with official time, referred to as “bank time” in accordance with the terms of this article, to perform activities associated with the maintenance of an effective labor-management relationship as established by subsection 2F, to the extent that such activities are related to business systems modernization and/or transition issues.

D.

All BSM coordinators shall be afforded the opportunity to attend any annual briefing between the Union and the Employer at the national level which may be provided dealing with the Employer’s business system modernization vision. Such briefings will be conducted on official time. The travel and per diem costs of coordinators participating in such briefings shall be reimbursed in accordance with Section 10.

E.

BSM coordinators shall be afforded the opportunity to attend all formal meetings with the Employer that involve bargaining unit employees within their representational jurisdiction where business modernization and/or transition issues are discussed. The BSM coordinator’s presence shall be in addition to any other of the Union’s statutory, legal, and contractual attendance rights.

F.

On a semi-annual basis, each BSM coordinator and the Employer’s Campus/Call Site BSM manager shall jointly conduct a local briefing regarding the status of transition issues for all employees jointly determined to be impacted by such issues. Following such briefings, the Union’s BSM coordinator may meet alone with bargaining unit employees to discuss their concerns. The Union’s BSM coordinator and the Employer’s Campus/Call Site BSM manager will jointly determine the duration of such follow-up meetings. Employees attending such meetings and the follow-up meetings shall be on official time. Employees not attending the joint briefings will not receive official time for attendance at the follow-up meetings. The Union’s BSM coordinator shall use “bank time” for all follow-up meetings.

Section 4
Work Conflicts

A.

The Employer has determined that it will reassign work previously assigned to a steward or chapter officer when it determines that the work cannot be timely performed due to the steward’s or officer’s representational duties.

B.

The steward or officer may request that the Employer consider such reassignment of work by providing a list of the work that the steward or officer believes should be reassigned.

C.

When a steward or officer disagrees with the Employer’s determination, the steward and Employer will attempt to resolve the dispute through a meeting. Only if the parties meet and still fail to resolve the dispute may the Union request the Employer’s

reasons in writing. At that point, the Employer will put the reasons for refusing to reassign the work in writing.

Section 5
Telephone Access

A.

Employees and stewards have the right to use a Government telephone (including FTS or Government-leased lines, where available) and Government computers, in the conduct of authorized labor-management business and any matter for which remedial relief may be sought pursuant to the terms of this Agreement.

B.

As new telecommunications technology becomes available to the Employer during the term of this Agreement, local chapters may reopen this section at the local level as part of the right to initiate negotiations in accordance with Article 47.

Section 6
Credit Hours

Union representatives will be allowed to earn credit hours performing any official time activities listed in subsections 2D1 through 14 of this article, including travel to and from such activities, to the extent otherwise permitted by law and governing regulation.

Section 7
Flexiplace

Those Union officials who otherwise meet the criteria set forth in Article 50 shall be eligible for Flexiplace while on official or bank time; further, such Flexiplace participation shall be subject to the mutual agreement of the local Parties in their Local Official Time Implementation Plan.

Section 8
NTEU National Office Training

Bank time, as provided by subsection 2G above, will be authorized for the attendance of Union officials at any training event sponsored by the Union's National Office, provided that the content thereof is approved in accordance with this article. In this regard, the Employer will pay the travel and per diem of one (1) representative per chapter to attend NTEU National Office training.

Section 9
Local Official Time Utilization Plans

To facilitate implementation of this article, within thirty (30) days of the effective date of this Contract, designated local representatives of the parties (for example, the chapter president and the designated Official Time Coordinator) will establish a local official time utilization plan. Such plans shall address official/bank time issues involving training, travel, release from duty, and appeals of any denials to use time, etc. If the local parties are unable to agree on the official time utilization plan, either party may invoke the procedures set forth in Article 47. The national parties shall issue guidance with respect to such plans (including a template), no later than ninety (90) days prior to the effective date of this Agreement.

Section 10
Travel and Per Diem

A.

The parties jointly commit to the following principles as the foundation for a productive and cost effective labor-management relationship:

1. When practical, the parties will schedule meetings in a consolidated fashion for grievances, oral replies, negotiations, contractually mandated committees, formal discussions, briefings or similar activities.
2. Both parties are committed to efficient and effective contract administration.
3. The parties share an interest in tracking travel, per diem, and related cost information in order to assess program efficiency and effectiveness. The Employer has established a system designed to track travel, per diem and related costs necessary to support these program goals.
4. The Union representatives are committed to report all official time and travel, per diem, and related costs in a timely and accurate manner.
5. Travel vouchers of Union officials are subject to the same approval requirements as other employees engaging in official travel on behalf of the Agency.

B.

The Employer recognizes that reasonable travel and per diem expenses spent in the conduct of Employer/Union business are spent as much in the interest of the Employer as that of the employee. To that end, the parties jointly commit to the following principles:

1. Consistent with the provisions of subsection 2P and in accordance with the terms of this Agreement, Union officials who are appropriately engaged in activities authorized in accordance with this Agreement are authorized to engage in official travel on behalf of the Agency.
2. Vouchers for such travel will be appropriately and timely filed on WEB TRAS or by manual voucher if the traveler does not have access to

the WEB TRAS system. Costs will be charged to the travel code(s) which most accurately describe the Union official's primary activities.

3. The parties agree to use alternatives to face-to-face meetings to the maximum extent possible. However, such alternatives must be mutually agreed.
4. To this end, the parties may initiate discussions for the purpose of developing alternatives to face-to-face meetings.

C.

Generally, travel and per diem expenses will be reimbursed for the following activities in accordance with the applicable articles of this Agreement:

1. Mid-term Briefings and Bargaining
2. Safety Committees
3. DEEO Committees
4. LMRC's
5. Grievances
6. Oral Replies
7. Disciplinary Interviews

D.

The Employer will reimburse travel and per diem expenses for travel outside of the commuting area consistent with the above.

E.

The Employer will reimburse travel and per diem expenses for travel within the commuting area. Reimbursement will be made for mileage expenses payable at the current rate as published by GSA in the Federal Register.

Article 10
Dues Withholding

Section 1

A.

This article is for the purpose of permitting eligible employees who are members of the Union to pay dues through the authorization of voluntary allotments from their compensations.

B.

This article covers all eligible employees:

1. who are members in good standing of the Union;
2. who have voluntarily completed Standard Form 1187, Request for Payroll Deduction for Labor Organization Dues; and who receive compensation sufficient to cover the total amount of the allotment.

C.

The Employer shall automatically withhold, on a biweekly basis, the appropriate amount of dues from any bargaining unit employee who has submitted an SF-1187.

D.

The Employer has determined that all dues withholding processing will be handled by one centralized Transactional Processing Center (TPC) site.

Section 2

A.

Certification and remittance procedures shall be as follows:

1. dues will be wire transferred to the bank account designated by the Union;
2. electronic files or magnetic media will be transmitted to the Administrative Controller, National Treasury Employees Union, Suite 600, 901 E St., NW, Washington, DC 20004; and
3. the Union's National President or any chapter officer who has submitted proper notification to the servicing personnel office is authorized to make the necessary certification of SF-1187.

Section 3

A.

The Union will:

1. inform and educate its members on the voluntary nature of the system for allotment of Union dues, including the conditions under which the allotment may be revoked;
2. purchase and distribute to its members SF-1187;
3. inform the Employer of changes in the certification and remittance procedures;
4. forward properly executed and certified SF-1187's, using transmittal Form 3210, to the employee's servicing Transactional Processing Center on a timely basis;
5. forward an employee's revocation (SF-1188, Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Dues) to his or her servicing Transactional Processing Center on a timely basis when such revocation is submitted to the Union;
6. inform the employee's servicing Transactional Processing Center of the name of any partici-

pating employee who has been expelled or ceases to be a member in good standing in the Union within ten (10) days of the date of such final determination; and

7. inform the Employer of any change in the formula for membership dues.

Section 4

A.

The Employer is responsible for processing voluntary allotment of dues in accordance with this article. The Employer will:

1. upon receipt of a properly certified SF-1187 or SF-1188 by mail, the Transactional Processing Center will stamp the date received legibly on the back of all copies and date stamp and sign the accompanying transmittal Form 3210. The acknowledgment copy of Form 3210 and the Union copy of the SF-1187 will be returned to the appropriate Union office. Once a receipted Form 3210 is received, the Transactional Processing Center will assume full responsibility for processing the SF-1187 according to Section 6. If the date received is not stamped legibly or written legibly on the Union copy, the SF-1187 will be considered received by the Transactional Processing Center on the receipt date of the transmittal Form 3210;
2. withhold dues on a biweekly basis;
3. provide biweekly, within six (6) calendar days of the close of a pay period, electronic files or magnetic media containing pertinent information, including the total gross amount deducted for all employees, the total amount of prescribed costs retained, and the net amount remitted; and any other information NTEU deems reasonable from the existing data base of dues paying members.
4. discontinue allotments when required by OPM rules and regulations;
5. notify the employee and the Union when an employee is not eligible for an allotment, along with the reasons for the decision, e.g., a temporary promotion out of the unit;
6. withhold new amounts of dues upon certification from the Union's National President provided that the formula for withholding has not been changed during the past twelve (12) months;
7. transmit remittance checks to the allottee designated by the Union;
8. provide electronic files or magnetic media to the Union or its designee;
9. stamp on a properly executed SF-1188, the date received and transmit it to the Transactional Processing Center so that the revocation will be effected consistent with provisions outlined in Section 6 of this article; and
10. mail local Union chapters receipted copies of transmittal Form 3210 for all SF-1187s and SF-1188s received in the Transactional Processing Center within three (3) workdays of the receipt date.

Section 5

A properly submitted SF-1187 consists of an original SF-1187 with attached copies, or an original SF-1187 with two (2) photocopies, or a signed facsimile SF-1187 with two (2) copies, submitted by a local Union official to the Transactional Processing Center.

Section 6
Action and Effective Dates

A.

The effective dates for actions under this Agreement are as follows:

1. The SF-1187 will be entered into the payroll system as soon as practical but no later than the pay period following receipt of the SF-1187 in the Transactional Processing Center.
2. Changes in the formula for dues withholding will begin the first pay period designated by the Union's National Office (this formula shall be provided to the Employer a minimum of thirty (30) days prior to the effective date of the change).
3. Revocation notices for employees who have had dues allotments in effect for more than one (1) year must be submitted to the payroll office during USDA pay period fifteen (15) each year. Revocations will become effective during USDA pay period eighteen (18). Revocations may only be effected by submission of a completed SF-1188 that has been initialed by the chapter president or his or her designee. If the SF-1188 is not initialed, the Employer shall return the SF-1188 to the employee and direct the employee to the proper Union official for initialing. To revoke such dues withholding, employees must have had dues withheld for at least one (1) year.
4. Revocation notices for employees who have not had dues allotments in effect for one (1) year must be submitted on or before the one (1) year anniversary date of their dues allotment. Revocations may only be effected by submission of a completed SF-1188 that has been initialed or signed by the chapter president or his or her designee. If the SF-1188 is not initialed or signed, the Employer shall return

the SF-1188 to the employee and direct the employee to the proper Union official for initialing. The SF-1188 will become effective the first full pay period after the employee's anniversary date.

5. Termination due to loss of membership in good standing will be effective on the beginning of the first pay period after the date of receipt of notification by the Employer.
6. For termination due to separation or movement out of the exclusive unit a final deduction will be made for that pay period in which the action is effective.

Section 7
Overpayments to the Union

A.

The Union will pay no fee for these services.

B.

Upon determination by the Employer that dues withholding for an employee was not timely terminated and resulted in an overpayment to the Union, the Employer will effect an adjustment to reimburse the employee. The amount repaid to the employee will be charged to a Union overpayments account.

C.

Each pay period, the Employer will forward a copy of any bill for dues overpayments, with an accompanying document prescribed by the Debt Collection Act of 1982, to the Administrative Controller, National Treasury Employees Union, Suite 600, 901 E St. NW, Washington, DC 20004. This bill will identify amounts which were reimbursed to employees as a result of dues withholding, and the pay periods in which the overpayments were made to the Union. The bill sent to the Union will request repayment of the overpayments which were made to the Union. The document accompanying the bill will include a statement that debts due to the Government for more than thirty (30) days are subject to interest, to the extent required by law, as well as Treasury Department policy regarding the assessment of other fees if delinquent. The bill sent to the Union will request payments be made payable to "U.S. Department of Agriculture" and will specify that the payment, and a copy of the bill, be mailed to an address designated on the bill for the USDA National Finance Center. The right of the Union to request a waiver of overpayment in accordance with 4 CFR 101, or to dispute the amount of the overpayment will also be contained in the accompanying document. A copy of the bill and accompanying document will be forwarded to the servicing Transactional Processing Centers (TPCs) concerned for use in determining the start of the period for requesting waivers by the Union.

D.

Upon receipt of the amount due from the Union the accounts receivable for the applicable pay period will be closed. If a waiver or partial waiver of overpayment is timely requested by the Union the Employer will suspend collection of the amount in question pending adjudication by the Service in accordance with 4 CFR 101. The personnel office that processed the request for waiver will notify the local NTEU chapter of the determination.

E.

To be considered timely, a request for waiver of overpayment must be submitted to the servicing personnel office by the local Union chapter within forty (40) calendar days from the "waiver control date" for the bill for dues overpayment which is sent to the Administrative Controller, NTEU, from the Employer.

F.

The "waiver control date" will be determined to be forty (40) calendar days following the bill date, which includes ten (10) days associated with the mailing of the bill from the USDA National Finance Center to the Union. The purpose of this date is limited to its express use in the waiver request process. The bill should be received by the tenth day following the bill date.

G.

The bill will be presumed received on this date unless the Union's national office informs the Employer's Associate Director, Transactional Processing Center Operations in writing within three (3) workdays following receipt of the bill by the Union. The Employer will provide written acknowledgment of the revised "waiver control date" to the Union with a copy being sent to the servicing personnel offices.

H.

Denials of Union requests for waiver of overpayment will be subject to the institutional grievance procedure in Article 42 of this Agreement.

Section 8

A.

If an employee moves from one (1) permanent bargaining unit position to another permanent bargaining unit position, dues withholding will not be canceled.

B.

1. Employees who leave the unit temporarily will have the withholding suspended and will have the withholding automatically continued once they return to the unit.

2. The NTEU National Office shall be provided electronic files or magnetic media, each pay period, of all employees who have changed status that pay period vis-a-vis their bargaining unit position.

Section 9

A.

The total error in the amount of dues withheld shall be adjusted as soon as practical after the error has been detected by the Employer or written notification is received from the Union or employee of an error.

B.

When an underpayment to an employee results in an overpayment to the Union (for example, the Employer fails to timely terminate dues withholding after receiving a properly submitted employee request), the Employer will refund the payment to the employee in accordance with subsection 7C of this article. However, employees who are assigned to positions out of the bargaining unit, and who, due to an error, do not have their dues canceled, will not receive a refund unless they have made a written request to have the deductions canceled. Once such a request is received in the Transactional Processing Center, any subsequent erroneous deductions will be refunded in accordance with subsection 7C. Erroneous deductions for pay periods prior to the written request will not be refunded.

C.

When the Employer fails to commence dues withholding timely or otherwise fails to remit dues owed, the Employer will pay the full amount to the Union and recoup the funds from the employee's salary through an adjustment, subject to the employee's right to seek waiver of overpayment. When the total amount owed by the employee is less than ten ($10) dollars, the entire amount will be withheld in one (1) pay period, to the extent it does not exceed 15% of disposable pay. When the total amount owed by an employee is more than ten ($10) dollars, the deductions will be made in accordance with the Debt Collection Act.

D.

When an adjustment is made to an employee's salary to recoup dues withholding, the employee will be issued written notification by the servicing Transactional Processing Center of the Employer's intent to offset in accordance with the Debt Collection Act of 1982. This notification will contain information relating to the amount and nature of the debt, additional information required by the Debt Collection Act of 1982 as implemented in 31 CFR Part 5, Subpart B and will notify the employee that:

1. they have the right to request a waiver of overpayment pursuant to 4 CFR Part 91; and
2. denials of employee requests for waiver of overpayment will be subject to the grievance procedure as outlined in Article 41 of this Agreement.

E.

Disputes arising out of dues withholding situations where either the Employer has failed to withhold the appropriate amount of dues from an employee, that is, the employee or Employer owes the Union money; or where the Employer has paid the Union money collected via dues withholding inappropriately, shall be resolved in the following manner:

1. A written statement with information regarding the potential dispute will be provided to the Union.
2. On receipt of the tape the Union will review the information provided, identifying potential problems. The Union will then send information to its local chapters requesting the local chapters to pursue potential problems with the local servicing Transactional Processing Center. Local Union chapter officials must review the information provided them and contact the servicing Transactional Processing Center within thirty (30) calendar days of the date on which the Union received the tape from the Employer (that is, pay day referenced in subsection 9E1 above). The only exception provided for not making contact within thirty (30) days, is provided in subsection 9E1 above, that is, when the Union has informed the Employer of the Union's not having received the tape. Time used to review the information provided by the Union, by local Union officials will be charged against official time as provided by Article 9.
3. Once contact has been made by the local Union chapter official with an employee's servicing Transactional Processing Center regarding a specific problem(s), the employee's servicing Transactional Processing Center shall within ten (10) workdays, unless extended by mutual agreement, review the case(s) presented and decide if a problem does in fact exist, and how it may be corrected, for example pay adjustment. Pay adjustments will be accomplished within a reasonable amount of time, usually within two (2) pay periods. The employee's Transactional Processing Center will provide the local Union chapter with information relating to the subject problem. If the determination results in a pay adjustment, the affected employee(s) will be notified by the servicing Transactional Processing Center in

writing of its decision within three (3) workdays. In such cases the employee will have fifteen (15) workdays to request a waiver of overpayment.

4. If the problem is not resolved at the local level in accordance with subsection 9E3 above, then it will be processed in accordance with Article 42.
5. Pay adjustments will be accomplished within a reasonable amount of time, usually within four (4) pay periods.

Section 10

A.

When a bargaining unit employee is permanently placed in a non-bargaining unit position, a "J" code will be provided to NTEU on the biweekly dues transmission for the employee, and the following notice will be mailed to the employee's home address by the servicing Transactional Processing Center within thirty (30) days of the effective date of the personnel action:

"Termination of Dues Withholding"

Regulations governing dues withholding to a labor organization require that dues withholding be automatically canceled whenever an employee is placed in a non-bargaining unit position.

You were recently subject to a reassignment or promotion which will automatically terminate your dues withholding. The final dues withholding will be made for the pay period in which the action is effective.

If you have any questions regarding the termination of your dues withholding, you may wish to contact your NTEU Chapter. The Civil Service Reform Act of 1978 permits you to continue your membership.

B.

When a bargaining unit employee is temporarily placed in a non-bargaining unit position, a "L" code will be provided to NTEU on the biweekly dues transmission for the employee, and the following notice will be mailed to the employee's home address by the servicing Transactional Processing Center within thirty (30) days of the effective date of the personnel action:

"Suspension of Dues Withholding"

Regulations governing dues withholding to a labor organization require that dues withholding be automatically suspended whenever an employee is placed in a non-bargaining unit position. Upon your return to a bargaining unit position, the Employer will automatically reinstate the withholding of Union dues.

C.

When a bargaining unit employee requests and/or submits paperwork for retirement from the Agency, the employee may be supplied with the following, which will be provided to the designated Employer location by NTEU:

* Letter from NTEU
* NTEU Retiree Flyer
* OPM Dues Withholding Authorization Form
* NTEU Cash Dues Application
* Other NTEU Information

At the end of each quarter, the Employer will provide the Union with a count in each distributing location, of the employees to whom these packages are distributed. In addition, the distributing locations will notify NTEU if supplies of the NTEU packages are needed at the distributing locations.

Section 11

The Employer will deduct Union dues from an employee's back pay award when the employee has an allotment for dues withholding in effect at the time of the action giving rise to the back pay. However, employees who are assigned to positions out of the bargaining unit, and who, due to an error, do not have their dues canceled, will not receive a refund unless they have made a written request to have the deductions canceled. Once such a request is received in the Transactional Processing Center, any subsequent erroneous deductions will be refunded in accordance with subsection 9C. Erroneous deductions for pay periods prior to the written request will not be refunded.

Section 12

A.

The Employer's biweekly electronic or magnetic media transfers will include the following information:

1. whether the employee retired or was separated;
2. whether the employee is continuing to be carried in non-duty status;
3. whether the employee is on a full time, part-time, seasonal, intermittent work schedule and if the employee is serving on a term, temporary, career, career-conditional, or excepted appointment;
4. the geographic locality of each employee that is used to determine the appropriate locality pay; and
5. the base pay of each employee, his or her grade and step, pay structure (for example General Schedule or Wage Grade, etc.), amount of NTEU national dues withheld, local chapter dues withheld, and the total dues withheld.

B.

The Employer will also provide, on a biweekly basis, a tape of bargaining unit employees who were dropped off the bargaining unit list since the previous biweekly tape and an explanation concerning why they were dropped.

Section 13

Employees may elect as many as six (6) additional discretionary allotments, (which are not savings allotments) that employees may use to have additional voluntary deductions withheld from their pay. Such discretionary allotments may be used, consistent with regulations, for various purposes such as insurance, the Union's Political Education Fund, day care facilities jointly sponsored by the Employer and the Union, or other benefits which may be offered by the Union.

Section 14

The Employer shall provide NTEU National Office with a biweekly electronic file or magnetic media of SF-1187s that have been processed by the Transactional Processing Centers. This tape will include the pay period in which SF-1187s were processed and the expected effective date.

Article 11
Facilities and Services

Section 1

A.

Upon reasonable advance request by the Union, the Employer will provide meeting space, as available, for meetings after hours. The Union will comply with all security and housekeeping rules in effect on the Employer's premises at the time and place.

B.

Upon advance request by the Union, the Employer will provide space for the placement of ballot boxes being used in conjunction with chapter officer elections governed by local chapter bylaws. The Union acknowledges that no responsibility for the safety or security of the ballot boxes is assumed by the Employer.

Section 2

A.

The Employer, upon reasonable advance request, will provide the Union a meeting room, when available, for the following purposes:

1. preparing or discussing a grievance;
2. preparing for meetings with the Employer; or
3. conducting informal discussions to carry out the goals and objectives of the Federal Service Labor Management Relations Statute, including meetings during breaks or lunch to meet employees and generally discuss collective bargaining and labor relations.

B.

Absent agreement otherwise, the Employer will provide file cabinets to each chapter consistent with past practice. In all other situations, the Employer will provide cabinets as follows:

1. each chapter (or joint council, as appropriate) will be provided two (2) lockable four (4) drawer file cabinets; and
2. in all post-of-duty with more than 300 employees, the Union will be provided one (1) lockable, four (4) drawer file cabinet.

C.

The Union may use the Employer's video equipment for presentations in orientation sessions described in Article 8, when such equipment is reasonably available. The Union may also use such equipment for Union-sponsored local training (excluding internal Union business) and meetings with employees.

Section 3

The Employer will distribute to each bargaining unit employee, during February of each calendar year, the applicable chapter or joint council announcement card referred to in Article 52, Section 3.

Section 4

A.

The Employer will maintain the present number of official bulletin boards, provided office facilities remain unchanged, and will provide the Union with one-third (1/3) of each official bulletin board for its exclusive use under a heading entitled "NTEU Chapter _____." In the event there are physical relocations of employees due to the closing of PODs or consolidation of PODs or other physical relocation of office facilities, the number of official bulletin boards at the new facilities shall be in accordance with agreements entered into by the parties to this Agreement at the local level. The Employer will establish a web site for the exclusive use of National NTEU on the Intranet to post materials that could otherwise be posted on traditional bulletin boards. National NTEU will submit materials to the Workforce Relations Division for posting on the Intranet. Union items posted on the Intranet may also be posted on local bulletin boards.

B.

Subject to applicable lease restrictions, the Union may locate one (1) bulletin board per floor occupied by IRS employees. The Union will pay for the boards and cost of installation. The board(s) will be for the exclusive use of the Union.

C.

Subject to applicable lease restrictions, the Employer will place one (1) "Take One" bin adjacent to IRS cafeterias and snack bars within Employer-occupied space. The bin(s) will be for the exclusive use of the Union.

D.

In general, the Union may distribute material on the Employer's premises to an employee before and after scheduled working hours, provided that both the employees distributing and the employees receiving such material are on their own time. Notwithstanding the foregoing, however, the establishment of Alternative Work Schedules (AWS) will not have the effect of changing the hours available to distribute prior to the establishment of AWS, provided that the employees distributing are on their own time. Non-work areas are: cafeterias or any other commercial enterprises located on the Employer's premises (with approval of lessor or operating agency), space set aside as snack bars or break areas, and restrooms.

E.

Material which does not libel or slander any individuals, Government agencies, or activities of the Federal Government may be distributed or placed in "Take One" bins. Material which does not reflect on the integrity or motives of any individuals, Government agencies or the activities of the Federal Government may be posted on official bulletin boards, NTEU Intranet web sites or Union bulletin boards. The Union may distribute data on Union services, such as its various insurance programs.

F.

The Union may use established employee mail slots or bins for its distribution.

G.

The Employer will mail to each bargaining unit employee's home address, on a quarterly basis, one (1) piece of first class mail. The Union will provide the correspondence which the Employer will address and meter. Such correspondence will not include internal Union business.

H.

The Union may use the Employer's internal mail system to distribute labor-management material. This shall include the use of postal routers, including metered mail.

Section 5

A.

A copy of this Agreement will be printed and given to each employee in the unit. The Employer will provide all visually impaired employees with a CD-ROM version of the Agreement. Further, upon request, visually impaired employees will be provided with a Braille copy of the Agreement. Employees will be encouraged by the Employer to familiarize themselves with the contents of the Agreement.

B.

The Employer will provide the Union with 250 copies of the Agreement each year of its duration and each chapter (or joint council, as appropriate) with one (1) copy of the Agreement for each ten (10) employees up to a maximum of 200 copies but not less than twenty-five (25) copies. The Employer will provide each local chapter with twenty-five (25) copies of this Agreement on computer disks in a format that is compatible with the local chapter's software.

Section 6

The Employer will list the name and office and if requested, home telephone numbers of the local chapter president (or joint council chairperson as appropriate) as well as all Union office telephone numbers in its telephone directory.

Section 7

A.

Each month the Employer will provide the Union, for its internal use only, a list which will contain the names, grade and step, position titles, Division, group, and post-of-duty for all employees in the unit. The names of the Division and group will be spelled out rather than listed in code. The list will also identify employees who are on dues withholding status and employees' work status (for example, seasonal, intermittent, permanent). It will also contain the appointment type (Career, Career-Conditional, Temporary, Excepted).

B.

Each month local offices will provide the Union with a list of employees who have submitted SF-1188s including the date of submission, the effective date of the SF-1187, and the effective date of the SF-1188.

C.

Each pay period, the Employer will provide the Union with an alphabetical list in electronic file or magnetic media including the names, grade and step, position titles, Division and post-of-duty of all new employees in the unit and of all employees who have been separated from the unit or whose appointment status has been changed. For changes in appointment

status, the list will identify the change (for example, intermittent to seasonal, part-time to full time).

D.

A designated Union official in each chapter may request annually a schedule of authorized bargaining unit positions. Such schedule will include a breakdown by classification series, grade and step levels, post-of-duty, and number of positions occupied.

Section 8

A.

The Employer will furnish revisions of all IRM chapters, which contain provisions relating to personnel policies, practices and working conditions, excluding those portions which deal with intra-management communications, labor-management relations, or the Law Enforcement Manual, to seven (7) Union headquarters offices.

B.

The Employer will grant the Union access to the IRM and other resource materials regularly maintained by the Employer when such access is necessary to investigate and/or process grievances or potential grievances or to prepare for or to conduct negotiations. In cases where the resource materials mentioned above are no longer maintained in a paper-based system, the Union will be allowed the same access to such material maintained in an automated data base, provided such access is not in violation of any applicable law or regulation.

Section 9

A.

A Union representative, certified by the Union's National Office, upon reasonable advance notice, may visit the cafeterias or other non-work areas located on the Employer's premises as defined in subsection 4D above to discuss appropriate Union business with individuals or small groups of employees who are members of the unit.

B.

The Employer will provide national representatives of the Union a meeting room on the Employer's premises when it is necessary to discuss any matter surrounding a potential grievance, disciplinary action, or other appeal action.

Section 10

A.

Each local Union chapter will be provided with enclosed office space that is between 200 and 250 square feet at a minimum in the existing location or some other location agreed to locally. The space is provided for the exclusive use of the Union and will be supplied at a minimum with a desk, desk chair, three (3) regular chairs, a four/five (4/5) drawer lockable cabinet, a telephone, and a minimum of two (2) telephone lines. The Employer will provide the NTEU chapter with a computer and any necessary related equipment, e.g., a printer, to enable NTEU to make full use of the electronic mail system. Additional equipment may be negotiated between the parties at the local level.

B.

Subject to the availability of funds, whenever hardware and/or software upgrades are made by the Employer, the Employer will also upgrade Government-owned equipment provided to NTEU.

C.

Local Union chapters will keep all equipment previously provided through local negotiations. The Union may request to negotiate under Article 47 to obtain any additional equipment for NTEU chapters.

Section 11

The Employer has determined that when an office that has provided free IRS employee parking is being relocated, a request for parking will be included with the office's request to GSA.

Section 12

The Union will be granted reasonable access to photocopiers, facsimile machines, public address systems, and electronic read boards (excluding SYMON) where available.

Section 13

Employees may use individually issued personal computers for authorized Labor Relations activities and for accessing electronic research tools where available, and the NTEU Bulletin Board.

Section 14

A.

Each Union chapter shall be provided with a minimum of one (1) VMS and one (1) e-mail address for each steward and officer of each chapter provided they are a current IRS employee and already have access to a telephone and a computer. This section is not intended to negatively impact local practices or agreements that may provide more VMS mailboxes. VMS mailboxes previously assigned will be retained by the chapters.

B.

As of the effective date of this Agreement, the Employer will provide the NTEU National Office and Chapter Presidents access to its electronic mail system for representational purposes pursuant to 5

USC Section 7101 et seq. The Union recognizes that the electronic mail system is the property of the Employer; and therefore, all NTEU users will comply with the system usage rules which the Employer establishes. Moreover, NTEU will comply with the provisions of subsection 4E when communicating with employees who are not representatives.

Section 15

A.

The Employer will provide each chapter whose bargaining unit employees occupy the building:

1. a copy of building specifications before they are submitted to GSA;
2. a copy of building specifications approved by GSA;
3. a copy of building leases upon request;
4. a copy of all action plans the Employer uses in the process of modifying or occupying space; and
5. a copy of build out requests before they are submitted to GSA.

B.

The parties recognize that building specifications, build out specifications, floor plans, and action plans used in the process of modifying or occupying such space are proper subjects to be negotiated between the parties prior to implementation.

Section 16

Each Union steward in a Campus will have access to the nearest telephone. If the steward does not have access to a private telephone, the Employer will respect the steward's privacy. Employees and Union representatives who have access to Government telephones (including FTS or Government-leased lines, where available), VMS, e-mail, or Government-owned computers, for performing his or her regular duties, may utilize those devices for labor-management matters in accordance with Article 9.

Section 17

The Employer will provide the chapter president of each Center Campus with a reserved parking space.

Section 18

The Employer will provide each Campus chapter copies of all center director issuances which pertain to personnel policies, practices and matters affecting working conditions.

Section 19

The Employer will permit access to the National NTEU web site via the Intranet.

Section 20

Upon a request from the NTEU National President, and subject to IVT network availability, the Employer will provide NTEU with quarterly access to the Employer's IVT network.

Article 12
Performance Appraisal System

Section 1
Applicability

A.

The Employer has determined that the evaluation of employee work performance for purposes of both competitive and non-competitive personnel actions shall be made by means of critical job elements and performance standards-based performance appraisals. The Employer and the Union agree that the purpose of a performance appraisal system is to ensure that the Service provides the appropriate level of service to the customer as part of accomplishing the mission and to continually improve the performance of the organization and to reward employees. To this end, the performance appraisal system is designed to accurately reflect the desired level of performance and to facilitate the assistance, coaching, and development that will allow employees to improve and enhance performance.

B.

For purposes of this Agreement, competitive and non-competitive personnel actions include annual ratings, all promotions, within-grade increases, reductions in force, and acceptable level of competence determinations.

C.

This article is intended to be interpreted and applied in a manner consistent with 5 U.S.C. Chapter 43 and 5 CFR 430.

Section 2
Definitions

A.

Annual Rating/Annual Rating of Record -a written record of the appraisal of each critical job element and the overall performance rating. Annual ratings are prescheduled ratings of record and are generally issued once a year. Ratings of record are the official documentation for personnel actions such as within-

grade increases, career ladder promotions, successful completion of probationary period, reductions in force, and adverse performance based actions, absent acceptable substitutes in accordance with Government-wide regulations. These are based upon summary level ratings, i.e., an overall rating of performance.

B.

Appraisal - the act or process of reviewing and evaluating the performance of an employee against the described performance standard(s).

C.

Critical Job Element - a component of an employee's job that is of sufficient importance that performance below the minimum standard established by the Employer would result in unacceptable performance in the employee's position.

D.

Evaluative Recordation - a supervisor's record of indications of performance which forms the foundation for employee development, performance improvement, and/or a summary rating of record, which may have an adverse impact on personnel actions affecting the employee, including the written results of workload or progress reviews. However, in no case will the Employer use measures of program effectiveness to evaluate or appraise an individual employee.

E.

Performance Appraisal - the Employer's written assessment of an employee's work performance for purposes of all personnel actions, including, for example, ratings of record (including annual appraisals), summary departure ratings, departure appraisals, promotion appraisals, and revalidated appraisals.

F.

Performance Aspect - a portion of the performance standard.

G.

Performance Indicator - anything that directs a manager's attention to some aspect of an employee's performance.

H.

Performance Standards - the expressed measure of the level of achievement established by the Employer for the duties and responsibilities of a position or group of positions.

I.

Revalidated Appraisal - an appraisal for a journey level or above employee in at least the second year of his or her position who receives a rating of record for the current appraisal period that is identical to the rating of record received for the previous period. Appraisals may be revalidated indefinitely.

J.

Tax Enforcement Results - tangible products resulting from the substantive efforts of professional and technical employees to enforce the laws relating to the filing of tax returns and the payment of taxes due.

K.

Tax Enforcement Duties - any duties of any employees that are intended to create tax enforcement results.

L.

Progress Review - a review of an employee's work based on the manager's observation of measurable behaviors related to the critical job elements and performance standards of a position. All employees will receive at least one (1) progress review, if not more, as part of an annual evaluation process, usually about six (6) months before the end of the rating cycle. However, in no case will the Employer use measures of program effectiveness to evaluate or appraise an individual employee.

Section 3
Critical Job Elements and Performance Standards

A.

The Employer has determined that, pursuant to 5 U.S.C. § 9508 and 5 U.S.C. § 4302, performance standards must, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the positions in question. The Employer has determined that it will not use critical job elements and standards that impose absolute or unreasonable standards unless authorized by law.

B.

In accordance with 5 CFR 430.204(b)(1), after initial issuance of critical job elements and standards, the critical job elements and standards will be reissued annually, normally within thirty (30) days of the beginning of the appraisal period. The Employer has determined that critical job elements and standards will be based on the requirements of the employee's position. Employees will be evaluated based on a comparison of performance with the standards established for the appraisal period. In addition, for employees covered by the Employer's general performance plans, each time an employee is assigned to a new position, the Employer will communicate the specific critical job elements and performance standards of the position that will apply to the employee.

C.

All aspects of all standards, including numerical standards, procedures, or requirements, referenced

in the critical job elements and standards will be communicated to affected employees at the time the employees receive their critical job elements and standards. When an employee is expected to meet a numerical standard that is different from that referenced above, that difference will be communicated in writing.

D.

Each critical job element and each aspect of the element will be numbered and/or lettered for identification purposes. The Employer will inform the employee, at the time the critical job elements and standards are communicated, whether aspects of any critical job elements are to be accorded different weights.

E.

The Employer has determined that first line supervisors will meet with their employees once every twelve (12) months to discuss new or revised critical job elements and standards; however, if the critical job elements have not changed, the supervisor need not meet with journey level and above employees but will communicate that the critical job elements will remain the same for that rating period. These meetings can occur as a group meeting (that is, more than one, or all of the employees, and the supervisor), or as a one-on-one session between an employee and the supervisor. The type of meeting will be decided on a case-by-case basis by the supervisor. Each Union chapter whose bargaining unit members are attending the meeting will be provided reasonable notification and an opportunity to attend the meeting. The purpose of these meetings or sessions will be to clarify any questions that the employees have concerning their critical job elements and standards (for example, explanations or examples of what employees must do to perform at the levels above fully successful).

F.

The Employer has determined that, to the maximum extent feasible, performance standards must be specific, observable and measurable. The performance standard, through its description of the goal in terms of quality, quantity or timeliness, must provide a clear means of assessing whether objectives have been met.

G.

Forced Distribution: the Employer will not prescribe a distribution of levels of ratings for employees covered by this Agreement, unless otherwise mutually agreed; however, the Parties acknowledge that, absent their voluntary agreement, such negotiations are not subject to impasse procedures.

H.

For the duration of this Agreement, the definitions for the overall ratings of Outstanding and Exceeds Fully Successful shall be as outlined in subsection 5B below; however, for the FY 2002 appraisal period, the Employer has determined and established the following interim definitions:

1. Outstanding - The employee is rated Outstanding in at least two of the critical job elements (not including the Employee Satisfaction/ Employee Contribution critical job element) and Exceeds Fully Successful in two critical job elements (not including the Employee Satisfaction/Employee Contribution critical job element) and receives at least a Fully Successful rating in the Employee Satisfaction/Employee Contribution critical job element.
2. Exceeds Fully Successful - The employee is rated Exceeds Fully Successful in at least two of the critical job elements (not including the Employee Satisfaction/Employee Contribution critical job element) and Fully Successful in the remainder of the critical job elements that includes the Employee Satisfaction/Employee Contribution critical job element.

As of July 1, 2002, the Employer will provide the Union with a study showing the average ratings given in this critical job element for each major occupation in each awards pool. Data will also be presented showing the average occupational/pool rating in each of the other four critical job elements.

Section 4
Performance Appraisals

A.

Employees will receive performance appraisals annually. Annual rating will be issued on a quarterly basis by January 31, April 30, July 31, and October 31 for those employees who were due evaluations during the prior calendar quarter based on Social Security Number (e.g., appraisals for October 1 through December 31 are due January 31). The ending date for an employee's annual rating period shall be based on a month determined by the last digit of the employee's Social Security Number (SSN) (Exhibit 12-1). However, if there is a change from one (1) permanent position to another during the last sixty (60) days of the appraisal year, the departure rating(s) becomes the rating(s) of record for the appraisal period. Additionally, when the supervisor cannot prepare a rating of record at the time specified in the plan, the appraisal period shall be extended for the amount of time necessary to meet a reasonable minimum appraisal period at which time a rating of record shall be prepared. The employee's existing rating will be used as the next annual rating until the new appraisal is prepared. The annual rating period date will remain as established regardless of within-grade increases, promotions, and any other actions whether temporary or permanent.

B.

1. The Employer has determined that annual ratings/annual ratings of record will be prepared and recommended by employees' immediate supervisors (those who are immediately responsible for the employees' work and who assign, review and evaluate the employees' work).
2. Ratings of record will be prepared within thirty (30) days of the end of the quarter in which the appraisal is due. Upon request, the Employer will provide the local affected chapter a list showing the names and locations of the employees whose annual ratings are overdue by more than sixty (60) days.
3. The Employer has determined that all other performance appraisals will be made by the employees' immediate supervisors (those who are immediately responsible for the employees' work and who assign, review and evaluate the employees' work). However, in a competitive action, if the immediate supervisor is to be considered for a vacant position for which the employee is also being considered, the appraisal will be made by the next higher level manager. In the event that the immediate supervisor is an acting manager, that is, a bargaining unit employee who has been designated to act as a supervisor, but who has not been in a managerial capacity sixty (60) days or more, the appraisal will be made by the next higher level manager.
4. Annual ratings/annual ratings of record when used will reflect the employee's performance for the full annual appraisal period unless the information necessary to make such an appraisal is not available. The employee's annual appraisal will not reflect performance between the end of the month in which the employee's appraisal cycle ended and when the appraisal was given to the employee. Ratings for periods of time which are less than the full annual appraisal period will be so noted. However, annual ratings/annual ratings of record must be postponed or delayed as required in 5 CFR 430 and 531.
5. During the final thirty (30) days of an employee's annual appraisal period (or as otherwise agreed upon), the employee may prepare a written self-assessment (on a form to be provided by the employer) to submit for their supervisor's consideration.

   An employee who chooses to prepare such assessment shall be granted a reasonable amount of official time, not to exceed four (4) hours to do so, and shall submit that self-assessment to his or her immediate supervisor by no later than the last workday of his or her annual appraisal cycle. This self-assessment will be limited to two(2) pages in length. Employees who wish to do self-assessments will be given appropriate guidance on how to write sefl-assessments.

   (a) By no later than October 1, 2002, the Employer will develop a Web-based tutorial (as well as a comparable paper-based version for employees who do not have access to the Employer's Intranet) to help employees prepare self-assessments of their performance.

   (b) Employees will be afforded a one-time opportunity to complete the tutorial on official time, at an appropriate time to be determined by their immediate manager. However, employees may take the tutorial any number of times on their own time.
6. If the supervisor rejects an employee's self-assessment, the supervisor will meet with the employee and explain his or her reason.
7. In addition to the appraisals that are due based on the above requirements, an employee may request another appraisal be prepared if it has been more than 90 days since his or her last annual appraisal. If the supervisor determines that the current appraisal is no longer valid and indicative of the employee's current performance, the supervisor may, at his or her discretion, prepare a new appraisal; however, the supervisor's determination not to prepare a new appraisal is not grievable.

C.

Performance appraisals will be made in a fair and objective manner. They will measure actual work performance in relation to the performance requirements of the positions to which employees are assigned and will be based on a reasonable and representative sample of the employee's work.

D.

An employee will be advised each time an appraisal is used in a personnel action, and the employee will be provided a copy upon request.

E.

Performance appraisals will provide for the uniform treatment of all employees in a Division with identical elements and standards and with similar working conditions, with particular attention to employees performing the same job in the same work unit. Emphasis on the work unit does not lessen the Employer's obligation to provide uniformity at the Divisional level.

F.

Supervisors will discuss employees' annual or revalidated appraisals at the time such appraisals are issued to employees.

G.

Employees may make written comments concerning any disagreement with an annual or revalidated appraisal within fifteen (15) workdays of issuance. In the case of any appraisal which will be used in a pending competitive action, written comments concerning disagreements must be submitted within three (3) workdays of issuance. Such comments will be attached to and become part of the appraisal.

H.

Employees will be provided with a reasonable amount of official time, not to exceed four (4) hours, to prepare written comments concerning any performance appraisal unless the Employee requests a review as outlined in subsection 4S. Such comments will be attached to and become part of the appraisal. Failure to rebut does not indicate employee agreement with the appraisal. Similarly, failure by the supervisor to comment on the employee's rebuttal does not indicate agreement with the employee's comments. It is not necessary or appropriate for a supervisor to prepare additional remarks regarding the employee's comments in that the appraisal constitutes management's stated position.

I.

An employee's initials on a performance appraisal, where the signature is provided for, indicates only that the performance appraisal has been received, not an employee's agreement with the performance appraisal.

J.

1. The Employer has determined that only time spent performing work related to an employee's critical job elements and standards will be considered in performance appraisals. Authorized time spent performing collateral duties and Union representational functions will not be considered as a negative factor when evaluating any critical job elements. For example, if a Union representative has spent 30% of a work period on official time, annual leave, LWOP or performing Union duties, this fact will be considered in the application of expected performance standards. Additionally, if an employee is performing collateral duties or Union representational functions that result in frequent interruptions of normal work, such factors will be taken into account when evaluating the employee.
2. The Employer has determined that a Union representative working virtually full time on Union duties, will receive an annual or a revalidated appraisal, provided the Union representative has worked enough time to be rated, i.e., performed at least 120 hours of work in an evaluation year. If the minimum period cannot be met, the Union representative will receive a "Not Ratable" (NR) rating. While the Parties anticipate that some Union representatives may perform representational duties on a full time or virtually full time basis, they also want to maximize the opportunity for those representatives to perform IRS work. Consequently, each year, these representatives and their supervisors will meet to attempt to identify ways to assign them at least 120 hours of work, which can be performed in a manner consistent with their representational duties. For example, the appraisal could be based upon:
   (a) working an amount of time equal to that which would meet the center learning curve for the position held by the Union representative;
   (b) agreements which were in existence at the time NORD/NC V were signed and which are in accord with existing regulations; or
   (c) the performance of tasks, projects, cases, or other work products/activities which are included in the employee's position description and ratable under one (1) or more critical job elements.

K.

In the application of standards to individual employees, the Employer will take into account mitigating factors such as availability of resources, lack of training, or frequent authorized interruptions of normal work duties.

L.

All changes in working procedures must be communicated to employees before they can be charged with errors. If instructions were previously in writing, the Employer will issue new written instructions as soon as possible.

M.

The process of monitoring performance is on-going. Therefore, the Employer will counsel employees in relation to their overall performance rating on an as needed basis. Such counseling will normally take place when a supervisor notices a decrease in performance and include advice or recommendations on better communicating job requirements, identifying and providing supplemental training (classroom and on-the-job), and providing additional coaching, monitoring, mentoring, and other developmental activities, as appropriate, to help improve employee performance until the employee shows improvement. Special emphasis should be given to those cases

when an employee's performance indicates a decrease in the overall rating. Employees at the journey level and above who receive a three (3) in a critical job element for more than three (3) years in a row will be entitled to receive, upon request, a development plan. This plan will be jointly established and will identify work assignments and developmental activities which are designed to improve the employee's performance.

N.

An employee may request review and reconsideration of the appraisal in accordance with the Performance Appraisal dispute resolution procedure outlined in subsection 4S. Employees may request review and reconsideration (that is, grieve) their appraisal only upon the issuance of that appraisal; however, if the matter remains unresolved at the conclusion of that process, the Union may invoke arbitration at that time, or alternatively, within thirty (30) calendar days after the employee's appraisal is used in an action, but in no case may an employee's appraisal be grieved or arbitrated more than once after its issuance.

O.

In disciplinary actions, performance appraisals, if used to support the actions, may be challenged only in the grievance procedure provided for by this Agreement. In adverse actions or actions taken for unacceptable performance, performance appraisals, if used to support the actions, may be challenged in the grievance procedure or statutory appeals procedure.

P.

All scored performance appraisals must contain a written narrative justification for each score given beyond simply stating that the standards have been met. Normally, this narrative need not exceed two single-spaced typed pages. If no justification is available due to a lack of opportunity to perform in that element or to be observed performing in that element, a "Not Applicable" (NA) will be awarded in lieu of any score. However, if the supervisor decides to award a "4" or "5" in an element and that same score or a lower score was awarded the prior year, no narrative will be required. In these instances the employee may prepare a narrative summary for that element in the same manner as provided in subsection 4B5 above.

1. If the Employer determines that a journey level or above employee in at least the second year of his or her position would receive a Rating of Record for the current appraisal period identical to the Rating of Record received for the previous period, he/she may revalidate that the most recent Rating of Record is valid for performance in the current appraisal period. At least five (5) workdays prior to this revalidation, the employee will be advised by the Employer of the decision. While there is no narrative summary required for revalidation, the supervisor will still conduct a performance discussion with the employee.

   (a) In these instances, the employee may prepare a narrative summary or self-assessment as provided in subsection 4B5 above, and it will be attached to the revalidated evaluation for all purposes. If the supervisor objects to its accuracy, the supervisor may prepare his or her own full evaluation with narrative. The lack of a full evaluation in response does not indicate the supervisor agrees with the employee's self-assessment.

2. The Employer has determined that an employee's annual appraisal can be revalidated as many times as the manager determines that the appraisal is still accurate and reflects the employee's current performance.

Q.

The Employer has determined that when the monitoring of an employee's performance while communicating with a taxpayer takes place without written notice to the employee at least eight (8) work hours in advance, the results will be made known to the employee within three (3) workdays. However, if the employee has provided incorrect information to a taxpayer, the manager will inform the employee as soon as possible but no later than eight (8) work hours. Upon request, an employee will be allowed to listen to any tape recording. Ratings of exceeds, meets or fails will not be used when an employee is issued feedback from monitoring. Such feedback may be either in narrative or check sheet format.

R.

The fact that an employee assumes new tasks, receives new critical job elements, changes positions, is a trainee, and/or gets promoted to a new position does not create a presumption that his or her performance is only "fully successful." Rather, an employee's performance rating will be based strictly on his or her performance against those critical job elements that apply during the appropriate performance rating cycle.

S.

The annual performance appraisal provides invaluable information to supervisors regarding an employee's need for additional training or coaching, and provides the employee with realistic feedback on how well he or she has performed during the rating cycle, as compared to the critical job elements for his or her position. Because of the importance of the annual appraisal, any disagreement between the supervisor and the employee over its content should

be resolved in an expedited manner that encourages open and constructive dialogue regarding the supervisor's performance expectations, the employee's performance, and the appraisal itself. Therefore, as an exception to the negotiated grievance procedure set forth in Article 41, the following process will be used exclusively to grieve disputes regarding performance appraisals.

1. Within fifteen (15) workdays of receipt of his or her annual performance appraisal, an employee may submit a Request for Review of that appraisal with the immediate supervisor (or the rating official, if it is different than the immediate supervisor). Such Request for Review shall be in writing and shall set forth the employee's reason(s) for the request (e.g., the articles and sections violated, the remedy requested); official time shall be afforded the employee and his or her Union representative to prepare for the meeting, in accordance with Article 9. The Review meeting will be scheduled as soon as possible, but not later than five (5) workdays from the supervisor's receipt of the employee's request.
   (a) The Review Meeting shall include the supervisor, the employee, and the employee's Union representative. The Review Meeting is intended to provide the opportunity for the employee to present and discuss aspects of his or her performance during the rating period that he or she believes should be brought to the supervisor's attention.
   (b) Within five (5) workdays of the Review Meeting, the supervisor will provide a written decision to the employee affirming or modifying, as appropriate, the employee's original performance evaluation, with a copy provided to the designated Union representative. Such decision shall normally be no more than two (2) pages in length.
2. If the Review Meeting does not resolve the employee's concern, he or she may thereafter submit a written Request for Reconsideration to either his or her second-level supervisor, or in the alternative, the employee's first level Executive. Such Request for Reconsideration shall be submitted to the appropriate management official within ten (10) workdays of receipt of the Review Decision. The employee and his or her designated Union representative shall be provided a reasonable amount of official time, in accordance with Article 9, to prepare the Request for Reconsideration.
   (a) If the employee submits the Request for Reconsideration to his or her second-level supervisor, that second-level supervisor shall schedule and hold a Reconsideration Meeting within five (5) workdays of receipt of the employee's request (note that if the employee's second-level manager is an Executive, then a Reconsideration Meeting is optional, as provided in paragraph (2)(b) below). The employee and his or her designated Union representative shall attend the meeting. Within ten (10) workdays of the meeting, the second-level manager shall issue a written decision to the employee, with a copy provided to the designated Union representative.
   (b) If the employee submits the Request for Reconsideration to his or her first level Executive, a Reconsideration Meeting is optional. In this regard, the Executive will normally review the requesting employee's annual appraisal and any supporting documentation provided by the employee and/or his or her rating and reviewing officials and render a final decision, as set forth below; however, if the record is not sufficient for the Executive to make an informed decision in the matter, the Executive may request a meeting, in person and/or by telephone, with: (1) the employee involved, along with his or her designated Union representative, to discuss the employee's Request for Reconsideration; or (2) the appropriate Chapter president to discuss one or more employee Requests for Reconsideration simultaneously. Employee(s) and/or Union officials attending such meetings shall be afforded official time in accordance with Article 9. The Executive shall issue a written decision to the employee, with a copy provided to the appropriate Union representative, within ten (10) workdays of receipt of the Request for Reconsideration, or if a meeting is held in the matter, within ten (10) workdays of that meeting.
   (c) The Employer's decision on an employee's Request for Reconsideration, whether rendered by the employee's second-level manager or his or her Executive, shall be considered final, and the Union may thereafter appeal that decision to arbitration, in accordance with the expedited arbitration procedures set forth in Article 43 (that, is, the Union must invoke arbitration within thirty (30) calendar days).

Section 5
Rating Scale

A.

Annual appraisals will be made on Form 6850 and will consist of ratings of "5", "4", "3", "2" or "1", on each critical job element. The ratings and definitions, which were established and determined by the Employer, are defined as follows:

1. Outstanding: "5" exceeds all performance aspects of the critical job element;
2. Exceeds Fully Successful: "4" exceeds more than half (1/2) of the performance aspects of the critical job element and meets the other performance aspects;
3. Fully Successful: "3" meets all of the performance aspects;
4. Minimally Successful: "2" fails one (1) performance aspect;
5. Unacceptable: "1" fails two (2) or more performance aspects; and
6. NA (Not Applicable): performance of the duties/ responsibilities reflected by the critical job elements and standards has not been observed.

No later than September 30, 2002, the Employer will conduct a study, which will be provided to the union, comparing the average critical job element scores for the major occupations based on appraisals issued during calendar year 2002 to the average critical job element scores for this same group based on appraisals issued during calendar year 2001.

B.

Each performance appraisal will include an overall rating, established and determined by the Employer, as follows:

1. Outstanding: employee is rated Outstanding in more than half (½) of the critical job elements and Exceeds Fully Successful in the other critical job elements;
2. Exceeds Fully Successful: employee is rated Exceeds Fully Successful or above in more than half (½) of the critical job elements and Fully Successful in the other critical job elements;
3. Fully Successful: employee is rated Fully Successful or above in all of the critical job elements;
4. Minimally Successful: employee is rated Minimally Successful in one (1) or more critical job elements but not Unacceptable in any critical job elements; and
5. Unacceptable: employee is rated Unacceptable in one (1) or more critical job elements.

Section 6
Receipt and Notice of Elements and Standards

A.

In no event will employees be held accountable or responsible for their critical job elements and standards until they are received by the employees. The Employer has the responsibility of proving that the critical job elements and standards were received by the employees.

B.

Employees will initial and date a receipt for the critical job elements and standards to show when they were received and discussed with the employee. Initialing does not mean the employee agrees with the Employer established critical job elements and standards. This receipt will be maintained by the Employer and will be available to the employees upon request.

C.

A receipt will be obtained for substantive changes to critical job elements and standards, for example, changes in numbers for organization, function, and program (OFP) codes, changes in written time deadlines, or substantive changes in other written standards. This receipt will identify the changes as well as the effective date of those changes.

D.

Employees permanently assigned to a new position description, new positions or work units with different critical job elements and standards, will be given a copy of those and an opportunity to discuss them with the Employer. The Union will be invited to attend these meetings. Union representatives will receive copies at least two (2) workdays in advance of the employees. Employees will be provided time at the beginning of the meetings to read their critical job elements and standards.

E.

Questions left unanswered during the meetings referenced above will normally be responded to within one (1) week of the end of the meeting. Answers to questions raised by or of interest to the entire group will be communicated to the group.

Section 7
New and Revised Elements and Standards

A.

The Union National Office will be provided copies of critical job elements and standards that are new or revised and will be afforded an opportunity to bargain impact and implementation before the critical job

elements and standards are put into effect. Subsequent to implementation, employees will be responsible for the elements and standards when received.

B.

If deletions are made for any reason in critical job elements, performance standards, or the aspects that make up the critical job elements, the Union will be notified, as well as the affected employee(s), but the change will take effect immediately.

Section 8
Use of Statistics

A.

The Employer has determined that for purposes of rating critical job elements with performance standards that do not contain a numerical measure of performance, statistics, however generated, may be used as performance indicators provided, however, that tax enforcement results will not be accumulated and maintained as a regular statistic in such a way as to identify the product of any individual employee nor may the Employer use any comparative statistics to assess or evaluate an employee's work. However, the Employer may raise any question with an individual employee about the number of cases the employee has turned in during a specific period, the amount of time the employee has been spending on individual cases, or the kind of results the employee has been achieving. Per IRM 1.5, Managing Statistics in a Balanced Measurement System Handbook, in evaluating the performance of an employee, the supervisor will not use the numeric results achieved with any of the balanced measures to equate directly to a particular rating. Rather, the appraisal should focus on the actions that were taken against the objectives and the results achieved to improve performance. It is a violation of this Agreement to evaluate an employee's performance based on the performance of other employees or on numerical goals or objectives which encouraged the employee to take a specific enforcement action, as opposed to the appropriate action, on any case.

B.

The Employer has determined that statistics on tax enforcement results concerning an employee's performance maintained by the Employer for the purpose of forecasting and monitoring aspects of work planning and control programs will not be used as quotas, allocations, or as specific amounts of work that must be completed by any individual employee.

C.

The Employer has determined that enforcement production records will not be used to establish individual quantity performance standards. None of the foregoing will be used to compare one (1) employee with another. For example, no enforcement employee will be adversely evaluated because he or she failed to meet a certain numerical average, rate, dollar amount, or percentage.

D.

The Employer and the Union recognize that the Employer has embarked upon a program of automation that will have an as yet undetermined impact on the evaluation of individual employee performance. In recognition of this fact, the Employer will bargain the impact and implementation of any new automated system affecting employee performance appraisals during the life of this Agreement.

Section 9
Evaluative Recordation

A.

The Employer has determined that an evaluative recordation will be furnished to an employee within fifteen(15) workdays of the time the supervisor becomes aware, or should have been aware, of the event which it addresses. If furnished after that time, it may not be used by the supervisor, a ranking panel, or ranking official. Any material which may have an adverse effect on an employee's appraisal or rating by a ranking panel or ranking official, the maintenance of which is not required by the IRM system and which is not shared with the employee, shall be removed and destroyed. Telephone monitoring evaluative recordation will be conducted in accordance with subsection 4Q.

B.

The Employer will grant the employee a reasonable amount of official time to make written comments concerning any disagreement with an evaluative recordation or other review document at any time prior to its use in a performance appraisal or personnel action. Such comments will be attached to and become a part of the appraisal. The supervisor will determine the appropriate time for the employee to prepare the written response based on workload demands. This time will be scheduled no later than three (3) workdays after the receipt of the request for official time.

C.

Evaluative recordations respecting telephone monitoring (for example, Forms 6067 and 8094-A) will generally be completed by the Employer within two (2) workdays of the monitored calls and shared with the affected employees within that time. However, failure to meet this goal shall not operate to preclude the Employer from using such information pursuant to subsection 9A above.

D.

In selecting cases for review, the Employer will select a reasonable and representative sample of the

employee's work. The supervisor will consider any particular case(s) the employee asks him or her to review.

E.

When a review of a particular employee's work performance is specifically made by a manager above the employee's immediate (or first line) supervisor, and that review produces any negative feedback with respect to that particular employee's performance, the procedural requirements set forth in subsections 9A and 9B apply. Wherever possible, the employee will be given the opportunity to meet and/or discuss the matter with the higher-level manager who provided the evaluative comments.

Section 10
Details

Pursuant to 5 CFR 430, when employees are detailed or temporarily promoted and the assignment is expected to last ninety (90) days or more, the Employer will provide the employees with critical job elements and standards as soon as possible (no later than thirty (30) days from the beginning of the assignment). The employees will be rated on the critical job elements for the assignment. These ratings will be considered in deriving the employee's next rating of record.

Section 11
New System

The Employer will not implement any new system of critical job elements and standards during the life of this Agreement (that is, generic standards) without affording the Union the opportunity to reopen this article.

Section 12
New Rating Levels

The Employer has determined to write critical job elements and performance standards at the fully successful level and at a level above and at a level below the fully successful level. The Union will be afforded the opportunity to bargain impact and implementation before these critical job elements and standards go into effect.

Section 13
Computer Tracking

At the outset of this Agreement and quarterly thereafter, managers will inform their employees in writing of all computer programs they intend to use to track their employees' performance.

Section 14
Numerical Performance Standards for Measured Employees

The parties recognize that the work performed within the Submission Processing function requires specific understanding and procedures as identified below:

A.

The Total Evaluation Performance System (TEPS) is the employee performance evaluation system used to evaluate all center employees, GS-08 and below, on a measured performance plan.

B.

For purposes of this Agreement, a "measured employee" is an employee who may or may not receive a "measured appraisal", depending on whether or not certain criteria (described below) are met; and a "measured appraisal" is an appraisal derived, in part, from systemically computed "Quality and Quantity" ratings by TEPS.

C.

Performance standards for measured employees are set by the Employer pursuant to 5 USC 4302 and Section 3 of this article. Numerical performance standards for each organization, function, and program (OFP) code, by grade level, are set by the Employer in the manner described in IRM 3(43)(401)0.

D.

The local chapter will be provided with proposed changes to numerical standards at least two (2) weeks in advance of their proposed implementation date and will be afforded an opportunity to discuss them with the Employer before the employee group meetings described below.

E.

Meetings between the Union and the Employer relating to changes in numerical standards will be held at the Operations/Department level. The Union may bring up to three (3) representatives to these meetings. Official time for the meetings will be granted in accordance with Article 9, and bank time may be used for preparation, in accordance with Article 9.

F.

In addition to the revised numerical standards, the Employer will provide the local chapter with the reasons for the proposed changes in numerical standards, together with relevant and necessary data supporting the changes.

G.

For purposes of Section 7 of this article, the right of the Union to bargain over any adverse impact in the

implementation of new or revised numerical standards shall be as follows:

1. when the procedures of IRM 3(43)(401)0 are not followed; and
2. when the Center Director Ranges are revised.

H.

In cases where the impact bargaining relating to changes in numerical standards is not completed by the time the proposed numerical standards are scheduled to take effect, the proposed numerical standards will not be implemented as scheduled.

I.

Employees will, in advance of the effective date of changes in numerical standards, be provided notification of the new numerical standards, be invited to group meetings to discuss the changes, and be afforded an opportunity to comment on them. These meetings are deemed to be "formal meetings" for purposes of Union attendance. The Employer will explain to employees the reasons for the proposed changes to numerical standards during these group meetings.

Section 15
Quarterly Performance Summaries for Measured Employees

A.

On a quarterly basis, TEPS will calculate performance summaries for measured Quality and measured Quantity. These summaries will be given to employees in January, April, July, and October of each year, and will cover the employees performance for the preceding four (4) full quarters.

B.

Performance summaries are not, in and of themselves, performance appraisals within the meaning of subsection 2E of this article. They are evaluative recordations.

Section 16
Annual Ratings for Measured Employees

A seasonal employee who has worked a minimum of sixty (60) days shall receive a "Calendar Year Appraisal" using all available performance data for the current year, provided that such data is valid and indicative of the employee's performance.

Section 17
Criteria for Quality Ratings for Measured Employees

A.

Employees will receive measured ratings in Quality based on their performance against numerical standards established by the Employer as described in subsection 14C.

B.

Measured Quality performance summaries will be derived from a random sampling of an employee's work. To select a random sample of an employee's work, samples must be taken on a continuous basis (generally weekly) throughout the rating period. Random sampling is the process of choosing a sample in such a way that all completed work has the same chance of being included in the sample. The local TEPS Committee will be responsible for assuring that this section is implemented in accordance with the intent of the National parties.

C.

The goal of the Employer's sampling system is to achieve a confidence level of 90% in an employee's overall effectiveness score.

D.

Lists of critical defects as now established (or as may be established in the future) by the Employer will be applied in a uniform manner within each center in the quality review of the employees' work.

E.

The employee's performance scores for Quality, stated as "percent accurate", will be increased by using a calculation which adjusts the sample accuracy by adding the standard error of proportion at a 90% confidence level.

F.

Each OFP worked by an employee will be time weighted, and the results combined to derive the employee's performance index in Quality. These are commonly referred to as "Employee Index" or "Employee Index Score".

G.

Measured ratings for Quality will be calculated only in those cases where the affected employees have spent at least 40% of their direct time on measured work, and at least 25% of their total time on measured work.

Section 18
Criteria for Quantity Ratings for Measured Employees

A.

Employees will receive measured ratings in Quantity based on their performance against numerical standards established by the Employer as described in subsection 14C.

B.

Employees will receive an effectiveness score for each OFP worked. These effectiveness scores will be multiplied by the appropriate time/weight factors. The sum of these time weighted effectiveness scores will be used to derive the employee's performance summary in Quantity.

C.

Measured ratings for Quantity will be calculated only in those cases where the affected employees have spent at least 40% of their direct time on measured work and at least 25% of their total time on measured work.

Section 19
Reports Relating to Ratings for Measured Employees

A.

The following reports will be provided to affected employees:

1. Weekly Individual Performance Report;
2. Quarterly Individual Performance Summary Report - Quality/Quantity;
3. Annual Individual Performance Summary Report; and
4. Unit Distribution of Measured Ratings (posted in unit).

B.

The Employer will establish a menu of available reports generated by TEPS and circulate it to all Union center chapters representing measured employees. Each chapter may select which reports it wants to receive. All generated reports shall be available to the local TEPS Committee in each center. The following reports will be provided to the Union as a minimum:

1. Monthly Branch Performance Report;
2. 2-Month Cumulative Branch Performance Report;
3. 3-Month Cumulative Branch Performance Report;
4. Unit and Branch Distribution of Ratings - Quality/Quantity; and
5. Calculated Base Point/Fixed Standards and Branch Base Points.

C.

Nothing in this section serves as a waiver of the Union's statutory right to additional information that is reasonable and necessary for it to perform its representational duties.

D.

The Employer and the Union shall, upon request of the Union, conduct quarterly meetings at the branch level to discuss the contents of the foregoing reports to the Union. Rights relating to attendance and time are set forth in subsection 14E above.

E.

The Employer will provide each center chapter with a PC, a printer and as much software as is necessary to read and print from the data referenced above. The PC, printer, and software will be owned and maintained by the Employer, but shall be for the exclusive use of the local center chapter to perform its representational duties. All reports in subsection 19B above, shall be provided in a mutually agreed upon format to the local Union chapter. Each Union center chapter shall be provided with the necessary computer hardware and software to allow it to read, print, and manipulate the data that is provided.

Section 20
Total Evaluation Performance System (TEPS) Committees

A.

The Employer and the Union shall establish a National TEPS Committee consisting of four (4) Union representatives appointed by the Union and four (4) representatives appointed by the Employer.

B.

IRS employees who are appointed by the Union to serve on this committee shall be on official time during the time that they are performing the functions of the Committee and carrying out their duties as members of the Committee. The Employer shall pay the travel and per diem expenses of members of the Committee for attendance at Committee meetings and for performing any activities of the Committee that require travel outside the member's commuting area.

C.

The National TEPS Committee shall meet quarterly unless the parties agree to meet less frequently. These meetings will be held in Washington, D.C. or in a location to be agreed upon between the parties. If no agreement can be reached regarding a site, the meetings will be held in Washington, D.C.

D.

The National TEPS Committee shall be responsible for the monitoring and oversight of the TEPS program in all centers to promote consistent implementation and administration of TEPS nationwide. In order to carry out this charge, the Committee shall be responsible, at a minimum, for the following:

1. nominating members to participate in the creation and revision of all TEPS IRM's and training materials to determine their accuracy, consistency, and whether such materials are consistent with the terms of this Agreement;
2. collecting and reviewing any local TEPS agreements or understandings for consistency with this Agreement;
3. overseeing the creation of the training package using the "train the trainer" concept; the Committee will provide assistance, research, and consistent solutions to problems identified during the initial development process, as well as during presentation to the field;
4. tracking the percentage of employees on measured performance plans who are measured under TEPS; this data shall be gathered and forwarded to the Committee in advance of its quarterly meetings; as determined appropriate by the Committee, additional data from any local center may be requested if problems or potential problems are suspected or identified;
5. reviewing recommendations for resolution of local problems referred by the local TEPS committees; and
6. reviewing proposed changes to the Director's Ranges and recommending a course of action to the center (if the recommendation is not acceptable to the Employer, the Union retains the right to bargain consistent with law).

E.

Each center campus will establish a local TEPS committee to be staffed by one (1) representative appointed by the Union and one (1) by the Employer. These representatives shall be the local TEPS coordinators for their respective centers and shall be charged with monitoring the implementation of the system in their centers. They shall be on official time when performing duties necessary for monitoring and administering the TEPS system within their local center and carrying out other duties and responsibilities as necessary to achieve the goals established by the National TEPS Committee and the parties at the national level.

F.

The local TEPS Committee will address local implementation and administration problems and propose solutions to the center director or the National TEPS Committee.

G.

The local TEPS Committee will be advised of any adjustments made to the base points pursuant to IRM 3(43)(401)0.

H.

The local TEPS Committee will validate and review for statistical significance the data supporting any proposed changes to Center Director Ranges and concur with such changes.

Section 21
Miscellaneous Provisions

A.

Time spent by employees at the health unit, preparing Forms 3081 and at group meetings will be charged in a uniform manner throughout a center. Direct time is considered to be only that time spent specifically performing work rather than administrative functions.

B.

If an employee is held accountable for work under a particular skill code, that employee will be assigned that skill code.

C.

Any grievance, by or on behalf of a measured employee, over an annual rating that is made in advance of a related personnel action, (for example, within-grade increase, career ladder promotion) will be joined automatically to any grievance, by or on behalf of such measured employee, over the subsequent related personnel action if the original grievance has not been resolved at the time the subsequent grievance is filed.

D.

For purposes of this Agreement, the determination that a rating is valid and indicative involves a decision that the data is correct (valid) and that numeric results reflect the employee's actual performance.

E.

If it is determined that a measured rating is not valid and indicative of an employee's performance, the employee will be evaluated on an unmeasured basis as provided for in that employee's performance plan and other applicable provisions of this article.

Section 22

The parties agree to convene a joint team following term negotiations to update the TEPS agreement to include recently negotiated changes in the TEPS program and to make other improvements upon which they agree.

Section 23

The following provision applies to the Submission Processing function.

The parties agree to the following terms which change the way TEPS operates as of the effective

date of the Agreement. The goal is to increase the number of employees receiving measured evaluations. The question of whether those employees performing compliance work in centers are to receive unmeasured evaluations pursuant to IRS Policy Statement P-1-20 is a separate issue and not addressed by this Agreement.

1. The IRS will provide NTEU at the national and local levels a chart showing the number of employees on measured evaluations per center for each of the four (4) quarters preceding this Agreement and for the eight (8) quarters following its implementation. This data will be further broken down by branch in each center. The historical data will be given to the Union within thirty (30) days of signing this Agreement and the future data will be sent the Union each quarter thereafter.
2. Management has determined to label the work in all organization, function, and program groups (OFPGs) that has a 97% accuracy rate or higher in a quarter to be High Quality Work (HQW). Once the work achieves this level, Individual Quality Review (IQR) will cease in that OFPG until the level of accuracy for the OFPG drops below 97%. IQR will be replaced with product review (PR). All those employees who are working on an OFPG during the time it is considered HQW will be granted the minimum employee efficiency score needed to achieve a five (5) rating in that OFPG.
3. The accuracy of a HQW/OFPG will be assessed at the end of the eighth week of a quarter. If the work is below the 97% level at that time, management will notify employees working that OFPG, through a medium agreed upon locally, that the work will return to IQR at the beginning of the next quarter. Prior to this announcement, there must be a meeting between the Union and the Employer representatives to examine the accuracy of the calculation. Care should be taken by the local parties to follow the IRM rules on PR for HQW, and they should involve their TEPS Coordinators in this effort. A decision to drop IQR and return to PR may be announced at anytime and the determination to make the change will also be made on data from the eighth week unless agreed otherwise in local discussions.
4. All OFPGs that are not HQW will be clustered by branch in order to increase the efficiency of the quality review process. They will be clustered by accuracy rate as follows:

96.9 - 95%	83.9 - 80%
94.9 - 93%	79.9 - 76%
92.9 - 90%	75.9 - 72%
89.9 - 87%	71.9 - 68%
86.9 - 84%	67.9 - 0%

   A sample will be drawn that ensures the final error rate has a confidence level of 90% and the standard error proportion will be added to the employee's "percent accurate" calculation. The Employer has determined that the local parties will address any situations where employees with the appropriate skills who would normally be considered for assignment to the HQW in their unit are unreasonably denied an appropriate share of that work.
5. Employees must be working on measured work for more than sixty (60) days before they can be given a measured evaluation. Thereafter, the employee will be evaluated using the learning curves agreed upon by the local parties for the work in each OFPG and none of the work performed during an employee's learning curve will be included in the measured data base or in the employee's evaluation.
6. The "valid and indicative" requirement is retained, but the parties will exclude "low hour data" (as defined in the revised IRM) for Quantity. They will also exclude data from those OFPGs with less than six (6) employees working them in a quarter. The Employer has determined that these will be excluded from the measured data base as well as the employee's evaluation.
7. The Director's Quality and Quantity Ranges will be set center-wide rather than branch-wide. Moreover, the Employer recognizes that a change in the Director's Ranges can be a change in working conditions that is negotiable. It will, therefore, give the Union advance notice of a change no less than the fourth week prior to the change and bargain, if requested and required. If the Director's Ranges are changed (initially or subsequently) and the parties reach an impasse over the impact and implementation issues related to the change, the ranges will remain the same.
8. The Employer has determined that base points will be set reasonably. They will be reviewed mid-quarter by the parties and adjusted pursuant to the IRM. The calculated base point for Quality will be the average accuracy rate for the previous four (4) quarters.

9. The parties agree to delete any prior agreement that lower graded employees always have lower standards than higher graded employees.
10. The Employer will provide all NTEU chapters representing employees on a measured performance plan the data it normally receives on TEPS in as streamlined and uniform manner before the implementation of these changes.
11. A TEPS training program will be developed for employees, stewards, TEPS Coordinators and managers. Stewards will receive the same training as provided managers.
12. The recommendation of the Joint TEPS Redesign Committee dated 4/18/96 will guide the development of TEPS, absent the agreements described above.

Article 13 Promotions/Other Competitive Actions

Section 1 Purpose

A.

The parties recognize the importance of a systematic and equitable process that affords long-term employees opportunities to work in the location of their choice and provides bargaining unit employees the maximum opportunity to develop and advance to their full potential, consistent with the recognized need of the Employer to maintain staffing and skill levels sufficient to meet mission requirements.

B.

Except as provided in subsection 1C2 below, the Employer has determined that it will provide first consideration to IRS employees for its bargaining unit vacancies by considering the “best qualified” (BQ) candidates at all grades for which a position is announced.

1. In this regard, the Employer may simultaneously post vacancy announcements for, and separately rate, rank, and assess, as applicable, both internal and external candidates for such vacancies. However, the certificate(s) listing internal Best Qualified (BQ) candidates, as determined according to the procedures set forth in this article, will be referred first to the selecting official for final consideration.
2. Under no circumstances will the selecting official be permitted to review and/or consider external candidates prior to making a final determination regarding the selection or non-selection of internal BQ candidates. Once the selecting official has made final select/non-select determinations regarding internal candidates, the certificate(s) listing external BQ candidates may be referred for consideration.

C.

In those circumstances where the Employer determines that, for business reasons, it has a requirement to concurrently consider external candidates in certain entry/developmental professional and administrative (that is, two-grade interval) positions below the journey grade level, it will provide written notice, with appropriate explanation of those business reasons, to the NTEU National President. Such notice/explanation shall be provided at least thirty (30) days in advance of the external announcement posting date.

1. When concurrently considering internal and external candidates for bargaining unit positions, the Employer has determined that selections will be made from within the IRS whenever the employees who are eligible for consideration are as well qualified as those available from outside the IRS.
2. When the Employer concurrently considers external candidates, it will, in all cases, provide a written narrative explanation (normally one to two pages in length) to each non-selected internal BQ candidate providing reasons for his or her non-selection, as well as feedback concerning what the employee can do to improve his or her chances for selection when applying for similar vacancies in the future.

D.

The Employer will provide the National Office of the Union, as well as the appropriate local chapter/joint council with a yearly accounting of the number of bargaining unit vacancies by grade and series filled with bargaining unit employees and those filled with non-bargaining unit employees. The information will also include the retention rate for external selectees for the prior year. The parties will review these statistics in the context of IRS Policy Statement P-0-4 to discuss the extent to which selections have been made from within the IRS. This discussion will not focus on individual selection actions.

E.

The Employer agrees that where OPM establishes a positive education requirement in accordance with 5 CFR 300, the Employer will provide NTEU with copies of the validation study or studies that support that requirement, as well as other pertinent information. Such information shall be furnished at least sixty (60) days prior to the use of the positive education

requirement in a vacancy announcement. In this regard, the Union agrees to comply with any security and/or confidentiality requirements established by the Employer with regard to release of the validation study or studies to the Union in accordance with this section.

F.

If the Employer elects to announce a vacancy externally, it will provide information to employees on how to apply as an external candidate.

Section 2
Applicability

A.

The provisions of this section apply to all placement actions within the bargaining unit except those specifically excluded by subsection 2B. Examples of such actions are:

1. filling a position by promotion;
2. filling by reassignment, transfer, reinstatement, or demotion to a position with a higher graded full performance level than the applicant's last position;
3. filling a position by temporary promotion for more than one hundred and twenty (120) days;
4. permanent or temporary conversion for more than one hundred and twenty (120) days, from one work schedule to another, for example, a seasonal or career/career-conditional intermittent employee to regular full time or part-time, or a career/career-conditional intermittent employee to a seasonal tour of duty;
5. filling a position by reassignment if a vacancy announcement has been posted, unless:
   (a) unforeseen circumstances of an extraordinary nature become known subsequent to the posting of a vacancy announcement;
   (b) a roster has been established; or
   (c) the Employer uses the reassignment procedure described in Article 15; and
6. filling bargaining unit positions with non-bargaining unit applicants, except in the case of Additionally Established (AE) bargaining unit positions as provided in subsection 2B13 below.

B.

The following are examples of placement actions within the bargaining unit which are not covered by the competitive procedures of this article:

1. reassignments or change to lower grade except as set forth in subsections 2A2 and 2A5;
2. promotions to positions which have been upgraded without significant change in duties and responsibilities on the basis of either the issuance of a new classification standard or the correction of a classification error;
3. repromotion to grades or positions from which an employee was demoted within the Service without personal cause, i.e., without misconduct or inefficiency on the part of the employee and not at the employee's request;
4. promotion to higher grade position, a requirement of which is specific training, provided selection for such training was made in accordance with this Agreement;
5. promotion of occupants of career ladder positions to the full performance level;
6. Government-wide special emphasis programs (such as VRA, Handicapped, Worker Trainee, and Cooperative Education Programs) up to and including conversion into the competitive service;
7. any other mandatory exceptions provided for by a higher authority;
8. promotion due to accretion of duties where all employees performing the same work will be promoted;
9. filling positions by reinstatement or transfer except as set forth in subsection 2A2;
10. filling a position by temporary promotion of one hundred and twenty (120) days or less;
11. increases in work schedule of one hundred twenty (120) days or less;
12. returning an employee to a full time tour of duty who has previously received a change to a part-time tour of duty (similarly situated employees will be treated equally);
13. the placement of a manager or mangement official in an Additionally Established (AE) bargaining unit position; and
14. the return of managers or management officials to bargaining unit positions at the grade they left the bargaining unit.

C.

The following procedures apply when considering external applicants for journey level and below vacancies in accordance with subsection 1B:

1. the Employer may recruit and commit external applicants from any appropriate source to fill those positions which have not been reserved for first consideration;
2. in any given POD, all vacancies will be announced and internal selections will be made before any external selectees enter on duty;
3. POD assignments for external selectees may not be made until post-of-duty assignments for

internal, including “crossover”, selectees have been made; and

4. all vacancies remaining at the time that the internal certificate is issued will for a particular POD be listed on the certificate (for example, if 100 vacancies were announced and only ten (10) external commitments were made, the internal certificate would be for ninety (90) vacancies).

D.

In accordance with governing law and regulation, the following actions, in the order set forth below, will be taken prior to the initiation of the competitive procedures established by this article:

1. Employees with statutory placement rights (such as an IRS employee who is returning to duty from Worker’s Compensation or military service);
2. Employees with placement rights established pursuant to a decision or settlement agreement directed or approved by a third-party adjudicatory agency, such as the Merit Systems Protection Board or Equal Employment Opportunity Commission;
3. IRS employees with placement rights as established by the Career Transition Assistance Program (CTAP);
4. Employees with placement rights established by the IRS Priority Placement Program (IRSPPP);
5. Designated “Transition Employees” with placement rights established by the Transition Employee Memorandum, as amended;
6. Employees granted Priority Consideration by the Employer, or the Parties, in accordance with 5 CFR 335;
7. Employees who are eligible for a hardship assignment, pursuant to Article 15.

Section 3
Vacancy Announcements

A.

Vacancy announcements will be published prior to taking any of the placement actions described in subsection 2A for which bargaining unit employees may compete. In this regard, vacancies within a particular commuting area listed on the Service’s Career Opportunity Listing (COL) will be posted on appropriate bulletin boards within that commuting area. The vacancy announcement will be posted for ten (10) workdays and at a minimum will contain the following:

1. announcement number;
2. opening and closing date;
3. the estimated number, title, series, grade, and organizational location(s), and Posts of Duty (PODs) of the vacant position(s) to be filled. In no case may a position be filled unless the Employer has announced via the vacancy announcement and/or COL, the POD and estimated number of positions in each POD. Nothing in this section requires the Employer to fill a particular position in a particular POD; however, when the Employer announces multiple positions in multiple PODs, whether by roster or individual vacancy announcement, the Employer will, to the extent possible, indicate on the announcement the likelihood (e.g. high, medium, or low probability) of filling position(s) in a particular POD.
4. shift information, for example, hours of work;
5. minimum qualifications required;
6. a brief summary of the duties of the position along with an indication of where additional information may be obtained;
7. selective placement factors, if any;
8. evaluative methods to be used by the ranking panel or official, including any specific forms to be considered, interview and/or test requirements, etc. (none of which may be used unless listed on the announcement);
9. roster designation, when applicable;
10. statement of Service’s commitment to equal employment opportunity in conformance with the Department of Treasury Interim Handbook of Employee Conduct and Ethical Behavior;
11. where to submit applications;
12. position’s career ladder, when appropriate;
13. statement of availability of moving expenses; and
14. in the case of seasonal employment, the expected length of season, as well as the expected eligibility for health insurance.

B.

The Employer has determined that selective placement factors will only be used in determining eligibility when they are essential to successful performance in the position to be filled. In such cases, they will constitute a part of the minimum requirements of the position in question.

C.

Changes to vacancy announcements of a non-substantive nature (that is announcement number and the number of vacancies, where the increase is less than four) will not require extension of the posting time.

D.

Two (2) copies of all bargaining unit vacancy announcements will be sent to the president of each chapter that has representational jurisdiction over the position(s), concurrent with the posting. Where electronic media is available, vacancy announcements will be transmitted via electronic media only. Where electronic media is not available, vacancy announcements will be posted on all official bulletin boards throughout the commuting area.

E.

Vacancy announcements will be posted in all locations within the same commuting area.

F.

If a vacancy announcement is canceled, the reason for the cancellation shall be noted on the promotion certificate and/or made part of the promotion file. A copy of the document showing the reason will be simultaneously sent to the chapter/joint council.

G.

In October of each year, the Employer will assign awards points to all employees who qualify for an award under the Parties' National Awards Agreement.

Section 4
Application Procedures and Rosters - General

A.

1. Employees must submit applications for each vacancy or roster for which they wish to be considered. An individual application may be submitted for each available vacancy at the time of the vacancy announcement or employees may submit applications for continuous consideration (Form 4536, Exhibit 13-1) which shall expire at close of business on December 31 of each year. Employees may indicate on the applications for continuous consideration the posts-of-duty for which they desire to be considered. Employees may withdraw applications for a position at any time. The fact that employees do not accept an offer of promotion will not be cause for their removal from a roster.
2. Applicants will not be considered if they do not meet all time-in-grade and qualification requirements by the closing date of the announcement.
3. Upon request, applicants who have been determined not to be qualified will be provided a copy of the qualification standards for the position for which they applied.
4. For positions at or below the journey level, applicants must complete a Merit Program Questionnaire (MPQ). The ranking official or panel will use this form in conjunction with the applicants' appraisals to determine each applicant's potential. In order to complete this form, each applicant will receive a reasonable amount of official time and will be provided access to his or her OPF.
   (a) When an employee's application is found to be lacking information within the employee's control (such as a signature), the Employer will notify the employee and give him or her five (5) workdays to submit the missing information. For information beyond the employee's control (such as a college transcript), the employee will have a reasonable period of time, up to ten (10) workdays, to submit the information. In the event that the missing information is not received within the time period(s) specified above, the application will be returned to the employee and the employee will not considered as an applicant for the vacancy.
   (b) If the Employer has failed to issue a timely and current performance appraisal, the employee may submit his or her self assessment, in accordance with Article 12, provided that such self-assessment proposes a summary rating no higher than the employee's current rating of record.
   (c) The Parties agree that the MPQ will be phased out as part of the automation of the internal staffing process, scheduled for implementation by December 31, 2002. In this regard, the Parties agree to establish a joint team to implement this automated process, consistent with the terms of this article. The team will be chartered to configure software selected by the Employer to meet contractual requirements, and oversee the development of a communications and training plan. Upon mutual agreement, the team may also make recommendations on modifications to this article, which, if approved by the Parties, would amend those provisions.
5. An employee who applies for a position and is not found eligible will be notified prior to the establishment of a roster or a BQ list.
6. The Employer has determined that employees rated below Fully Successful in a particular Performance Aspect are not eligible to apply for competitive promotion to a vacant position that requires the same or similar Performance Aspect.

B.

Establishment of a Roster

1. If the Employer projects more than one (1) vacancy will occur in any one (1) classification series and grade level in a twelve (12) month period, the Employer may establish and maintain a roster of candidates for as long as twelve (12) months.
2. When rosters are used, they will be updated quarterly to include new applicants.
3. An application for a position on a roster must be received by the closing date of the announcement establishing the roster, or at least fifteen (15) workdays prior to any quarterly updating of the roster. Employees who are not eligible for consideration will have their applications returned showing the reason for their disqualification or ineligibility. Applicants accepted for a roster will be so notified.
4. Eligible applicants will remain on the roster for one (1) year. At the end of the year, applicants will be notified that they must submit new applications if they wish to be considered for future vacancies.
5. Vacancies for all positions that are to be filled by competitive action will be announced separately.
6. Each employee who has applied for and meets the eligibility requirements and any selective placement factors previously announced for a vacancy shall be ranked as described below, using Form 6850, Job Element Appraisal, as prepared in accordance with Article 12 of this Agreement.
7. When a roster is used, applicants meeting basic qualifications will be ranked and placed in numerical order from the highest to the lowest score.
8. In promotion actions, the rating on the Form 6850 may be used for a period of twelve (12) months. When the appraisal is more than twelve (12) months old on or before the date of a vacancy announcement, it may be revalidated in accordance with Article 12, and be used for an additional twelve (12) months. In this regard, a revalidated appraisal is one that is more than twelve (12) months old and that has been determined by the Employer to reflect accurately an employee's performance at the time it was revalidated.
9. The employee's Form 6850 will be forwarded to the ranking panel or ranking official considering the vacancy or vacancies applied for by the employee and will not be altered or changed in any manner by the panel or ranking official.
10. NTEU will be provided with copies of rosters when they are established.

Section 5
Ranking Applicants

A.
General

With the exception of barganing unit employees covered under subsection 5F, employees (including Wage Grade employees) who applied for and met the eligibility requirements for a vacancy (including any selective placement factors previously established and announced by the Employer) shall be ranked as described below. No other procedures will be used to rate and rank bargaining unit employees for bargaining unit positions unless the Employer has made the details, criteria, and other characteristics of the process fully known to the Union in advance, in accordance with Article 47. Moreover, once the ranking process has been fully automated, MPQ's will not be required for any competitive promotion actions. When ranking candidates for vacancies at multiple grades (e.g., for career ladder positions that may be filled at any grade), each candidate may be ranked separately by grade, with the ranking procedure for such positions based on the journey level of the position to be filled.

B.

The Employer will appoint a ranking panel of three (3) voting persons, or will appoint a ranking official, to evaluate the applicants. The Employer has determined that the selecting official may not serve on a ranking panel or as a ranking official.

C.

In processing competitive actions covered by Section 2 of this article, the following provisions will be used to evaluate and rank applicants for any position unless otherwise specified in subsection 5E.

1. Employees will be ranked as described below, using Form 6850, Critical Job Element (CJE) Appraisal, as prepared in accordance with the provisions of Article 12 of this Agreement.
2. In promotion actions, a Form 6850 may be used for a period of twelve (12) months. When the appraisal is more than twelve (12) months old on or before the date of a vacancy announcement, it may be revalidated in accordance with Article 12 and be used for an additional twelve (12) months. In this regard, a revalidated appraisal is one that is more than twelve (12) months old and has been determined by the Employer to reflect accurately an employee's performance at the time it was revalidated.
3. The Employer will appoint a ranking panel of three (3) voting persons, or will appoint a

ranking official, to evaluate the applicants. The Employer has determined that the selecting official may not serve on a ranking panel or as a ranking official. The ranking panel or ranking official will then determine the score ("5" to "1") to be assigned to an applicant for each critical job element of the position to be filled. A score will be assigned for each critical job element as follows:

(a) Excellent Potential "5"

(b) Substantial Potential "4"

(c) Good Potential "3"

(d) Moderate Potential "2"

(e) Limited Potential "1"

4. The Employer has determined that the standards for the foregoing ratings will be as follows:

   (a) Rating Level "5": Excellent Potential: The applicant is now able to perform at a level which is above fully successful on this critical job element.

   (b) Rating Level "4": Substantial Potential: The applicant is now able to perform at a level which is fully successful on this critical job element.

   (c) Rating Level "3": Good Potential: The applicant can be expected to perform at a level which is fully successful on this critical element after minimal developmental training and/or experience.

   (d) Rating Level "2": Moderate Potential: The applicant can be expected to perform at a level which is fully successful on this critical element only after considerable developmental training and/or experience.

   (e) Rating Level "1": Limited Potential: The applicant can be expected to perform at a level which is fully successful on this critical element only after extensive additional developmental training and/or experience.

D.

1. The following procedure shall be used for ranking applicants for a position that is not covered by subsection 5F.

   (a) Add the numerical rating for each critical job element on Form 6850, divide the total by the number of CJEs, and multiply the results by six (6);

   (b) Add the average ratings for each critical job element of the position to be filled together, divide the total by the number of critical job elements, and multiply the results by four (4);

   (c) Add the total scores obtained in (a) and (b) above; and

   (d) Round-off scores to two (2) decimal places only;

   (e) Add one (1) point (up to a maximum of three (3) points) for a performance award in accordance with the Joint Performance Award Agreement, and for each Quality Step Increase (QSI), or performance-related monetary Special Act Award (except Manager's Awards) approved in the last three (3) years;

   (f) In accordance with applicable laws, rules and regulations, the four applicants who rank at the top will be designated as Best Qualified (BQ).

2. The Employer has determined that individual members of the ranking panel or the ranking official will individually rate each critical job element for each applicant. Each member's rating shall become a part of the promotion file. The scores given for each applicant by each member of the ranking panel will then be added and divided by the number of members on the ranking panel to obtain the final numerical score for each critical element.

   (a) The Employer has determined that the ranking panel or the ranking official will prepare one (1) written narrative or statement concerning each applicant considered for each critical job element of the position to be filled. This narrative statement will reflect the applicant's ability to perform in the position for which the applicant is being considered. If the immediate supervisor of any applicant is a member of the ranking panel, then each panel member will prepare separate narratives. Any conclusion relative to the rating of potential will be reflected in the narrative and include information upon which the rating was based, citing the factor(s) relevant to the rating.

   (b) The evaluation will be fair and objective. Any conclusion relative to the rating of potential will be reflected in the narrative and include information upon which the rating was based, citing the factor(s) relevant to the rating. In no case will a rating be justified solely by a mathematical tabulation of scores on any document(s), for example, an annual appraisal.

E.

As an alternative to the provisions above, when filling vacancies above the journey level, if all eligible candidates are currently in the same series as the position to be filled, the Employer will multiply the average critical job element rating from the

employee's appraisal by ten (10). This score plus the performance related award points will be used to establish the BQ list in rank order. If any eligible candidate has a different set of performance aspects or additional performance aspects, the Employer will use the ranking process outlined above.

F.

Ranking of Applicants for Positions GS-8 and Below Located in the Submission Processing, Accounts Management, and Compliance Services Centers, including geographically aligned Call Sites.

The Employer has determined that the ranking of applicants for GS-8 and below positions will be accomplished in the following manner:

1. Performance Appraisal: The employee's performance appraisal based on the critical job elements of the employee's position (Form 6850) will be used as follows:
   (a) add the numerical ratings for each critical job element;
   (b) divide the total in (a) above by the number of critical job elements;
   (c) multiply the result in (b) above by twenty eight (28); and
   (d) the results in (c) above is the number of points that are assigned the performance appraisal for ranking purposes.
2. Pertinent Experience and Training: The applicant's experience and training will be reviewed by a ranking official who will assign up to a maximum of twenty-five (25) points at the rate of five (5) points for each full six (6) months experience and training pertinent to the job to be filled which usually will have been gained in work of same type as that to be performed in the vacant position. In order to be included in the six (6) month period, the experience and training must have been gained within two (2) grades below the vacancy and must have been acquired within three (3) years of the date of application. The Employer will ensure that pertinency points are defined and applied consistently across the Campuses, through the issuance of Service-wide guidance.
3. Incentive Awards: Incentive awards, including Quality Step Increases approved for the employee within three (3) years prior to the closing date of the announcement will be evaluated by the ranking official who will award ranking points (up to a maximum of five (5)) as detailed below:
   (a) Two (2) points for each Quality Step Increase;
   (b) Two (2) points for each PMS Performance Award;
   (c) Two (2) points for each Suggestion Award of $150 or more;
   (d) One (1) point for each other Suggestion Award;
   (e) One (1) point for each monetary Special Act Award (except Manager's Awards) that is performance related and non-mandatory (total points awarded not to exceed three (3) points); and
   (f) One (1) point for each accepted system change.
4. The total scores obtained in 1, 2 and 3 above will be added together to determine the Best Qualified list of candidates. For vacancies at grade GS-8 and below covered by this subsection, applicants meeting basic qualifications will be ranked and placed in numerical order from the highest to the lowest score.

Section 6
Referral of Candidates

A.

All applicants will be treated uniformly to the greatest extent possible. Applicants who are candidates for reassignment will be rated and ranked along with other applicants.

B.

Any selection technique utilized by the selecting official will be uniformly applied to all BQ applicants referred to the selecting official.

C.

An employee's accumulation or balance of annual or sick leave may not be considered by the ranking panel or ranking official, a selecting official, or manager as a basis for selection or promotion.

D.

If the Employer determines to interview any employees in a selection process, all similarly situated employees will be interviewed.

1. Any general questions used in the interview process and the Employer's notes will be recorded and kept in the file. This shall not be construed to require the panel to ask identical questions of each applicant.
2. The Parties agree that during the life of this agreement, the Service will not use "Behavioral Event Interviewing" with respect to the staffing of any bargaining unit position, without an express agreement from the Union.

3. When interviewing applicants for placement, the Employer will comply with OPM regulations.

E.

The selecting official will receive a list of Best Qualified (BQ) applicants in rank order along with evaluation material.

F.

The BQ applicants will be the top four (4) applicants plus one (1) additional name for each additional vacancy. Up to ten (10) applicants may be certified if certifying a lesser number results in the exclusion of any equally qualified applicant. If more than ten (10) applicants are equally qualified candidates, IRS EOD will control. An employee will not be removed from the BQ list of a pending package because he or she has accepted another position unless he/she withdraws from consideration from that pending package.

Section 7
Selection and Documentation

A.

Upon conclusion of the ranking process, a promotion certificate shall be prepared by the Employer. It will contain the following information:

1. names of all applicants found BQ (and scores if applicable);
2. identification of applicants as permanent or seasonal;
3. names and scores of all applicants found BQ;
4. names of applicants submitted to the selecting official;
5. name(s) of the management official or ranking panel members who evaluated the applicants;
6. evaluation criteria and methods used to determine BQ applicants;
7. the name of selecting official; and
8. the names of selected applicants.

B.

Upon selection and notification of applicants for promotion, a designated Union official in each of the chapters that has representational jurisdiction over the positions being filled will be concurrently sent a copy of the promotion certificate previously given to the selecting official. The promotion certificate will identify the selected applicant(s).

C.

The Employer will maintain a copy of all promotion certificates for a period of at least one (1) year. The Employer will maintain promotion or competitive selection files in accordance with regulatory requirements.

D.

In the case of roster announcements:

1. the promotion certificate with names of all the BQ will be furnished to the Union at the time the roster is established and also after each quarterly updating;
2. after selections from a roster, the Union will be furnished the list of BQ applicants referred to the selecting official, with the selected applicant(s) identified; and
3. all BQ applicants will be notified of their standing on a roster at the time the roster is established.

E.

Additional positions of the same kind (that is, those with the same title, series and grade, at the same POD, and same group or unit) may be filled within forty-five (45) days of the initial selection in cases where vacancies remain or occur within the forty-five (45) day period. In such cases, the originally selected employee will be replaced on the new BQ list if appropriate.

F.

Notification of non-selected applicants on the BQ list will be made (either via telephone, email or other means, whenever possible) within 8 hours of their receipt of the selection certificate. Non-selected applicants on the BQ list for vacancies in Submission Processing, Accounts Management, and Compliance Services Centers, to include geographically aligned call sites will be notified through either the Automated Vacancy Announcement System or other automated personnel systems within one (1) pay period, whenever possible.

Section 8
Career Ladder Promotions

A.

Employees in career ladder positions will be promoted in the first pay period after:

1. they become minimally eligible to be promoted (after one (1) year in their positions or whatever lesser period satisfies the basic eligibility requirements); and
2. they are capable of satisfactorily performing at the next higher level.

B.

For employees whose elements and standards are no different than those of the next higher grade level in the career ladder, an overall annual rating of Fully Successful at the current grade will satisfy the performance requirements.

Section 9
Miscellaneous

A.

The fact that an employee is the subject of a conduct investigation will not prevent or delay the employee's promotion, which would otherwise be made, unless the Employer judges that such delay is necessary to protect the integrity of the Service.

B.

Subject to its right to assign employees, the Employer will make a reasonable effort to return employees to their former or like positions, who, within the last year, were promoted and subsequently demoted for inability to perform at the higher level. Employees hired through an external source will be required to serve a probationary period in accordance with Articles 30 and 37. However, if the employee has already served a probationary period with IRS and does not successfully complete the probationary period and/or the formal training agreement required for the new position, as applicable, the Employer will make every effort to reassign the employee to their previous grade and same or similar position.

C.

Except in the case where an employee selected for a position must complete training before assuming duties of the new position, an employee who is selected for promotion will have the promotion become effective no later than one (1) complete pay period following selection. For employees who must first complete training, the promotion will become effective at the beginning of such training.

D.

Any applicant designated BQ who is not selected will, upon request, be entitled to counseling by the immediate supervisor. In those instances where the immediate supervisor is not the selecting official, the applicant may, upon request, obtain additional counseling from the selecting official.

E.

In accordance with applicable laws, rules and regulations, any applicant on the BQ list who declines a selection offer will be replaced by the next higher ranking qualified applicant.

F.

Grievances over positions in other Employer bargaining units must be filed with the grievant's immediate supervisor under the procedures of this Agreement.

Section 10
Release Of Information

A.

Upon request, the Employer will make available to any applicant involved in a competitive action governed by the terms of this article the ranking panel's or ranking official's written narrative statement and score assigned to the applicant. Such request should be made through the applicant's supervisor.

B.

In the processing of grievances related to actions taken under the terms of this article, a steward representing an employee will, upon request, be furnished the "evaluative material" generated or utilized by the ranking panel or ranking official in assessing the qualifications of the eligible applicants (bargaining unit and non-bargaining unit) in regard to a grieved promotion action subject to the following criteria:

1. the aforementioned material, consisting of the panel's evaluation, managerial appraisals, and records related to experience, training and awards, will be provided to the grieving employee's steward subject to the Employer's legal responsibility and obligation to protect the privacy of the eligible applicant(s) involved in the promotion in question;
2. if the grievance is confined to BQ applicants, only the evaluative material of such applicants will be provided;
3. If the grievance involves questions of basic eligibles, evaluative material of all applicants will be provided.

C.

Challenges to the Employer's action in the implementation of subsection 10B above, if any, may be grieved and finally resolved by an arbitrator making an "in camera" inspection of the entire promotion file, subject to the "privacy" protection cited above.

Section 11
Priority Consideration

A.

If it is determined, through the grievance procedure, that violations of the provisions of this article resulted in denying the grievant(s) proper consideration, corrective action will be taken as follows:

1. employees erroneously omitted from a BQ list shall receive priority consideration in accordance with regulatory requirements;
2. employees who were erroneously omitted from, or improperly ranked on a roster announcement, but who do not otherwise qualify for relief under subsection 11A1 above, will be ranked in proper order on such a roster; and
3. other violations will be remedied as appropriate.

B.

Priority consideration consists of a promotion certifi-

cate which contains an employee's name alone being sent to a selecting official before the official considers other applicants for a position.

C.

An employee will be entitled to a separate priority consideration for each vacancy announcement for which the employee was improperly considered.

D.

If more than one (1) employee is entitled to consideration, the names of only those employees will be submitted on a single certificate to the selecting official for the next appropriate vacancy.

E.

If the appropriate vacancy has already been announced, the employees due the priority consideration will be considered by the selecting official before other applicants are ranked or referred for selection.

F.

When the Employer considers employees who have priority consideration pursuant to this Agreement and does not select those employees, the Employer will put the reasons for non-selection in writing and serve a copy simultaneously on the employees.

G.

Once the deadline for filing a grievance or other complaint has passed, employees who have not filed a grievance or other complaint or had one filed on their behalf may only be given priority consideration pursuant to an order issued by a higher level authority.

H.

In accordance with 5 CFR 335, employees normally receive priority consideration for an appropriate vacancy (defined as a vacancy at the same grade and in the same occupational series and area of consideration as the original position for which they were improperly denied appropriate consideration). In those circumstances where no appropriate vacancy is anticipated in the original area of consideration within two (2) years from the date priority consideration is granted, the employee's priority consideration will be extended to apply to similar vacancies within the original area of consideration, provided the employee meets basic eligibility requirements.

Section 12
Modifications to Qualifications

A.

In any competitive action where the qualification requirements are being modified, the Employer shall state on the vacancy announcement what the modified minimum qualification requirements are. In addition, a statement that qualification requirements have been modified shall be included on the vacancy announcement.

B.

The Employer shall reduce to writing the reasons for electing to modify qualification requirements in connection with a competitive action. This determination must state the reason(s) for modifying the qualification requirements. Prior to posting the vacancy announcement, all chapters that have representational jurisdiction over the position being filled shall be provided a copy of this determination and afforded five (5) workdays within which to comment and/or discuss the determination with the Employer. The Employer shall consider any input provided by the local chapter(s).

Article 14
Release/Recall Procedures

Section 1
General Provisions

A.

The provisions of this article apply to all employees of the Internal Revenue Service subject to periodic release and recall.

B.

Unless the local parties agree otherwise, the basis for release and recall at Center Campuses will be Departments in the Accounts Management Centers and Operations in the Submission Processing and Compliance Services Centers.

C.

For all other employees subject to release and recall, unless agreed to otherwise by the local parties, the basis for release and recall will be the highest organizational level at the post-of-duty (POD).

Section 2

A.

Basis For Release/Recall

1. The release and recall of career/career-conditional intermittent employees will be by IRS Enter On Duty (EOD) date of those employees possessing the skills needed.
2. The release and recall of seasonal employees and employees on term appointments will be accomplished by a combination of performance and seniority of those employees possessing the skills needed.

3. Separate lists will be established for seasonal, career/career-conditional, intermittent, and term employees.
4. Seniority ranking will be computed based on the employee's IRS (EOD) date.
5. Performance ranking will be based on scores assigned to rated critical job elements (CJEs).
6. Performance ratings will be based on an employee's most recent annual appraisal. In the absence of an annual appraisal, employee's meeting the minimum appraisal period requirements will receive an ad hoc evaluation for release and recall purposes only.
7. The Employer has determined that term employees will be released before career status employees and will be recalled after career status employees are recalled.
8. Ties in ranking will be broken first by IRS EOD, second by Service Computation Date (SCD), and third by comparing the last four digits of the tied employee's social security numbers. In odd numbered years, employees with the lowest number will be placed first on the release/recall list. The opposite will hold true in even numbered years.
9. The release/recall lists will be updated as necessary.

B.
Notice of Release

The Employer will make every effort to give at least five (5) days notice of release to employees unless prevented by unforeseen changes in inventory.

C.
Notice of Recall

1. Seasonal Employees
   (a) notice to a seasonal employee of recall will be given first by telephone;
   (b) one (1) call will be made during the day, and a second call will be made during the evening hours; and
   (c) if direct phone contact is not made with the affected employee, written confirmation of the attempt to call will be sent to the employee by regular mail on the next day after the telephone calls were made. An employee who receives the letter and contacts the Employer within forty-eight (48) hours will be returned to work provided:
      (1) the returning employee has not missed any essential training in the interim; and
      (2) the remaining work is expected to last for at least one (1) administrative workweek.
2. Career/Career-Conditional Intermittent and Term Employees

   Notice of recall to a career/career-conditional intermittent and term employee will be sufficient if given by telephone.
3. Current Addresses and Telephone Numbers

   It is the responsibility of the employee to provide the Employer with a current address and telephone number.

D.
Skills

1. Skills will be determined by the Employer. The Employer will assign skills in a fair and objective manner. During an employee's first year, a skill will be assigned to the employee following the successful completion of training and/or the learning curve. To retain a skill, an employee must successfully complete update training each year. Should the Employer not provide the training, the employee will retain the skill. In the absence of any assignment of skill to an employee, the employee shall be presumed to possess those skills that have been assigned to other employees in identical positions (same title, series, and grade) within the employee's assigned organizational level. When skills are specifically assigned, it will be done by means of written notice.
2. The Employer will establish and maintain a current listing of the skills established for each organizational level.
3. When the Employer makes changes to the assignment of skills, the change will be made known to, and discussed with, the employee(s) affected in advance of implementing the change.
4. The Employer has determined that if an employee temporarily performs duties outside of their assigned organizational level due to a detail, temporary promotion, etc., the employee will not retain any skill code(s) gained during the temporary assignment for release and recall purposes. However, employees will retain the skill code(s) gained outside their assigned organizational level for the purposes of offering overtime under Article 24 of this Agreement.

Section 3
Seasonal Release/Recall Procedures

A separate release and recall list will be established for seasonal and term employees.

A.
Release of Seasonal and Term Employees

When it becomes necessary to place any or all the seasonal employees in an organizational level, or

other appropriate organizational area consistent with the general provisions of this article, in a non-work status, the Employer will use the following procedures:

1. Canvass employees, in the skills area affected in the organizational level, to determine if a sufficient number of employees wish to accept voluntary release.
2. The Employer has determined that if, as a result of the canvass, more employees wish to be released than is necessary, the employees with the earliest IRS EOD will be released. If the canvass does not result in a sufficient number of voluntary applications for release, subsequent placement of employees in non-work status will be based on a ranking of employees who possess the specific skill required to perform the remaining work, as set forth in subsection 3B below.
3. The Employer has determined that those who rate the lowest on the release/recall list will be placed in a non-work status first and those ranking highest, last.

B.
Ranking Seasonal Employees for Release

1. Absent agreement by both parties at the national level, the points awarded for seniority in the table below are not subject to negotiation during the term of the Agreement.
2. Performance and seniority will be used to rank fully successful or above employees as follows:
   (a) add the numerical scores for all rated CJEs;
   (b) divide the total in (a) by the number of rated CJEs;
   (c) assign seniority points based on calendar years of service from the employee's IRS EOD as follows:

   Two (2) years = .5

   Three (3) years = 1.0

   Four (4) years = 1.33

   Five (5) years or more = 1.67

   (d) add the points obtained in (b) and (c) above;
   (e) the total from (d) above is the total number of points assigned an employee for ranking purposes.
3. The release/recall list will be constructed as follows:
   (a) place all fully successful or above seasonal employees in the appropriate organizational area on a release/recall list based on the score obtained in subsection 3B2 above;
   (b) those employees with the highest score will be at the top of the list;
   (c) employees with ratings of minimally successful will be placed below employees with ratings of fully successful or above in descending IRS EOD order;
   (d) employees with ratings of unacceptable will be placed below employees with ratings of minimally successful in descending IRS EOD order;
   (e) newly hired seasonal employees who do not have performance appraisals consistent with the provisions of subsection 1A6 will be placed on the bottom of the release/recall list by their training test scores until such time as they are evaluated for the next list; and
   (f) for those seasonal employees who do not have performance appraisals or training test scores, ranking will be accomplished by placing them on the list below those employees with training test scores by their score on the OPM certificate.
4. Employees will be informed of their position on the list.
5. The parties agree that the arbitrator's appropriate remedy for an improper release or recall is back pay, consistent with law, or other remedy as the arbitrator may decide. However, such relief will not include "make-up work" or "extension of season".

C.
Recall of Seasonal and Term Employees

1. The order of recall will be based on the release/recall list.
2. The Employer has determined that those highest on the list who possess the specific skills needed will be recalled first, and those lowest on the list, last.

D.

If a Submission Processing Center has not reached a level where at least 66% of its measurable employees have received a measured annual evaluation at the end of each year of this Agreement, the Union will be free to open negotiations at that center to make changes that will increase the number of people to 66%. However, it may not make proposals that would change the fundamental TEPS program.

Section 4
Career/Career-Conditional Intermittent Release/Recall Procedures

A.
Release of Career/Career-Conditional Intermittent Employees

1. When it becomes necessary to place any or all of the career/career-conditional intermittent employees in an organizational level consistent with the general provisions of this article in a non-work status, the release will be based on a ranking of those employees who possess the skills required to perform the remaining work as set forth in subsection 4B below.
2. This ranking will be reflected on a list to be known as the release/recall list (intermittents).
3. The Employer has determined that those who rank lowest on the release/recall list will be placed in non-work status first and those ranking highest, last.

B.
Ranking Career/Career-Conditional Intermittent Employees for Release

1. The release/recall list will be constructed as follows:
   (a) list all career/career-conditional intermittent employees in the appropriate organizational area on a release/recall list according to their IRS EOD dates; and
   (b) those career/career-conditional intermittent employees with the earliest dates (most seniority) will be at the top of the list and those with the latest IRS EOD dates (least seniority) will be at the bottom of the list.
2. Employees will be informed of their position on the list.

C.
Recall of Career/Career-Conditional Intermittent Employees

1. The order of recall will be based on the release/recall list.
2. The Employer has determined that those highest on the list who possess the specific skills needed will be recalled first, those lowest on the list, last.

Section 5
Details

A.

Details of seasonal employees will not be made in a manner which would negate the intent of provisions of this article. However, the Employer may detail seasonal employees who are in an organizational area in which some employees are being placed in a non-work status if the employees to be detailed possess the skills needed in another organizational area which is in the process of recalling or hiring seasonal employees on the basis of need for employees with the requisite skills.

B.

1. Details of seasonal employees under the circumstances outlined in subsection 5A above will be on the basis of the ranking procedures outlined in this article.
2. The Employer has determined that seasonal employees ranking highest on the release/recall list, who possess the requisite skills, will be detailed in rank order as needed.

C.

1. Once detailed, seasonal employees will be released from the organizational area to which detailed in accordance with the provisions of this article based upon their position on the release/recall list in the assigned organizational area while on detail.
2. Nothing in this subsection will be interpreted to preclude the Employer from terminating details for the purpose of returning employees to their home section to perform work.

Section 6
Union Notification

A.

The Union chapter with representational jurisdiction over the positions from which a release or recall is occurring will be sent a copy of every release/recall list provided for in this article once it is established.

B.

The Union will receive notice of when a release or recall is to be effected.

Article15 Reassignments/ Realignments and Voluntary Relocations

Section 1 Purpose and Definitions

A.

This article establishes procedures for making certain changes in employees work assignments, subject to applicable law, rule, and regulation, including, but not limited to 5 CFR Part 330, Subpart F.

B.

For the purposes of this article:

1. "Position" means a set of duties requiring the full or part-time employment of one (1) person, as described in the position description.
2. "Reassignment/Realignment" means a permanent change in an employee's position (does not include application of new classification standard) or a permanent change in the post-of-duty (POD) to which the employee is assigned, without promotion or demotion.
3. "Commuting Area" as defined by the Employer for purposes of this Agreement.
4. A "Satellite" office is considered to be a POD.
5. "Enter on Duty" (EOD) date as defined in Article 1.

Section 2 Reassignments /Realignments

A.

Relocations Within a POD

In the case of change of an employee's physical location within a particular POD (for example, from one workstation or floor to another), that does not otherwise involve a reassignment or realignment as defined in subsection 1B2 above, the following procedures will apply:

1. The Employer will provide the appropriate Union Chapters with advance notice of its intention to change the physical location of employees.
2. The Union reserves the right to bargain in accordance with law, regulation, and this Agreement.
3. Any negotiations, including the initial contact with the Factfinder identified in Section 3, will be completed within thirty (30) calendar days of the date of the notice provided in subsection 2A1 above and in accordance with the procedures provided in Section 3 below.

B.

Reassignments/Realignments Within a POD

Where the Employer proposes to reassign/realign employees within a particular POD, which may also involve a change in the physical location of employees, the following procedures will apply:

1. The Employer will provide the appropriate Union chapter with notice of its intention to reassign/realign employees.
2. The Employer will designate the impacted employees and will solicit for volunteers for reassignments/realignments from among qualified employees.
3. If there are more volunteers than needed, the employee(s) with the earliest IRS EOD will be reassigned/realigned.
4. Where there are not enough volunteers, the least senior employee(s), using IRS EOD, will be reassigned/realigned.
5. The designated employees will receive five (5) workdays notice.
6. The Union reserves the right to bargain in accordance with law, regulation and this Agreement.
7. Any negotiations, including the initial contact with the Factfinder identified in Section 3 of this article, will be completed within thirty (30) calendar days of the date of the notice provided in subsection 2B1 above and in accordance with the procedures provided in Section 3 below.

C.

Reassignments/Realignments between PODs Within the Commuting Area

Where the Employer proposes to reassign or realign employees from one POD to another within a particular commuting area, the following procedures will apply:

1. The Employer will provide the appropriate Union chapters with notice of its intention to reassign/realign employees.
2. The Employer will designate the impacted employees and will solicit for volunteers from among employees who are qualified and possess any necessary specialized skill requirements.
3. If there are more volunteers than needed, the employee(s) with the earliest IRS EOD will be reassigned/realigned.
4. Where there are not enough volunteers, the least senior employee(s), using IRS EOD, will be reassigned/realigned.

5. The designated employees will be given fifteen (15) workdays notice.
6. If the Employer asserts that a specialized skill is needed, NTEU reserves the right to bargain over the impact and implementation of the specialized skill, if that specialized skill has not been used as a matter of practice in filling the position.
7. The impact and implementation of the Employer's use of a specialized skill and any adverse impact of the reassignments/realignments may be negotiated by the parties at the local level. The negotiations, including the initial contact with the Factfinder identified in Section 3, will be completed within thirty (30) calendar days of the date of the notice provided in subsection 2C1 above and in accordance with procedures provided in Section 3 below.

D.
Reassignments/Realignments Outside the Commuting Area

Where the Employer proposes to reassign or realign employees from one POD to another outside a particular commuting area, the following procedures will apply:

1. The Employer will provide the appropriate Union chapters with notice of its intention to reassign/realign employees.
2. The Employer will designate the impacted employees who are qualified and possess any necessary specialized skill requirements, and will solicit for volunteers from among the impacted employees.
3. If there are more volunteers than needed, the employee(s) with the earliest IRS EOD will be reassigned/realigned.
4. Where there are not enough volunteers, the least senior employee(s), using IRS EOD, will be reassigned/realigned.
5. The designated employees will be given thirty (30) workdays notice.
6. Employees who are reassigned/realigned to a POD outside the commuting area will be entitled to moving expenses in accordance with law, rule and regulation.
7. If the Employer asserts that a specialized skill is needed, NTEU reserves the right to bargain over the impact and implementation of the specialized skill, if that specialized skill has not been used as a matter of practice in filling the position.
8. The impact and implementation of the Employer's use of a specialized skill and any adverse impact may be negotiated by the parties at the national level. Any negotiations, including the initial contact with the Factfinder identified in Section 3, will be completed within thirty (30) calendar days of the date of the notice provided in subsection 2D1 above, and in accordance with procedures provided in Section 3 below.

Section 3
Directed Reassignments/Realignments Expedited Resolution Process

A.

The parties agree to use the following process to resolve impasses that result from the negotiations provided in Section 2.

1. The parties will contact by telephone the designated Factfinder (one (1) East Coast, one (1) West Coast), that has been selected by the National parties, to advise the Factfinder of the dispute. This contact will be on the last day of scheduled bargaining or when the parties reach impasse, whichever is earlier. The parties will submit their final proposals and any supporting documentation to the Factfinder within three (3) workdays of the initial telephone contact.
2. The Factfinder is empowered to assist the parties in reaching agreement. The Factfinder shall determine the appropriate resolution process, including last and best offer (article by article or issue by issue) or amendment of final offers.
3. The Factfinder may contact the parties via conference calls to discuss the offers and will recommend a resolution to the dispute within two (2) weeks. The recommended resolution will be in writing. In no case may the Factfinder intrude on the Employer's right to reassign/realign.
4. Any disputes remaining after submission to the Factfinder will be resolved pursuant to 5 USC 7119, or other appropriate provisions of 5 USC 7101, et. seq. The party that moves such remaining disputes to the statutory impasse resolution process carries the burden of proof regarding the reasons the Factfinder's report does not resolve the issue at impasse.
5. If the Union seeks impasse resolution pursuant to 5 USC 7119, the reassignment/realignment will be implemented while the Union pursues the statutory impasse process. If the Employer seeks impasse resolution pursuant to 5 USC 7119, the reassignment/realignment will be delayed pending resolution of the disputed issues, unless exigencies are present. If a party seeks impasse resolution, the parties will ask the Federal Service Impasses Panel (FSIP) to

expedite the matter and place a burden on the objecting party.

6. If a dispute moves to the statutory process, the objecting party will pay the full costs of the Factfinder who produced the decision. Should neither party object, the costs of the Factfinder will be shared by the parties.

Section 4
Reassignments/Realignments - General Provisions

A.

The parties jointly commit to work together in minimizing the adverse impact on employees involuntarily reassigned/realigned under this article. The parties further commit to fully exploring a variety of options which minimize adverse impact such as Flexiplace, Alternative Work Schedules, and Telecommuting.

B.

Notwithstanding the provisions outlined in Section 2, above, employees in their first year as revenue agents, revenue officers, or tax auditors are subject to reassignment/realignment without regard to their length of service, provided that, among such first year employees, IRS EOD will be used when fewer than all such first year employees need to be reassigned/realigned.

C.

When employees have been reassigned/realigned due to the abolishment of their positions, they will be given the preference for reassignment/realignment back to such positions provided that such positions have been reestablished within two (2) years of abolition, and the employees apply for such positions within fifteen (15) days of receiving written notice (to be given by the Employer) of the reestablishment of the positions. If such reassignment/realignment due to job abolition was to a position within the commuting area, employees will be offered the right of first refusal back to such positions. If there are two (2) or more applicants for a reestablished position, the most senior applicant, using IRS EOD, who meets the position requirements will have preference. The parties recognize it is in the interest of the Government to return applicants to their former positions at Government expense whenever possible.

1. When employees have been involuntarily reassigned/realigned from a position in the last five (5) years, they will be entitled to return to a vacant position with the same title, series, and grade in the location they were forced to leave. No moving expenses are authorized in such circumstances.

D.

The local parties are authorized to negotiate when the Employer determines to change the initial POD (prior to reporting to such POD) for newly appointed employees.

E.

The Employer has determined that reassignments/realignments will not be used in lieu of discipline.

Section 5
Hardship Reassignments

A.

Absent just cause, the Employer will change the work assignment of an employee demonstrating a significant hardship that can be relieved by a relocation (including change of POD) provided that there is a vacant position which the Employer intends to fill in the employee's current job series and the employee meets the position and skill requirements.

B.

Absent a decision by the Employer to reassign above the journey level, all hardship relocation recipients who are above the journey level will be limited to entitlement to positions in their current occupation at the journey level. However, there is a presumption that hardship transfers shall normally be at the journey grade level, absent good and sufficient just cause.

C.

In accordance with Government-wide regulations, if the recipient's current grade is above the journey level, he or she will receive the highest previous rate if the new position is at the journey level. For example, if a recipient who is currently a GS-13, Step 4 revenue agent accepts a hardship reassignment, his or her highest previous rate will be a GS-11, Step 10.

D.

When the hardship eligible is at or below the journey level, assignment can only be made at the employee's current grade.

E.

When the hardship eligible is above the journey level, assignment changes will be made based on the following.

1. When there is no open vacancy announcement (per subsection 5K below) for a position above the journey level, the Employer has the option of assigning the hardship eligible at the journey level or up to the employee's current grade.
2. When there is an open vacancy announcement (per subsection 5K below) at or below the journey level, the Employer has the option of assigning the hardship eligible at the journey level or up to the employee's current grade.

3. When there is any open vacancy announcement (per subsection 5K below) above the journey level, the Employer may fill the vacancy with the hardship eligible or it may fill the vacancy with an applicant within the Senior Commissioners Representative's area, provided that it simultaneously accommodates the hardship eligible with a position in the same series at no lower than the journey level.

F.

Notwithstanding the language of subsections 5A and 5B above, the parties recognize that situations may arise wherein the Employer may attempt to accommodate a hardship eligible by offering assignment to a position in another series when it is determined by the Employer that the employee can readily perform the work and there is no vacancy in the employee's current series, provided that there is no hardship eligible currently in the series being considered. The Employer has determined that the hardship eligible is not required to accept a position in another series. Declination of such an offer will have no impact on the employee's entitlement under this Agreement.

G.

The Employer may fill an announced vacancy with an applicant from within the Division without accommodating a hardship eligible if the hardship eligible has, within the previous ninety (90) days declined an offer of assignment made in accordance with the provisions of this Agreement. Declination of an offer made under subsection 5C above does not serve to trigger this provision.

H.

The Employer has determined that employees who accept a voluntary change to lower grade in order to receive a hardship reassignment will be assigned work commensurate with their grade level.

I.

The employee must provide verifiable documentation concerning the situation or condition that gave rise to the hardship request. The application form (Exhibit 15-1) will be used to substantiate and document hardship reassignment requests. In addition, the employee must submit a Form 4536.

J.

The employee's office will notify the "gaining" office within ten (10) workdays of receipt of a completed hardship application. The employee, at his or her option, may submit a copy of his or her completed application to the gaining personnel office sooner than the ten (10) workdays. When the "gaining" office receives a copy of the hardship application, it will immediately provide a copy to the local chapter president.

K.

The Employer has determined that notification of the hardship request prior to the close of a vacancy announcement will result in that hardship relocation being made through that vacancy announcement, provided the employee meets the hardship criteria.

L.

Employees will not be eligible for hardship relocation if they are not performing at a fully successful level or above or if they are the subject of a continuing conduct investigation.

M.

When a hardship has been determined to exist, the Form 4536 will be "flagged" and will remain on file in the "gaining" office until December 31 of the year in which it was submitted. Employees must recertify that the hardship still exists in order for the request to remain valid beyond that point.

N.

Recertification of the hardship must be made annually no later than December 31 of each year. In addition, the employee may be required to recertify that the hardship still exists before an office extends an offer of a position. Employees will notify the "gaining" office of any change in the hardship situation.

O.

Examples of hardship situations or circumstances are listed below. This list is not intended to be all inclusive. There may be other situations when the totality of circumstances constitutes a hardship situation. The Employer reserves the right to exercise its judgement in those circumstances.

1. The employee or employee's immediate family is experiencing a significant hardship. "Immediate family" refers to spouses, parents (or legal guardians), brothers, sisters, and children. "Step" relationships and life partner are included in the definition of immediate family.
2. If medical in nature, the hardship must be serious, affecting major life functions and not treatable in the employee's current location, for example, a severe condition of hay fever which might be alleviated by relocation to another geographic area would not be considered a significant hardship unless the employee's condition cannot be alleviated or controlled by recognized medical treatment.
3. Access to a hospital that specializes in treatment of a specific life threatening disease or condition would qualify as a hardship, even though there is a general care hospital in the employee's current location.

4. Access to special educational facilities (for example, schools for hearing or visually impaired) would be considered a significant hardship if there is no equivalent facility in the employee's present location.
5. Employment-related situations that constitute a hardship situation include any spouse, fiancé, or life partner being offered the choice of relocation or unemployment, receiving a promotion opportunity in another location, losing a job and receiving a job offer in another location, or receiving military orders to relocate.

P.

If a "gaining" office has more than one (1) hardship waiting for relocation, that office will offer the hardship reassignment according to the length of time that an eligible employee has been waiting. That is, the employee who can perform the duties and meets the position requirements and who has been eligible the greatest length of time.

Q.

Until such time that employees who accept a voluntary downgrade achieve their previous grade, employees who apply for a position may indicate on the Form 4536 that they have previously received a hardship relocation. The Employer will take into consideration prior to selection that the employee(s) have accepted a downgrade as a result of a hardship reassignment.

R.

Denials of hardship requests will continue to be resolved through the grievance procedure. Grievances that remain unresolved at the first step will be waived to the last step of the grievance process. Upon invocation, unresolved grievances over denial of hardship requests will be discussed at the national level prior to scheduling the arbitrations.

Section 6
Voluntary Relocations Within a SCR's Area

A.

The procedures of this section will be used in the following situations:

1. in filling vacancies below the journey level (for example, revenue officer, GS-5/7) of an occupation; and
2. in filling one-half (½) of the positions that the Employer determines to fill at the journey level and above in each POD (for example, if the Employer has four (4) GS-11 revenue agent vacancies at a particular POD, this process will be used in filling at least two (2) of them; if there is only one (1) vacancy or an odd number of vacancies, the Employer will use this process in filling every other vacancy). This process will not be used before priority placement, priority consideration, redeployment eligible, hardship and staffing imbalance candidates are considered. It will be used before competitive or other placement methods are used.

B.

If employees wish to relocate using this process, they must annually file voluntary applications for consideration listing the location(s) and Division(s) for which they wish to be considered. When the Employer decides to fill the vacancy, it will review the voluntary applications and list the candidates in order of IRS EOD. Employees will be excluded from the list if they do not have a score of "3" or above in each critical job element, if the move would not be at least ten (10) miles from the old POD to the new POD, if they do not have the same occupational classification as that of the vacancy, or if they have moved voluntarily under this program (or for a competitive promotion) in the last three (3) years. Employees in occupational classifications with specialty areas that require specialized training will only be eligible to volunteer for relocation to vacancies in the same specialty area. Once this list is assembled, applicants will be selected in order of earliest IRS EOD date for relocation to perform the duties of their positions at the new location, absent just cause (for example, failure to meet minimum position requirements).

C.

A relocation under this process will not entitle the employee to moving expenses, but neither will it void any independent entitlement the employee may have.

D.

The parties at the local level may negotiate a change to this process, however, such negotiations are voluntary and may not be taken to any impasse resolution process unless agreed.

E.

Within budgetary limitations, any qualified employee working a Part-Time Career Act schedule who previously worked full time will be returned, upon request, to a full time schedule in his or her occupation.

Section 7

The Employer has determined that employees in the same occupational classification series, with the same specialty area, if applicable, and at the same grade levels may swap positions, absent just cause. Additionally, once an employee has swapped positions with another employee, he or she may not swap again for three (3) years. In order to be eligible for such voluntary movement employees must be at least

fully successful in their current positions and the swap must not require any formal training or relocation costs to the Employer. The parties recognize and acknowledge that such job swaps are solely for the benefit of the employees involved and it is the responsibility of the employees to identify the other employees interested in such a job swap.

Section 8

When the Employer determines to have positions which will be rotational in nature, the local parties may enter into negotiations on impact and implementation.

Article 16
Details

Section 1

A.

For the purposes of this article, a detail is defined as the temporary assignment of an employee to a different position for a specified period with the employee returning to regular duties at the end of the detail. This includes positions at higher or lower grades.

B.

1. An employee who is detailed to a position of higher grade for one (1) full pay period or more will be temporarily promoted, if eligible, and receive the rate of pay for the position to which temporarily promoted.
2. If an employee is not detailed to a position of higher grade, but who performs higher graded duties for 25% or more of his or her direct time during the preceding four (4) months, the Employer will temporarily promote the employee retroactive to the first full pay period if the employee meets the criteria below:
   (a) the employee performed such higher graded duties at least at a level of skill and responsibility properly expected;
   (b) the employee meets minimum OPM qualifications for the promotion to the next higher grade; and
   (c) the employee meets time-in-grade requirements for promotion to the next higher grade.
3. Once a four (4) month period has been reviewed and a temporary promotion has been given, those four (4) months will be eliminated from further consideration in calculating future four (4) month periods.
4. Direct time is to be calculated in accordance with the criteria contained in Exhibit 16-1. The procedures which are to be followed for other matters related to higher graded work are contained in Exhibit 16-2.

C.

An employee who is detailed to a higher graded managerial position for one (1) full pay period or more will be temporarily promoted, if eligible. If the employee performed higher graded work in addition to the detail to the higher graded managerial position, the length of time the employee is entitled to a retroactive temporary promotion will be determined as follows:

1. determine the length of time on a pay period by pay period basis the employee was detailed to the managerial position;
2. determine the percentage of time spent performing higher graded duties in the remainder of the four (4) month period.
3. if the time spent performing higher graded duties in the remainder of the four (4) month period equals or exceeds 25%, the employee will receive a temporary promotion for the full four (4) months;
4. if the time spent performing higher graded duties in the remainder of the time is less than 25%, and if adding the time spent performing the managerial duties does not bring it up to 25%, the employee will receive a temporary promotion on a pay period by pay period basis only for the time spent performing managerial duties;
5. if the time spent performing higher graded duties in the remainder of the time is less than 25%, and if adding the time spent performing the managerial duties causes it to equal or exceed 25%, the employee will receive a temporary promotion on a pay period by pay period basis for the time spent performing the managerial duties and consideration will be given to a Special Act Award, as provided for in Article 18, for the amount of time not otherwise compensated.

D.

Upon request, and to the extent not prohibited by law, the Employer will provide copies of necessary and relevant data and reports from Integrated Collection System (ICS) and other similar work tracking system to enable the Union to monitor the assignment of higher graded duties.

E.

Details of more than thirty (30) consecutive calendar days will be formally documented by the placement of an SF-52 in the employee's Official Personnel Folder (OPF).

F.

1. If the Employer determines to rotate employees in and out of positions using a series of details or reassignments which extend for more than thirty (30) consecutive calendar days, the Employer will put such positions up for bid among all employees possessing the necessary grade, skill level, and experience requirements for the detail within the commuting area.
2. If there are more qualified employees than there are positions to be filled, the most senior qualified employee, using IRS EOD, who bids on such a position shall be selected. Once an employee completes a rotational assignment, he or she will be placed at the bottom of the selection list.
3. Details of employees will not be made in a manner which conflicts with the provisions of Article 14 or Article 22 of this Agreement.
4. The local parties are free to enter into negotiations once during the term of this Agreement to modify the above process.

G.

When the rotation of employees through higher graded positions has the effect that compensation at the higher grade is avoided, the Employer will comply with the provisions of IRM 0335.

Section 2

The Employer has determined that employees assigned tax enforcement duties who are on formally documented details as described in subsection 1C will be relieved of responsibility by the Employer for work then assigned, provided such work is not encompassed by the detail. The foregoing relief of responsibility will be based on the detailee's written list of those cases, identifying the actions therein which need attention. The Employer will provide timely notification of the detail and the detailee shall be provided with sufficient time to prepare such a list. The relief of responsibility shall terminate with the employee being returned to the permanent position.

Section 3

An employee who is to be detailed to an overseas assignment will receive forty-five (45) days advance notification, when possible.

Section 4
Permanent Employees

A.

The Employer may effect details or non-competitive temporary promotions of sixty (60) days or less from among appropriately qualified employees (to be eligible for a temporary promotion, employees must meet minimum OPM qualifications and time-in-grade requirements).

Once a detail or non-competitive temporary promotion of more than sixty (60) consecutive days becomes available, the Employer will solicit and consider volunteers in the following order:

1. Center Campus or commuting area (by Division first, then among all Divisions);
2. area, or its equivalent (by Division first, then among all Divisions); and
3. Service-wide (all Divisions).

B.

For permanent employees, volunteers for details of more than sixty (60) consecutive days will be solicited from interested and qualified employees in the order set forth in subsection 4A above. If there are too many volunteers, selection will be made in descending order using IRS EOD date, unless competitive procedures are used to identify the best qualified candidate. If there are insufficient volunteers, the Employer will select from among appropriately qualified employees in reverse order of seniority, using IRS EOD date, absent local mutual agreement to the contrary.

C.

The local parties are free to retain existing local agreements or negotiate a more precise plan for implementing the provisions of this section (including applicability to seasonal employees), once during the term of this Agreement. Local parties are encouraged to find a way to expedite the bidding process without utilizing formal negotiations.

D.

Volunteers for non-competitive temporary promotions of more than sixty (60) days, but less than 120 consecutive days will be solicited from interested and qualified employees who meet minimum OPM qualifications and time-in-grade requirements for the temporary promotion. If there are too many volunteers, selection will be made in descending order using IRS Enter On Duty (EOD) date.

E.

If the most senior qualified applicant received the same or a similar opportunity within the last twelve (12) months, he or she will be passed over until all other qualified volunteers have been selected.

F.

In those cases where the Employer announces, in advance of the solicitation, that it will not pay travel or per diem expenses, consideration will be given to all employees, including those who are willing to take the detail without these costs.

Section 5
SB/SE Revenue Agents Detailed to LMSB

A.

The parties agree to pilot the program described below within sixty (60) days of the signing of this Agreement. The parties recognize the need to afford employees developmental opportunities involving higher graded work, and will operate a program of rotational details for a period of two (2) years following the effective date of this Agreement. The results of the pilot will be shared with the National Office of NTEU. Either party may open negotiations over the final implementation of the program during the Mid-Term Reopener to this Agreement.

B.

The Employer will offer developmental assignments to GS-12 revenue agents to LMSB for up to 120 days on a rotational basis from among volunteers as the workload permits under the following conditions:

1. During the assignment, the employee will perform developmental work at a large case site.
2. Within the first three (3) weeks of the assignment, the employee may be required to finish substantially completed work from the prior inventory.
3. Qualified volunteers will be selected in order of IRS EOD seniority first from within the commuting area.
4. The Employee will not receive a temporary promotion during this detail.
5. The detail will be formally documented by the placement of an SF-52 in the employee's Official Personnel Folder (OPF).
6. An Employee may only be selected once during the term of the pilot.
7. Within the first ten (10) days in which time is first applied to the LMSB case, the employee may provide written notice to withdraw from the assignment.
8. Local parties may mutually agree to modify the solicitation process and subsections 5B3 and 5B7 of this section.

Article 17
Acceptable Level of Competence Determinations

Section 1

A.

The Employer has determined that acceptable level of competence determinations will be made as they become due by the employee's immediate supervisor as described in Article 12.

B.

Acceptable level of competence determinations will be made in a fair and objective manner and will be made only on the basis of the work requirements of the particular position or specific work standards as may have been established by the Employer for the position; provided, however, that a determination that an employee is not performing at an acceptable level of competence (that is, at a fully successful level) will not be used to dispose of questions of misconduct. In accordance with applicable law, an employee shall be advanced in pay to the next higher step of his or her grade upon meeting the following requirements:

1. the employee must have completed the required waiting period;
2. the employee must not have received an equivalent increase in pay during the required waiting period; and
3. the employee's work must be of an acceptable level of competence in each of the critical job elements of his or her position (that is, the employee's performance is fully successful as provided in Article 12 of this Agreement).

Section 2

A.

If an employee has not been informed of the requirements for successful performance in his or her current position, at least sixty (60) days in advance of the completion of the required waiting period, and has not been given a performance rating in any position within the ninety (90) days prior to the completion of the required waiting period, the acceptable level of competence determination will be postponed until sixty (60) days from the date on which the employee has been informed of his or her current critical job elements. If during or at the end of this period it is determined that the employee's work is at an acceptable level of competence, the within-grade increase shall be made retroactively as of the date the waiting period was completed.

B.

When a manager's review leads to the conclusion that an employee's work is not at an acceptable level of competence, the employee will be provided with the following in writing within a reasonable period of time, but never less than sixty (60) days before the employee will have completed the required waiting period:

1. notice of the critical job element(s) in which the employee's work is less than fully successful;
2. examples of less than fully successful performance on which the action is based;
3. advice as to what the employee must do to bring performance up to the fully successful level;
4. a statement that the employee's performance may be determined as being less than successful unless improvement to a fully successful level is shown; and
5. a statement that the within-grade increase will be withheld unless the employee's work is at an acceptable level of competence by the end of the waiting period.

Section 3

If the employee's performance becomes fully successful the notice given as provided in Section 2 will be canceled. If the employee's performance is not at an acceptable level of competence, the Employer will notify the employee in writing that the within-grade increase will be withheld. The notice will include reasons for the action. The employee will also be advised of the right and how to seek reconsideration of the action in accordance with 5 USC 5335(c). In addition, the notice should caution the employee that action may be taken at any time to effect the employee's removal, reduction in grade, or reassignment if the employee's performance is unacceptable and does not improve to at least the fully successful level.

Section 4

A.

Neither the substantive nor the procedural aspects of this article may be grieved until an acceptable level of competence determination is final. The acceptable level of competence determination will be considered final when a reconsideration decision is due or issued. A reconsideration decision shall be considered due thirty (30) days from the date of the Employer's receipt of an employee's written request for reconsideration. The grievance procedure will begin one (1) step above the reconsideration official. If the reconsideration official also represents the final step of the grievance procedure, the level of competence determination is appealable directly to arbitration. This section will not apply, however, in cases where the grievance is based solely on non-performance and/or non-merit reasons, e.g., an unfair labor practice or a prohibited personnel action.

B.

In the event an employee disagrees with the Employer's determination as to whether the employee has satisfied the within-grade waiting period, the employee may grieve the denial of the within-grade increase within fifteen (15) days of becoming aware of the Employer's determination.

Section 5

Any alleged violation of the terms of this article which results in a new acceptable level of competence determination will provide for retroactivity of any pay increase, unless prohibited by applicable law or higher Agency regulation.

Section 6

The Employer will provide the Union copies of written notices referenced in subsection 2B, any decision letters, and any reconsideration letters simultaneously with their issuance to employees.

Section 7

Cooperative Education students will be granted within-grade increases when their performance is at a fully successful level, and they have met the creditable service requirements for the within-grade waiting period in accordance with 5 CFR 531.405 and 531.406.

Article 18
Awards

Section 1
General

A.

Performance Awards (that is monetary awards earned as a result of an employee's annual performance rating); Time Off Awards; Special Act, including Manager's Awards; Honorary; Suggestion; and Invention Awards; and Quality Step Increases (QSI) are granted by the Employer on the basis of merit, and within applicable budget limitations, to individuals or groups. The Employer has determined that it will establish budgets for Fiscal Year 2003 and Fiscal Year 2004 employee awards and will notify the Union of those budgets. Thereafter, should the Employer determine, at any time during those Fiscal Years, the

need to modify those budgets, it shall give the Union formal notification, at least sixty (60) days in advance of its intention to do so. Upon such notice, or upon any deviation from the budgets referenced above, either party, as an exception to the provisions of Article 54(Duration), may reopen this article to negotiate the implementation and impact of the Employer's proposed change and/or deviation. Such negotiations shall be conducted in accordance with the provisions of Article 47, except that the parties shall conclude those negotiations (including impasse resolution procedures, if necessary) in no more than thirty (30) days from their initiation, unless otherwise mutually agreed.

B.

The Employer will provide the Union quarterly with all reasonable and necessary information respecting awards granted to employees covered by this article. Such information shall include the award recipient's name, type and amount of award, and as applicable, the basis for each Special Act Award. The Union will be provided, upon request, any information reasonable and necessary to process a grievance if it has not been provided such information pursuant to this provision.

C.

Performance awards will not be granted to employees covered by the Incentive Pay System. Amounts paid to employees under this system will not be part of the computation described in the National Performance Awards Agreement. Employees will be eligible, however, for awards under this Agreement for any period(s) of time that they are not covered by the Incentive Pay System.

D.

The fact that an employee is the subject of a conduct investigation or has been the subject of a disciplinary action during the rating period will not preclude a performance award that would otherwise be granted unless such preclusion is necessary to protect the integrity of the Service. The merits of the Employer's decision to withhold an award are subject to the negotiated grievance procedure.

Section 2
IRS-NTEU Contract Awards Program

A.

Awards granted under this section will be known as awards under the "IRS-NTEU National Performance Awards Agreement," and this designation will be noted on award certificates, as well as any other letters or memoranda given to employees in connection with these awards. Pursuant to that agreement, all employees who are otherwise eligible (including those with tied CJE scores) shall be granted a monetary award, in accordance with procedures developed by the parties' Joint Performance Awards Committee.

B.

Because the Employer has determined that it will establish a target Quality Step Increase (QSI) rate for Fiscal Year 2002 of between 4.0 and 5.0 per hundred non-bargaining unit/non-managerial employees, it will establish the same rate for bargaining unit employees, as an amendment to the parties' Memorandum of Understanding on QSIs. Future annual adjustments to the target rate for bargaining unit employees shall be as provided in that memorandum. An employee who has been recommended for a QSI, may choose a cash award instead of the QSI, which shall be in the amount of three percent (3%) of the employee's salary. In this regard, an employee at Step 10 of the General Schedule is ineligible for a QSI; accordingly, where such an employee would have been recommended for a QSI but for this ineligibility, the employee will receive a cash award of three percent (3%) of the employee's salary. For purposes of calculating QSI participation rates under the parties' above referenced QSI Memorandum of Understanding, such conversions as described herein shall be treated as if the employee had received a QSI.

C.

Ninety percent (90%) of all funds paid out under Section 1 above will be in accordance with the National Performance Awards Agreement, whereas Special Act Awards will be paid pursuant to Section 3 below.

D.

Elements rated "N/A" will not be included in the computation of average ratings for critical job elements.

E.

Notwithstanding any other provision of this Agreement, no employee with an overall rating "below fully successful" is entitled to an award under this program.

F.

The Parties' Joint Performance Awards Committee will consider ways in which the parties can supplement this article to include other forms of non-cash awards (such as savings bonds).

Section 3
Other Awards

A.

Such awards will be made by the Employer in accordance with the provisions of the IRM, as modified by the provisions of this article.

B.

Such awards for bargaining unit employees will be limited to ten percent (10%)of all funds described in subsection 1A above.

C.

Managers are encouraged to utilize the provisions of IRM 0451 to motivate and reward employees.

D.

The maximum amount for a Manager's Award will be no higher than the minimum amount for a performance award.

E.

The Employer and the Union agree that employees' suggestions to improve work processes and working conditions provide a valuable and unique source of ideas which can greatly increase the efficiency of the Service and/or employee morale. In accordance with the Parties' 2001 Suggestion Program Memorandum of Understanding, an employee who has a suggestion adopted by the Employer will receive twenty-five percent (25%) of the tangible first-year savings resulting from that suggestion, as well as additional monetary and non-monetary benefits, as provided by the memorandum of understanding.

Section 4
Time Off as Incentive Award

A.

The purpose of the IRS/NTEU Time Off Award is to increase employee productivity and creativity by rewarding their contributions to the quality, efficiency, or economy of Government operations. The award is also intended to increase the quality of work life for all employees, as well as encourage and recognize one time, non-recurring accomplishments above or beyond normal job requirements.

B.

It is within the Employer's sole discretion to offer time off in lieu of cash to an employee. The Employer agrees to grant time off to bargaining unit employees on the basis of their performance, in a fair, consistent, and objective manner without discrimination.

C.

A Time Off Award (TOA) provides an employee with an excused absence without charge to leave or loss of pay. All bargaining unit employees shall be eligible for such TOAs unless the employee is or was on a leave restriction letter within the previous twelve (12) months.

D.

During any single leave year, employees may be granted up to the average total number of hours that such an employee works during a biweekly scheduled tour of duty. For example, a full time employee is eligible for a total of eighty (80) hours of time off; and a part-time employee working an average biweekly schedule of sixty-four (64) hours is eligible for a total of sixty-four (64) hours of time off.

E.

To encourage the use of TOAs for timely recognition of an employee's contribution, supervisors may grant up to eight (8) hours of time off without higher level review or approval.

F.

The minimum amount of time off for any contribution shall be one (1) hour. The maximum TOA for any single contribution shall be forty (40) hours for a full time employee. A part-time employee will be granted a TOA not to exceed his or her weekly work schedule.

G.

A TOA may be used in single blocks of time or in one (1) hour increments, subject to approval by management.

H.

A TOA must be scheduled and used within one (1) year from the date the award was granted or it will be forfeited. TOAs should be scheduled so as not to conflict with use of "use or lose" annual leave. When physical incapacitation for duty occurs during a period of time when an employee is using his/her TOA, sick leave will be granted for the period of incapacitation and the TOA will be scheduled at another time.

I.

TOAs in this subsection can be granted for any type of award provided for in this article. The value of any such accomplishment must exceed the cost of labor and the value of work which would have been performed during the employee's absence.

J.

Time off under this provision shall be calculated by dividing the employee's hourly rate, to the nearest dollar, into the recommended award amount and rounding-off to the nearest whole hour provided that the time does not exceed the maximum time allowed for a given contribution per subsection 4F.

K.

The monetary equivalent of the TOA (as determined solely by the hourly wage of the employee during the time off) will be charged back to the local awards pool. By June 30 of each year, the Employer will aggregate the total amount of TOAs given in each Performance Awards Pool and thereafter accordingly adjust the pool amounts and share values for employees in the pool. Performance Awards Pools will be retroactively adjusted to account for TOAs granted after June 30 but before October 1 each year.

L.

The receipt of a TOA does not prevent an employee from receiving any other Cash or Incentive Award and receiving prior Cash or Incentive Awards does not prevent granting a TOA.

M.

The Employer has determined that the scheduling and use of time off granted under this Agreement shall be subject to the same approval process as is used for annual leave.

Section 5
Bilingual Awards

A.

Employees, who on a regular basis, rather than occasionally:

1. utilize their bilingual skills;
2. whose performance is currently rated at least fully successful; and
3. who are not otherwise compensated for the use of these skills for a particular period (e.g., through salary, Performance or Superior Accomplishment Awards) shall receive a reasonable Special Act Award or Manager's Award of no less than $150 and no greater than $450.

B.

The Employer has determined that Bilingual Awards shall be paid out of the performance awards budget established by the Employer in accordance with subsection 1A above. This subsection shall terminate upon approval and implementation of a Language Proficiency Pay Demonstration Project to be developed jointly by the parties. Upon implementation of the Demonstration Project, such Language Proficiency Pay shall not be subject to the limitations established in subsection 1A above.

Article 19
Reduction in Force

Section 1

A.

The provisions of this section will apply to any Reduction In Force (RIF) conducted by the Service during the life of this Agreement. In addition any RIF will be accomplished in accordance with applicable laws, rules, and regulations.

B.

A RIF is the release of a competing employee from their competitive level by furlough for more than thirty (30) calendar days, separation, demotion, or reassignment requiring displacement; when the release is required because of lack of work, shortage of funds, insufficient personnel ceiling, reorganization, the exercise of reemployment or restoration rights, or reclassification of an employee's position due to erosion of duties when the reclassification will take effect after an agency has formally announced a RIF in the employee's competitive area and when the RIF will take effect within 180 days.

C.

When the Service determines a RIF is necessary, the Employer will provide notice to the Union thirty (30) days in advance of bargaining, giving the approximate numbers, types, and geographic locations of the positions affected and the anticipated effective date.

D.

The parties agree to an expedited bargaining process of sixty (60) days after the completion of notification. If an agreement is not reached at the end of this period, the parties agree that the Employer may invoke binding arbitration or submit the dispute through the statutory process.

E.

Nothing stated above compromises the Union's entitlement to get the data the Statute would provide it to properly negotiate over this matter. If needed, the timelines listed above will be modified to allow time for the Employer to give the Union the data and the Union to make appropriate adjustments in its proposals and arguments. The time should not be extended more than thirty (30) days after the Employer has responded to the Union's initial request.

Article 20
Priority Placement Plan

Section 1
Overview

A.

The Employer will make every effort to avoid the demotion of an employee when it is without cause and not at the employee's request. However, when a demotion such as this is inevitable, this article covers those situations where employees qualify for grade/pay retention.

B.

This article will govern the administration of the Internal Revenue Service Priority Placement Program (IRSPPP).

Section 2
Program Administration

A.

The Employer will designate a Priority Placement Program Coordinator for each commuting area, and will provide the Union the name and office location of the designated coordinator.

B.

The Union will be sent appropriate information on this program.

Section 3
Employee Eligibility

A.

Bargaining unit employees who are involuntarily demoted during the term of this Agreement as a result of RIF, reclassification of position to a lower grade, or who have declined an offer of transfer with the function to a location outside of the commuting area, and who otherwise meet the conditions of eligibility for grade/pay retention as outlined in 5 CFR 536 are eligible for and must participate in the Priority Placement Program. Employees eligible for, or participating in, the program on the effective date of this Agreement will retain their eligibility.

B.

Employees who are granted grade retention as a result of a management action which will further the mission of the Service are entitled to enrollment in the IRSPPP only for the duration of the grade retention period (two (2) years).

C.

1. Employees who are offered grade retention based on subsection 3B and who take a voluntary change to lower grade not more than three (3) grades or three (3) grade intervals below their current grade have the following options:
   (a) grade retention followed by pay retention; (IRSPPP participation during period of grade retention only);
   (b) pay retention only (No IRSPPP participation); or
   (c) highest previous rate.
2. Employees may elect the option which suits their best interest at the time they take a voluntary change to lower grade. Exercise of this option can only be made at the time an employee takes a voluntary change to lower grade and cannot be changed or rescinded at a later date.
3. The Employer will furnish a copy of Exhibit 20-1 outlining the options available to affected employees. A copy of the form, signed by the employee, showing the option elected will be placed in the employee's Official Personnel Folder.

D.

1. Employees become eligible for the program on the effective dates shown on their SF-50; the servicing personnel office will provide official notice (Employee Notice of Eligibility and Standard Form 50) that the employee meets the eligibility requirements for grade/pay retention.
2. The Employer will furnish a copy of the Notification of Eligibility and any follow-up notice to the Union; the SF-50 will not be furnished to the Union.

E.

Program eligibility is terminated when the employee transfers to another agency, resigns, receives a "reasonable offer," or otherwise loses eligibility for grade and pay retention. A "reasonable offer" must meet the following conditions:

1. the offer must be in writing, and must include an official position description of the offered position;
2. the offered position must be a permanent position and one for which the employee meets the established qualification requirements;
3. the offered position must be a full time position, unless the employee's former position was less than full time, in which case the offered position must have a work schedule of no less time than the employee's position before demotion; if the employee had health insurance in his or her former position, the offered position must allow the employee to maintain such coverage;
4. the offered position must be in the same commuting area unless the employee is subject to a mobility agreement which requires the employee's mobility; and
5. the offer must come after formal determination and notification of entitlement to grade/pay retention.

F.

Acceptance of a position at an intervening grade will not terminate an employee's eligibility to continue in the program unless the position is one in an established career ladder with a full performance level equal to the grade of the position from which demoted.

Section 4
Employee Registration

A.

Each eligible employee must complete Section 1 of the Employee Registration Form (Form 6264). This form along with a current Merit Promotion Questionnaire (MPQ) should be provided to the Priority Placement Program Coordinator no later than ten (10) workdays following notification of eligibility. In the event an eligible employee does not complete the registration form within ten (10) days, a follow-up notice will be sent to the employee.

B.

The Priority Placement Program Coordinator will record all information furnished by the employee on the registration form.

C.

Employees may submit additional information to the Priority Placement Program Coordinator which may aid in making qualification determinations.

Section 5
Determining Appropriate Vacancies for Priority Placement Referral

A.

Employees enrolled in the Priority Placement Program will receive priority placement referral for vacancies within the established area of consideration for which they are qualified and which are at the same or an intervening grade/rate of pay as the position from which demoted. The vacancy need not be in the same classification series as the employee's former position.

B.

The area of consideration for priority placement referral will be the commuting area.

C.

Employees enrolled in the Priority Placement Program will receive consideration for career ladder vacancies within the established area of consideration for which they are minimally qualified and which have a full performance level at the same or intervening grade as that from which demoted. Placement within the career ladder will be at the highest grade level within the career ladder for which the employee meets minimum qualification requirements.

D.

Promotions of employees within a career ladder or other career promotions which are made as an exception to competitive procedures and do not create an additional vacancy are exempted from the Priority Placement Program provisions.

E.

A master list of appropriate positions for referral of program registrants will be given to the Union on a weekly basis unless there are no changes in the list from the prior week(s). The list will include title, series, and grade of the position, and (in the case of appropriate career ladder positions) must include the range of grades for which eligible candidates are registered. The Union shall also be given, monthly, a list of employees placed pursuant to the program.

F.

Whenever a position is certified as having no eligible employees registered in the program, and announced as a legitimate vacancy, competitive procedures may proceed even though an updated master list contains the vacancy as appropriate for priority placement referral.

Section 6
Referral of Candidates

A.

Whenever an appropriate vacancy is identified, Form 4537, Roster of Eligibles for Promotion and Promotion Certificate, will be prepared, listing eligible registrants in Enter on Duty (EOD) date order beginning with the most senior employee (earliest EOD) if more than one (1) employee is registered for a particular vacancy. Existing MPQs and certification of fully successful performance in the employee's present position will be forwarded with the placement certificate to the selecting official.

B.

The Employer has determined that qualified registrants will be referred to the selecting official prior to taking any other action to fill a vacancy. A record of the referral and the result must be maintained and documented on the Employee Registration Form.

C.

After employees have been afforded proper consideration under CTAP, consideration of employees referred for placement under the Priority Placement Program shall precede other referrals of candidates eligible for special or priority consideration in accordance with higher regulatory authority.

D.

In the event there are qualified non-bargaining unit registrants as well as qualified bargaining unit registrants for any given "appropriate vacancy," bargaining unit employees will be referred to the selecting official before any non-bargaining unit employees are considered.

E.

If more than one (1) employee is referred on a certificate for priority placement, the selecting official

will select in EOD order beginning with the most senior (earliest EOD) qualified employee on the certificate, subject to subsection 6F, below.

F.

Non-selection of a priority placement referral should take place only when based upon careful evaluation of the information specified in subsection 6A above, and a determination that the employee would be unable to satisfactorily perform the duties of a position after a reasonable period of orientation. Non-selected employees shall receive a written explanation of the reasons for their non-selection.

G.

A priority placement employee will have five (5) workdays to accept or reject a "reasonable offer."

H.

Employees registered in the Priority Placement Program will be given priority consideration over other candidates for training and developmental assignments where it is needed to qualify employees for another position. For example, when the priority placement candidate is eligible to participate and there are positions available in the training or development program after the placement of all those who are mandated to attend because of job requirements, the priority placement candidate will be selected to participate above all others.

Article 21
Retirement

Section 1

The Employer will provide a retirement planning program to be made available at least once per year. The retirement planning program shall include a pre-retirement training seminar through IVT as well as supplemental information materials and sources such as the OPM web site, BeST web site, and counseling service through BeST. Employees in the bargaining unit who are within six (6) years of optional retirement eligibility shall be notified by the Employer that as a result of this Agreement, they are entitled to attend one (1) such retirement planning program on official time. Such employees may attend additional retirement planning programs on annual leave, credit hours, or compensatory time, if applicable. The Employer and the Union will develop a survey instrument for use in assessing the effectiveness of IVT-provided retirement seminars.

Section 2

Employees who separate voluntarily or involuntarily (except by retirement) will be informed by the Employer as to their rights to file for disability retirement if they have at least five (5) years of civilian service, the possibility of applying for a discontinued service annuity, and eligibility for deferred annuity at age sixty-two (62) provided they have had at least five (5) years of civilian service and leave their money on deposit with OPM.

Section 3

An employee may withdraw a retirement application at any time prior to its effective date, provided the withdrawal is communicated to the Employer in writing and is received by the Employer prior to its having made a commitment to fill the position of the retiring employee. See Exhibit 21-1 for retirement eligibility rules.

Section 4

For new employees desiring financial counseling, the Employer will provide financial counseling relating to the Thrift Savings Plan (TSP) during new employee orientation sessions. Additional information concerning investing in the TSP will be made available on the TSP and BeST web sites.

Article 22
Work Schedules

Preamble

A.

In recognition of the need to balance employees' legal and contractual rights and interests with the effective and efficient accomplishment of the Employer's mission, and in recognition of the Employer's use of differing appointments and work schedules, the Parties agree to the following definitions and procedures.

B.

Long-term employment opportunities will enhance the goals of mission accomplishment and employee interests. However, the interest of effective and efficient accomplishment of mission will be paramount.

ARTICLE 22

Section 1
Definitions

For purposes of this article, “tour of duty” means the hours of a day and the days of an administrative workweek that constitute an employee’s regularly scheduled administrative workweek.

Section 2
Seasonal Employment

A.

Seasonal employment is annually recurring periods of employment totaling less than twelve (12) months a calendar year in which seasonal employees are periodically placed in non-pay status in accordance with preestablished conditions of employment and the Parties’ 2001 Seasonal Employment Letter of Understanding.

B.

Seasonal employees may work full time, part-time or intermittent (unscheduled) work schedules, in accordance with their established conditions of employment.

C.

1. Seasonal employees may be scheduled to work one (1) or more seasons during a calendar year (a season is defined as not less than one (1) full administrative workweek).
2. Seasons should, to the maximum extent possible, be established in such a manner as to be reflective of the position to which the employee is assigned and identify the potential duration of work and the months in which work opportunities will most likely occur.
3. The identification of clearly defined seasons is intended to enable employees to have a reasonably clear idea of how much work they can expect during the year.

D.

1. A seasonal employee under a career/career-conditional appointment is covered by the Civil Service Retirement System or the Federal Employees Retirement System.
2. A regularly scheduled seasonal employee who is expected to work at least six (6) months per year is eligible for health and life insurance coverage in accordance with applicable statutes and regulations. In administering this provision, health insurance may be authorized where the minimum potential duration of the season that the employee can expect to work is more than five (5) months.
3. A seasonal employee earns sick and annual leave during the time in pay status and up to eighty (80) hours in non-pay status each year in accordance with applicable statutes, regulations and the appropriate articles of this Agreement.

E.

Seasonal employees will receive an employment agreement which will:

1. clearly define the position to which the employee is assigned;
2. define the season as closely as practicable so that an employee will have a reasonably clear idea of how much work he or she can expect during the year;
3. identify the months in which work opportunities will most likely occur;
4. explain that the sole determinants of the length of time an employee is in pay status are the availability of work and the employee’s standing on the release and recall list established under Article 14 of this Agreement;
5. explain that the employee may be called for assignment of work outside the identified season and for other assignments consistent with law, regulations and the provisions of this Agreement for such assignments;
6. explain that life and health insurance benefits accruing to the employee are linked to the work schedule assigned and the duration of work achieved pursuant to Article 27, Section 13 of this Agreement; and
7. explain that unemployment compensation benefits will accrue to the employee according to applicable State law.

F.

1. The Employer has determined that, to the maximum extent possible, and in an effort to maintain health insurance eligibility for as many seasonal employees as possible, it will assign seasonal employees who would otherwise be subject to release, and who may otherwise lose their health insurance eligibility, to other work within the Division for which they meet the minimum qualification requirements. For seasonal and intermittent employees who do not meet the minimum qualification requirements of a particular position, but are capable of doing the work, the Employer will waive the minimum qualification requirements for such positions. None of the foregoing is intended to displace any on-roll employees or delay the recall of any other employees.
2. The Employer will consider assigning seasonal employees, otherwise subject to release, to other work within the Division, where feasible in accordance with the procedures of this Agreement.

3. Acceptance of such offers will not affect the employee's entitlements under Article 14 of this Agreement or under the established conditions of employment as set forth in the employee's employment agreement.
4. Consistent with its right to assign work, the Employer will allow seasonal employees the right to use accumulated annual leave in an effort to extend their time in work status for purposes of maintaining health insurance eligibility.

Section 3
Part-Time and Job Sharing Opportunities

A.

To be considered part-time for purposes of this section an employee must have a regularly scheduled tour of duty, set in advance, of at least sixteen (16) hours but not more than thirty-two (32) hours in each administrative workweek except as provided in subsection 3D2 below.

B.

1. It is the intention of the Employer to make part-time and job sharing opportunities available to the maximum extent possible, consistent with the Employer's mission requirements, for positions through GS-15. Accordingly, the Employer has determined that employee requests for part-time employment and job sharing shall be granted, absent just cause demonstrated by the Employer.
2. The Employer recognizes that part-time career employment and job sharing are particularly appropriate for the following classes of employees:
   (a) older employees seeking a gradual transition into retirement;
   (b) handicapped individuals and others who require a reduced workweek;
   (c) parents who must balance family responsibilities with the need for additional income; and
   (d) students who must finance their own education and training.

C.

Denials of requests for any part-time employment or from any employees to share a position will be discussed with the employee and, upon request, the employee will be provided with a written statement with the specific reasons for the denial.

D.

Except as provided in the Federal Employees Part-Time Career Employment Act of 1978 (PTCA), and subsection 3E below:

1. the tour of duty for a PTCA employee will be no less than sixteen (16) and no more than thirty-two (32) hours per week;
2. the tour of duty for a PTCA employee on an alternative work schedule may be set on the basis of thirty-two (32) to sixty-four (64) hours per pay period, but must include at least one (1) hour in each administrative workweek; and
3. a PTCA employee's tour of duty will be documented on an SF-50, Notification of Personnel Action.

E.

An increase of a PTCA employee's tour of duty above thirty-two (32) hours per week or sixty-four (64) hours per pay period is not permitted for more than two (2) consecutive pay periods.

F.

1. The Employer will not abolish any position occupied by an employee in order to make the duties of such a position available to be performed on a part-time or job sharing basis.
2. subsection 3F1 above does not preclude the Employer from permitting a full time employee from voluntarily changing to a part-time work schedule.

G.

Any person who is employed on a full time basis shall not be required to accept part-time employment as a condition of continued employment.

H.

A part-time employee receives a full year of service credit for each calendar year worked (regardless of tour of duty) for the purpose of computing service for retention, retirement, career tenure, completion of probationary period, within-grade increases, leave accrual rate, and time-in-grade restrictions on advancement.

I.

A part-time employee is relieved from duty without charge to leave on the designated or "in lieu of" holidays of full time employees.

J.

Before an employee is assigned to a part-time or job sharing position, the Employer will brief the employee on the impact of this assignment on the following: retirement, RIF, health and life insurance, promotion, and step increases.

K.

An employee's work schedule/tour of duty is not a merit factor and shall not be considered in connection with any promotion action.

Section 4
Intermittent Employment

A.

For purposes of this section, intermittent employment means other than full time employment in which the employee serves under an Excepted or Competitive Service appointment without a regularly scheduled tour of duty.

B.

1. An intermittent work schedule is appropriate when the nature of the work is sporadic and unpredictable so that a tour of duty cannot be regularly scheduled in advance.
2. An intermittent work schedule is not appropriate when the nature of the work is such that a regularly scheduled tour of duty can be established in advance and the tour identifies specific work periods during each administrative workweek for a period of more than two (2) consecutive pay periods. In such cases, the employee's work schedule will be changed from intermittent to part-time or full time, in the case of a forty (40) hour per week schedule, and the change will be documented on an SF-50, Notification of Personnel Action.

Section 5
Information Sharing

A.

The Employer will notify the local Union chapter in advance of each planning period (January-June, July-September, October-December) of the planned mix of work schedules by Department/Operation.

B.

The Union may comment on such plans and offer suggested alternatives including those which would enhance long-term employment or create multi-position jobs.

Article 23
Hours of Work

Section 1
General

A.

All bargaining unit employees in all Divisions and Functions of the IRS are covered by the provisions of this article.

B.

The present administrative workweek begins at 12:01 AM Sunday and ends at 12:00 midnight Saturday, and the current basic workweek and normal tour of duty within the administrative workweek is five (5), eight (8) hour workdays. Prior to implementing a change in any regularly scheduled workweek, the Employer will notify the Union as far in advance as possible.

Section 2
Alternative Work Schedules (AWS)

A.

Except as set forth below, all terms and conditions of Alternative Work Schedule (AWS) agreements will remain in effect unless the Parties mutually agree to renegotiate (or mutually agree to authorize their local representatives to renegotiate) said local agreements. In this regard, the Parties agree that any negotiations over changes in AWS will occur pursuant to Article 47, as revised. Further, to the extent that the Parties authorize any local AWS negotiations, such negotiations may invoke the impasse procedures contained in Article 47 with the concurrence of the Parties (in this case, the Service's Director, Workforce Relations Division and the Union's Director of Negotiations). Finally, absent mutual agreement to do otherwise, where there are negotiations over which AWS schedule should apply to newly created jobs, the Parties agree to use the schedules that were available to employees in the closest local predecessor position. Thus, Taxpayer Resolution Representatives (TRRs) would have available to them the local schedules available to former Taxpayer Service Specialists; and Tax Compliance Officers (TCOs) would have available to them the local schedules available to former Tax Auditors.

B.

The Parties recognize that the use of AWS and staggered work hours has the potential to improve productivity and morale and provide greater service to the public. The Parties also recognize that AWS and staggered work hours may not be appropriate for certain positions or organizational segments because of the nature of the work performed, and that there is

a need for a system of tracking starting and stopping times under these work schedules to ensure adherence to the work schedule.

C.

In order to participate in AWS, employees must be fully successful or higher. If an employee is rated less than fully successful, his or her supervisor may move the employee off their current AWS work schedule. If the supervisor removes the employee, the supervisor will assign the employee to the supervisor's tour of duty, the lead's tour of duty, or a normal tour of duty. The employee may request another tour of duty and such request will not be unreasonably denied.

D.

This section establishes the framework within which local offices of the Employer and chapters of the Union may negotiate agreements concerning AWS and "staggered work hours." AWS available for local implementation are the "5/4-9" and "4-10" compressed work schedules and the "flexitour with credit hours" flexible work schedule.

E.

"5/4-9" is a work schedule that includes eight (8) workdays of nine (9) hours each, one (1) workday of eight (8) hours and one (1) non-work day within the biweekly pay period.

F.

"4-10" is a work schedule that includes four (4) workdays of ten (10) hours each in each administrative workweek of the biweekly pay period.

G.

1. Flexitour with credit hours is a work schedule that includes a basic work requirement of five (5) workdays of eight (8) hours each in each administrative workweek of the biweekly pay period and the ability of employees to work, with managerial approval, additional hours (credit hours) at a post-of-duty, a Flexiplace site or any other location; the credit hours earned may be used at the election of the employee, and with managerial approval, to vary the length of a workday or workweek; the Employer has determined that supervisors will approve the use of credit hours absent a severe work interruption.
2. Employees working flexitour work schedules may select starting and stopping times within established flexible time bands, but must be present during the hours and days of the administrative workweek designated as "core-time." Starting and stopping times must be selected in advance.
3. In certain functions, it may be necessary to pre-identify the number of employees who can select specific arrival times.
4. Once selected, an employee's starting and stopping times will continue until the periodic opportunity to change, if provided for in the local agreement.
5. Employees will be allowed to earn a maximum of two (2) credit hours per regularly scheduled workday and up to ten (10) credit hours on regular non-workdays.
6. Credit hours will be earned and used in fifteen (15) minute increments.
7. A maximum of twenty-four (24) credit hours may be carried forward from pay period to pay period, for full time employees. In accordance with law, part-time employees, may carry forward a maximum of one-fourth (1/4) of the hours in the employee's bi-weekly workweek.
8. In cases where an employee has worked approved credit hours before his or her normal tour of duty and has subsequently been released on administrative leave due to the office closing during that day, the credit hours will be preserved.

H.

"Staggered work hours" is a work schedule which includes a regularly scheduled tour of duty of ten (10) workdays of eight (8) hours each during the biweekly pay period. Employees' tours of duty will be established in advance and will continue until the periodic opportunity to change provided for in the local agreement.

I.

Employees in travel or in training status or on detail will adhere to the tour of duty of the organizational segment to which they are temporarily assigned.

J.

Prior to the beginning of a pay period, an employee who is on a 5/4-9 or 4/10 schedule may request that his/her normal day(s) off be changed for the upcoming pay period(s). The Employer will grant this request absent a severe workload interruption.

Section 3
Special Tours of Duty

Upon an employee's request, the Employer will, subject to workload requirements, establish a special tour of duty (e.g., a split shift) to enable the employee to pursue career development opportunities, or for other reasons (e.g., child care, volunteer activities).

Section 4
Religious Observances

A.

An employee whose personal religious beliefs require

the abstention from work during certain periods of time, including a religious observance connected with a death in the immediate family, may elect to engage in compensatory overtime work for time lost, without charge to leave, for meeting those religious requirements. Such requests will be granted unless:

1. an employee's presence on a job at the time in question is deemed necessary; or
2. no reasonable opportunities are foreseen within a reasonable period of time (generally one hundred twenty (120) days) during which the employee will be able to repay the compensatory time. Reasonable opportunities include the Employer's effort to first assign that work regularly assigned to the affected employee which may include work not normally assigned, provided the employee is otherwise qualified to perform such work; however, the Parties agree that the following are types of situations envisioned above:
   (a) the work is such that productive work is not available on what is normally non-duty time; or
   (b) significant security, utility, rental or other costs would be incurred if work at normal non-duty times was permitted.

B.

Compensatory time off will be granted in accordance with the provisions of subsection 4A above when an employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek. This time off includes normal commuting time for the employee.

C.

Employees must notify their supervisors of a desire to take compensatory time off for a religious observance. Notification should take place fifteen (15) days in advance, whenever possible.

D.

Compensatory overtime shall be worked in fifteen (15) minute increments. An employee is entitled to take compensatory time off in fifteen (15) minute increments. Such increments may be accumulated in order for an employee to take compensatory time off in segments of one (1) hour or more.

E.

A grant of compensatory time off will be repaid by the appropriate amount of compensatory overtime work within a reasonable amount of time (generally one hundred twenty (120) days).

F.

Employees who take advanced compensatory time off for religious observances may subsequently charge that time to annual leave. However, employees who take annual leave or leave without pay for religious holidays may not subsequently change that to compensatory time off.

Section 5
Training

The Employer will schedule training for non-day shift employees during their regular tour of duty whenever practicable. When it is not practicable to do so, the Employer will change an affected employee's tour of duty.

Section 6
Shifts

A.

The Employer will solicit requests from eligible employees who are interested in changing shifts and maintain a list of such employees from which future vacancies will be filled. Employees may submit interest statements at any time and will be considered. The Employer will grant requests for assignments to shift vacancies on the following basis:

1. the employee must be qualified for the vacant position; and
2. the employee has served on their present shift for more than one (1) complete year (or season, if a seasonal employee).

B.

1. Employees who have been assigned to their present shifts for the longest period shall be assigned first if there are more applicants than positions. Any ties will be broken by IRS enter on duty (EOD) date.
2. If management will otherwise fill the vacancy on the preferred shift with someone outside IRS, an unit employee will be selected over that candidate.

C.

The provisions of 6A and 6B above do not apply to employees on rotating shifts. For employees assigned to Call Sites, the above provisions will be used for changes in tours.

Section 7
Start Times

A.

Subject to the Employer's right to assign work, employees may not start work more than one (1) hour prior to the availability of equipment, the beginning of scheduled work processes, or before a taxpayer may be legally contacted.

B.

Employees in positions involving public contact may begin work no earlier than:

1. Revenue Officers (field going) 7:00 A.M.
2. Tax Auditors 7:00 A.M.
3. Revenue Agents (CEP) 7:00 A.M.
   or at the time the taxpayer allows the employee access to the audit site.
4. Revenue Agents (field going) 7:00A.M.

or at the time the taxpayer allows the employee access to the audit site if they are working at the same site for one continuous pay period or more.

C.

For employees who are on tours of duty outside those permitted above, those employees will be allowed to maintain their current tour of duty for a period of six (6) months following the effective date of this Contract, at which time they will be required to conform to the above tours of duty.

Section 8
Involuntary Reductions

Except in instances where it is a documented condition of employment, any involuntary reduction in an employee's hours of work will entitle that employee to appropriate adverse action rights and benefits.

Section 9

Nothing in this article shall restrict the Employer's right to assign work or employees pursuant to 5 USC 7106(a).

Article 24
Overtime

Section 1

A.

Employees who are required by the Employer to work overtime will be compensated in accordance with applicable law and regulations. While the Employer reserves the right to provide employees notice that no overtime work may be performed by either exempt or non-exempt employees, nothing in this article precludes or impairs FLSA exempt employees from filing a claim for "induced" overtime or FLSA nonexempt employees from filing a claim for "suffered or permitted" overtime.

B.

For example, if a nonexempt employee performed work for the benefit of the IRS, the supervisor knew or had reason to believe that the work was being performed, and the supervisor had an opportunity to prevent the work from being performed, the work may be considered "suffered or permitted" and be compensable.

C.

Nothing in this section precludes or impairs an employee from filing a claim for "induced" overtime.

Section 2

A.

1. Overtime will be distributed as equitably as possible among qualified employees. When overtime becomes available, the Employer will contact the impacted chapter to discuss equitable distribution. Local negotiations concerning this matter will be in accordance with Article 47.
2. First consideration for overtime will be given to those employees who are permanently assigned to the job.

B.

An employee will, upon request, be released from an overtime assignment if a qualified replacement is available and willing to work. An overtime assignment should not be required if the overtime assignment will impair the health of the employee or cause an extreme hardship.

C.

The Employer will seek to avoid overtime assignments that result in employees working excessively long periods without a day off.

D.

The Employer will make available to the Union, upon request, current records of overtime assignments of employees to aid in resolving individual claims of unfair and inequitable distribution.

E.

The Employer will, when circumstances permit, notify an employee three (3) days in advance of scheduling an overtime assignment.

Section 3

Employees required to be on stand-by duty will be compensated if allowed by applicable law and regulation.

Section 4

A.

The overtime pay of employees whose positions are exempt but who perform nonexempt duties for a majority of their duty time (including overtime) for a period exceeding thirty (30) continuous days, and thereby gain coverage under the Fair Labor Standards Act (FLSA) for overtime pay purposes, will have their overtime pay recalculated, as provided by the FLSA. Once an employee meets the test for FLSA coverage, he/she will continue to receive overtime pay under the FLSA until the employee again performs exempt duties for the majority of the duty time (including overtime).

B.

In those instances where an employee is identified in advance and is eligible for FLSA coverage, the Employer will take the appropriate actions so that the employee can receive the correct rate of pay in the pay period in which they earn it.

Section 5

A.

The Employer will ensure that all overtime worked will be reported in fifteen (15) minute increments. Under the FLSA, a nonexempt employee must be compensated for every minute of work performed during his/her regularly scheduled administrative workweek, including regularly scheduled overtime. When irregular or occasional overtime work is performed in other than the full fifteen (15) minutes, any overtime worked for seven (7) minutes or less will be rounded down, and any overtime worked for more than seven (7) minutes will be rounded up.

B.

The Employer will ensure that accurate records of actual hours worked are maintained until the Statute of Limitations has expired for any potential overtime claims.

Section 6

When the Employer authorizes in advance an employee to perform work while traveling and outside normal duty hours, the actual time spent performing the work (e.g., mandatory reading, Agency e-mail and/or voice mail, and contacting taxpayers) is compensable and will entitle the employee to overtime pay, compensatory time off and/or credit hours, as appropriate.

Article 25
Workload Management

Section 1

A.

The Parties recognize that the workload that employees can manage is dependent on such factors as geographic area covered, the type of work assigned, the grade level of work, the volume of work, priority programs, and other assigned duties.

B.

Employees are encouraged to discuss unmanageable inventory problems with their supervisors at any appropriate time. If the matter remains unresolved, employees may submit their concerns in writing. The supervisor will provide a written response within five (5) workdays addressing the resolution of the problem. Grievances seeking to remedy the adverse impact on employees can only be filed in connection with a completed personnel action, for example, nonselection for a promotion or discipline.

Section 2

The Parties recognize the importance of developing employees in the performance of all tasks assigned to their positions. Therefore, the Employer will consider employees' requests to enhance their experience in all tasks assigned to their positions, including the opportunity to do higher graded work for developmental purposes in accordance with Article 16.

Section 3

When a group is without a group clerk due to an absence because of sickness, maternity leave, or for other authorized reasons for a period in excess of two (2) weeks, the Employer has determined that it will make reasonable efforts to utilize a temporary replacement within the scope of its authorized financial plans; or, when this remedy is not available, deal with the problem through the use of available employees.

Section 4

When a group secretary must serve the needs of more than one (1) work group, the supervisor will consider the secretary's contributions when preparing the secretary's annual appraisal. The supervisor may also recommend the secretary for a performance award, including a QSI, or other appropriate award.

Article 26
Position Classification

Section 1

A.

The Union may make recommendations and present supporting evidence concerning the adequacy and equity of a standardized position description or position classification standard.

B.

The Employer will review the presentation and advise the Union of the results of its review.

Section 2

A.

The Employer will inform the Union as soon as possible when significant changes will be made in the duties and responsibilities of positions held by employees in the unit due to reorganization, or when changes in position classification standards result in classification changes, or when changes will be made in position classification standards which could result in classification changes.

B.

Further, the Employer will furnish the Union copies of proposed classification standards for bargaining unit jobs referred to the Employer by the Office of Personnel Management for comment.

Section 3

A.

The position description for each position will accurately reflect the actual duties, responsibilities, and the managerial relationships pertaining to the employee filling that position.

B.

Whenever a position description is amended, the Employer will provide copies to the local Union chapter or joint council, when applicable, prior to issuance.

Section 4

A.

An employee who has filed a formal classification appeal with the Employer is entitled to one (1) representative at a desk audit or meeting with the Employer concerning the appeal.

B.

Work will not be reassigned for the purpose of avoiding reclassification during a classification appeal.

Section 5

Whenever there is a dispute or confusion over the difference between grade levels of a series, the Employer will, upon request of the Union, provide a complete and detailed list that contrasts the individual duties of each position, e.g., the difference between a GS-11 Revenue Agent and a GS-12 Revenue Agent.

Article 27
Health and Safety

Section 1

A.

The Employer will, to the extent of its authority and consistent with the applicable requirements of Title 29 of the Code of Federal Regulations, as well as other applicable health and safety codes and standards, i.e., General Services Administration (GSA), provide and maintain safe and healthful working conditions for all employees and will 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 will cooperate to that end and will encourage all employees to work in a safe manner.

B.

The Employer has determined that whenever it becomes necessary to move an employee from a work area because of conditions or practices in that work area that pose a threat to that employee's health or physical safety, a reasonable effort will be made to find work for that employee elsewhere in the employee's post-of-duty (POD).

C.

The Employer will maintain the number of safety representatives, consistent with past practice, in each building the IRS occupies who will be responsible for reporting to the Safety Officer any hazardous or unsafe conditions which have been observed or reported.

Section 2

When the Employer discovers a violation of Occupational Safety and Health Administration (OSHA) standards, it shall immediately notify the Union of that condition. The Employer shall also notify affected employees of the condition. After notifying appropriate authorities, the Employer will notify the Union of a bomb threat. Such notice will include an explanation for evacuating or not evacuating the building.

Section 3

The Employer recognizes the existence of certain employee rights under 29 CFR 1960, among them the right to be free from reprisal, including charge to leave, when employees decline to perform their assigned tasks because of reasonable beliefs that, under the circumstances, the tasks pose an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures established by the Employer.

Section 4

A.

A Safety Advisory Committee with a minimum of six (6) members shall be established within the jurisdiction of each SCR, or designee. These committees shall have equal representation of management and non-management employees. The non-management members shall be designated by the Union. The function of the committees will be to advise the Employer concerning work-related safety matters. In the discharge of this function, the Safety Advisory Committee will consider existing practices and rules relating to safety and health and formulate suggested changes in existing practices and rules. In their consideration of the foregoing, the committees will give due regard to Public Law 91-596 and any applicable guidelines developed by the U.S. Department of Labor related thereto. Each SCR, or designee, shall chair only one (1) Safety Advisory Committee. In all cases, the Union will be allowed one (1) representative from each chapter having representational jurisdiction in the SCR's area, and the size of the committee will be expanded to accommodate that, if needed.

B.

Each committee shall designate a chairperson who shall be nominated from among the committee's members and shall be elected by the committee members. Management and non-management members shall alternate in this position. Maximum service time as a chairperson should be two (2) years.

C.

The committees will meet at least quarterly and on such other occasions as they may determine. Meetings will be conducted during the normal tour of duty, without charge to leave, provided however, that no employees will be entitled to compensation for time in attendance at such meetings falling outside their regularly scheduled tours of duty. The Employer will change the shifts of committee members who are not on the prime shift.

D.

The committees are charged with, at a minimum:

1. recommending an annual safety and health plan for the facility or facilities each committee oversees, which, at a minimum, establishes a plan of action for carrying out the responsibilities outlined in this article;
2. identifying sources of blood pressure screening, EKG's, CPR training, sickle cell testing, cholesterol testing, cancer screening, flu shots, and physical examinations, which could be made available by the Employer at minimal or no cost;
3. recommending the number of safety inspections to be conducted;
4. recommending the means for advising employees of emergency evacuation procedures;
5. recommending a basic inventory of first aid and safety and health equipment to be maintained in each POD;
6. conducting an assessment of the sources of computer monitor screen glare and recommending appropriate corrective action;
7. serving as a resource for educating employees about work-related safety concerns, such as asbestos exposure and abatement;
8. reviewing all incident and accident reports (subject to Privacy Act restrictions) and recommending corrective actions; and
9. reviewing Worker's Compensation claims (subject to Privacy Act restrictions) and recommending corrective actions.

E.

The Employer will release in a timely manner to members of the Safety Advisory Committee the results of all health and safety testing that is conducted in each POD with a copy to each chapter president with representational jurisdiction.

Section 5

A.

The Employer will make free flu shots available annually on a voluntary basis to all employees of the unit as determined necessary by a competent Federal authority.

B.

For employees assigned to Center Campuses, the Employer will provide the services listed in subsection 4D2 above, on a voluntary basis, to all employees whose health coverage does not provide for these services. The Employer has determined that when the population of any shift exceeds an average population of 500 employees for any quarter, nurse services will be provided.

C.

In PODs other than Center Campuses, where there are health facilities on premises staffed by trained medical professionals or technicians, the Employer will participate in the health unit so that IRS employees may avail themselves of the services. It will secure reasonable and customary services through the unit and will not be obligated to provide physicals for employees other than those who do not have health insurance.

Section 6

Where full health facilities are not available on the premises, the Employer will provide first aid kits and will designate employees from among volunteers to maintain the kits. No later than September 30, 2002, the Employer will ensure that every POD with more than 750 employees will have immediate access to emergency defibrillator equipment, as well as personnel trained to operate such equipment; and the remaining offices of 100 or more employees will receive such equipment and training by September 30, 2003. The implementation schedule will be revised, if required by law, rule, regulation or Executive Order.

Section 7

A.

The Employer has determined that an employee will not be required to operate a motor vehicle known to be unsafe.

B.

The Employer will obtain, whenever possible, automobiles which are equipped with air conditioning.

Section 8

Whenever it is necessary for an employee to leave work and return home because of illness or incapacitation, the Employer will assist in securing a means to transport the employee home. The parties recognize that the Employer's monetary, pecuniary, or tort liability is governed by Comptroller General and Federal court decisions, and the Employer assumes only that responsibility or liability which is allowable by law, regulation or such decisions.

Section 9

A.

The Employer will furnish each employee on a timely basis a copy of each of the following:

1. NTEU Optional Insurance plan brochures and materials;
2. Open Season Instructions;
3. Information to Consider in Choosing a Health Plan;
4. Biweekly Health Benefits Rates; and
5. NTEU Benefits Guide

B.

Such distribution shall be made by the Employer to the extent such brochures are available to it from the normal source of supply.

C.

The Employer will keep on file copies of each health plan offered to its employees. Such copies will be available to the Union for examination upon request. The Employer will conduct a Health Plan Fair prior to each open season, where copies of available health plan brochures will be provided, and representatives of the various carriers are invited to answer questions. If the Employer does not provide such a Health Fair, employees may be granted short periods of excused absence to review health benefits options in accordance with Article 36.

Section 10

A.

The Employer will continue the full implementation of the Employee Assistance Program (EAP) as defined in law and regulation and to make employees aware of the program.

B.

At least one (1) local Union representative from each chapter having representational jurisdiction will be invited to attend seminars, workshops, conferences, and training sessions designed to acquaint managers and employees with the program and its operation.

C.

The Employer recognizes that the program is designed to deal forthrightly with the problem at an early stage when the situation is more likely to be correctable.

D.

Employees undergoing prescribed programs or treatments will be granted sick leave for this purpose on the same basis as any other illness when absence from work is necessary.

E.

The Employer will afford reasonable accommodation to qualified handicapped employees, unless the accommodation would impose an undue hardship on the operation of the Employer's program. For example, employees who are handicapped by alcoholism may be offered rehabilitative assistance and the opportunity to take sick leave for treatment, if necessary, before any action for continuing performance or misconduct problems relating to their alcoholism is taken.

F.

The Employer will make smoking cessation information available to employees in accordance with Section 4 of Executive Order, "Protecting Federal Employees and the Public from Exposure to Tobacco in the Federal Workplace." Further, smoking cessation assistance will be available through the EAP.

Section 11

A.

When employees are injured in the performance of their duties, they will be informed by the Employer of the procedures for filing a claim for benefits under the Federal Employees Compensation Act. Information will be provided about the type of benefits available, including specific reference to their option to file a claim for disability compensation if they are disabled for work.

B.

The Employer will provide an employee who is injured while in work status with a copy of the current Pamphlet CA-550, which answers questions about the Federal Employees Compensation Act.

C.

The Employer will provide each chapter office with a copy of the pamphlet noted in subsection 11B above.

D.

A copy of Pamphlet 550 will be kept in the servicing personnel office and on the appropriate web page.

Section 12

The Employer will at least annually make employees aware of the EAP and available medical services provided by the Employer. Furthermore, the Employer will conduct cancer detection programs and will disseminate cancer detection information, including information regarding breast cancer.

Section 13

When the Employer reasonably expects a seasonal employee to work the minimum period of time required by regulations to make the employee eligible for health benefits (for example, six (6) months within a year), the employee shall be entitled to such benefits from the date of such expectation.

Section 14

The Employer will provide the Union copies of reports of all health and safety accidents that result in loss of time from the job. At the Employer's option, these may be provided to the chapter(s) with jurisdiction over the place where the accident happened.

Section 15

A.

The Employer will, consistent with its right to assign work, make a reasonable attempt to reassign tasks of employees who provide acceptable medical documentation that particular tasks presently assigned to the employees pose a health hazard to the employees.

B.

The Employer will make a reasonable attempt, consistent with its right to assign work, to reassign any employee to duties that do not involve computer monitors, provided the employee provides acceptable medical documentation that such reassignment is advisable.

C.

The Employer will continue its on-going effort to reduce injuries resulting from repetitive movement by:

1. making training and information available to employees and managers concerning how to reduce and eliminate the incidence of repetitive movement injuries;
2. providing for periodic rest breaks in accordance with this Contract;
3. providing appropriate ergonomic furniture designed to reduce or prevent such injuries:
4. facilitating the reporting of injuries caused by work-related repetitive movement;
5. requiring the Safety Committees to evaluate the effectiveness of these efforts; and
6. consulting with employees and managers to identify jobs with high potential for injury.

D.

If funds are available, the Employer will provide employees who are required to use computers on the job with work stations or desks that are designed for computer monitors and which may include adjustable keyboard trays, adjustable work surfaces which are large enough to accommodate the computer workstations, e.g., printers, manuals, work papers, and any other equipment required by the employee to perform the duties and responsibilities of their positions. Wrist rests will be provided if requested by individual employees.

E.

The Employer shall provide employees with an ergonomically designed chair that meets commonly accepted industry standards. Such chairs shall include armrests at the option of individual employees. If more than one (1) style of chair is available in a POD, bargaining unit employees shall be offered an opportunity to choose the chair of their choice.

F.

Employees required to be in the office to perform case related work, but who are unable to perform such work due to the lack of appropriate equipment or work space, will be allowed to charge such time to an appropriate non-direct time code. The Union will be permitted to open local negotiations on the adverse impact of a requirement that regularly places all or most of these field employees in the office at approximately the same time.

G.

The Employer shall test and inspect each computer monitor in the work place a minimum of once per year to confirm that the equipment is properly installed and grounded, and that the clarity of the images, the brightness, contrast, and screen adjustability are functioning properly. Testing and inspection shall be done when computer monitors are moved from one location to another within the work place, or if grounding problems are suspected. Copies of the inspection and test results will be forwarded to the local Safety Advisory Committee with a copy to the local chapter president.

Section 16
National Safety and Health Advisory Committee

A.

A national committee will be established to serve as a resource for local committees and to develop training and guidance for such committees. The national committee will be a sub-committee of the National Labor-Management Relations Committee (LMRC) and will conduct its activities in accordance with Article 46.

B.

This committee will make recommendations and oversee the development of and delivery of training to local committee members during the first year of this Contract. Training will be provided to committee members on the IRS Occupational Safety and Health Program; Section 19 of the Occupational Safety and Health Act; Executive Order 12196; 29 CFR 1960; IRS reporting, evaluation and hazard abatement procedures; recognition of hazardous conditions and environments; and other appropriate rules and regulations.

Section 17

The Employer shall, through coordination with the GSA, perform periodic monitoring of asbestos levels in the Employer's buildings that have been identified by the GSA as having potential asbestos problems. The results of such monitoring shall be provided to the Union. In the event such monitoring, or other monitoring done by a competent source reveals a level of exposure in excess of the standard established by the National Institute for Occupational Safety and Health (NIOSH), the Employer agrees to move exposed employees to work-sites that do not have excessive exposure, and the Employer further agrees that such employees will be paid hazardous duty or environmental differential pay, as appropriate, for periods of exposure, to the extent allowed by law and regulation. For purposes of this Agreement, "period of exposure" means the time between the last reading indicating a level of exposure below the NIOSH standard, and the time employees are removed from such exposure. Disputes involving the results of monitoring are subject to the grievance procedure.

Section 18

The Employer has determined that when an injured employee is sent to a medical facility for treatment, it will accept the determination made by competent medical authority at the facility as to whether the employee should return to work.

Section 19

At Center Campuses, the Employer will continue to provide health services through an approved contract provider.

Section 20

It is the policy of the Employer to provide a smoke-free workplace in accordance with the Executive Order, "Protecting Federal Employees and the Public from Exposure to Tobacco in the Federal Workplace."

Section 21

Where the water has been tested by competent authority, (e.g., GSA, Federal, State, or local regulators) and found to be unsafe or unhealthy, the Employer will provide bottled water at no charge to the employee.

Article 28
Breaks

Section 1

A.

Subject to the Employer's right to assign work and consistent with workload demands:

1. Employees on a regular (five (5) day/eight (8) hours per day) tour of duty will be granted two (2) short breaks during the workday that total no more than thirty (30) minutes. These breaks normally will be taken in two (2) fifteen (15) minute increments and will total no more than 300 minutes in a biweekly period.
2. Employees on 5/4-9 compressed work schedules, will be granted two (2) short breaks during the workday that total no more than thirty (30) minutes, plus one (1) additional short break per day that totals no more than five (5) minutes. The five (5) minute break shall be a third break in the day, and in addition to the two (2) traditional fifteen (15) minute breaks and lunch period that now occur. The third break will be scheduled so that it normally occurs approximately two (2) hours after the employee's last break or lunch, whichever is applicable. The breaks will total no more than 310 minutes in a biweekly period.
3. Employees on 4/10 compressed work schedules, will be granted short breaks during the work day that total no more than thirty (30) minutes, plus one (1) additional short break per day that totals no more than ten (10) minutes. The ten (10) minute break shall be a third break in the day, and in addition to the two (2) traditional fifteen (15) minute breaks and lunch break that now occur. The third break will be scheduled so that it normally occurs approximately two (2) hours after the employee's last break or lunch, whichever is applicable. The breaks will total no more than 320 minutes in a biweekly pay period.

B.

Breaks, normally of five (5) minutes each, taken by employees who perform repetitive movements shall not exceed the total time provided for breaks to other employees on similar schedules, either regular or compressed.

C.

In accordance with governing laws and regulations, break time may not be aggregated, or used to shorten or otherwise change an employee's tour of duty.

D.

The local parties have the power to substitute a mutually agreeable alternative or third break option, so long as that local agreement does not provide for total break time per week or per pay period, as applicable, in excess of the total time provided above; however, neither party is empowered to take such local negotiation to impasse or mediation. The local agreement must be purely voluntary.

Section 2

Subject to the Employer's right to assign work, employees assigned to routine and repetitive tasks will be given a fifteen (15) minute break period at the end of their regular shift, if the employees are scheduled to work two (2) or more hours of overtime immediately following the employee's shift, and will be provided an additional fifteen (15) minute break between each two (2) hours of overtime worked thereafter. Overtime breaks may not be aggregated nor taken at the end of an overtime shift.

Article 29
Travel

Section 1

A.

1. The Employer will, if practicable, schedule and arrange for travel of employees to occur within the employees' regularly scheduled work hours. However, if circumstances require the employees' presence on Monday, too early to permit travel that day, the employees should perform the travel on the preceding day (Sunday), leaving home or post-of-duty (POD) at a reasonable time. If the employees prefer, travel may be permitted during duty hours on the preceding Friday. In this event, subsistence reimbursement may be allowed to start with the departure time but will be limited to that which would have been payable if departure was made on Sunday. Employees who are required to travel during non-duty hours may obtain, upon request, the written reasons why such travel was required at those hours.
2. All employees will be compensated for time spent in a travel status during their normal tour of duty. In addition:
   (a) An employee who is not otherwise covered by the Fair Labor Standards Act (FLSA) who travels beyond his or her normal commuting area may be compensated for

time in a travel status outside his or her normal tour of duty, if that employee (1) is expressly directed to perform work while in such status; or (2) upon request, is given express permission to perform such work while in travel status by his or her immediate supervisor; or (3) has no other alternative but to perform such work while in travel status, even though it may not have been directed or approved, in order to be adequately prepared to satisfactorily perform his or her temporary duty assignment upon arrival. Such work may be performed while the employee awaits transportation, is aboard a carrier, or is a passenger in an automobile, and must be documented. An FLSA exempt employee may also be compensated for time in a travel status outside his or her normal tour of duty if (1) the travel is arduous; or if (2) it is in connection with an event that is not controlled by the Government, either directly or indirectly.

(b) An employee who is covered by the Fair Labor Standards Act (FLSA) who travels beyond his or her normal commuting area may be compensated for time in a travel status outside his or her normal tour of duty if (1) that employee is required to drive a vehicle, either privately or Government-owned or (2) in connection with or on official duty within the commuting area but outside his or her regularly scheduled tour of duty or (3) on a one-day assignment outside the commuting area and regularly scheduled duty hours to the extent that the official duty and travel time together exceed the employee's normal duty day plus normal commute. Further, if an employee covered by the FLSA travels on a non-workday during hours that correspond to his or her regularly scheduled tour of duty, he or she is also entitled to compensation.

B.

When travel results from an event which cannot be scheduled or controlled administratively, such travel may be considered hours of employment for pay purposes pursuant to appropriate provisions of Title 5 of the Fair Labor Standards Act. Disputes arising under this subsection may be adjusted through the use of the grievance procedure provided in this Agreement.

C.

If the travel is expected to require employees to be absent from their POD for three (3) or more months, the employees will be given at least thirty (30) days notification of their date of departure when practicable.

Section 2

A.

Any employee traveling on official business is entitled to an advance of funds to cover all costs to the maximum allowed by law, rule, or regulation. Travel advances will be made available prior to the date of departure to those employees who make timely application. The amount of the advance should be based on such factors as the nature and probable duration of the travel to be performed. Normally, the amount of the advance will not be less than $50.00.

B.

In the cases of emergency job related travel, the Employer will attempt to accommodate a traveler needing an advance from the Imprest Fund.

C.

An employee not in a recurring travel status shall submit a travel voucher and liquidate the entire outstanding advance within either fifteen (15) calendar days after completion of travel or by the end of the voucher period, whichever is greater. However, managers may grant an exception if another trip is authorized for the near future.

D.

An employee in a recurring travel status shall be allowed to carry over, at the end of the month, all or part of the cash advance as may be necessary to cover monthly travel expenses. In no event, however, will the total of advances exceed the total of two (2) months anticipated expenses.

E.

An employee normally in a recurring travel status must repay an outstanding advance when travel ceases to be recurring, or when an employee does not actually perform travel for a period of three (3) months.

Section 3

A.

Maximum allowable per diem rates within the Conterminous United States (CONUS) will be based upon the traveler's actual lodging costs up to the maximum allowable amount as well as upon the meals and incidental expenses reimbursement rate for the locality subject to the most current rates published by General Services Administration (GSA) in the Federal Register.

B.

For travel within the CONUS to localities designated by GSA as specific per diem rate localities, travelers

shall be reimbursed in accordance with the most current rates published by GSA in the Federal Register. For travel within the CONUS to all other CONUS localities, travelers shall be reimbursed in accordance with the most recent standard per diem rate as published by GSA in the Federal Register.

C.

In accordance with GSA regulations, and when authorized in advance by management, reimbursement on an actual subsistence expense basis will be authorized when actual and necessary subsistence expenses of official travel are unusually high due to special or unusual circumstances. Normally, reimbursement on an actual subsistence expense basis should be requested and authorized in advance. Employees will receive advance notice that there will be a need for actual expenses so that they can make a timely request for approval to be reimbursed for actual subsistence expenses.

D.

1. For computing meals and incidental expenses reimbursement allowances, official travel begins when the traveler leaves home, office, or other authorized point of departure and ends when the traveler returns home, to the office, or other authorized point at the conclusion of the trip.
2. In accordance with GSA regulations, travelers will be reimbursed for full day official travel. The meals & incidental expenses (M&IE) allowance for a partial day of travel will be a flat three-fourths (3/4) of the applicable M&IE.
3. For travel of more than twelve (12) hours, but not exceeding twenty-four (24) hours, when lodging is required, per diem shall be computed in the same manner as for travel of more than twenty-four (24) hours.
4. For travel of more than twelve (12) hours, but not exceeding twenty-four (24) hours, when lodging is not required, travelers will be reimbursed at a flat three-fourths (3/4) of the applicable M&IE.
5. Payment of per diem allowance for travel of twelve (12) hours or less is prohibited.

E.

Per diem entitlement is contingent upon an employee's assignment to temporary duty outside the commuting area of the official station or residence. To be considered outside the boundaries of the commuting area, the place of duty must first be outside the boundaries of the employee's official station. In addition, the temporary place of duty must be more than forty (40) miles from the employee's permanently assigned physical location (office) and also more than forty (40) miles from the employee's residence, measured by odometer or other readings on the most commonly used route. At any point beyond both these distances, and also outside the official station, is outside the commuting area. When an employee travels from his/her residence to a point of destination within his/her official duty station, he/she should not be required to leave home any earlier or arrive home any later than he/she does when he/she travels to and from his/her usual assigned place of business.

*the bold and italicized language was disapproved by the Department of Treasury

F.

Unusual circumstances may exist that would justify an exception to the rules regarding the payment of per diem. For instance, duty which, by its nature, would place an unreasonable demand on an employee due to unusually long transit time or particularly late departure or would cause work time loss would create an exception. Examples would be when an employee has to perform duty until very late at night or is required to return for several days to a duty point for work or training. In both examples an exception can be made although the temporary duty point would be less than forty (40) miles. In such cases the Employer may determine that the place of duty is outside the commuting area, providing it is outside the boundaries of the official station. The voucher must contain an explanation of the circumstances and a statement as to the directing official's determination.

G.

The traveler on actual expenses will identify in the travel voucher the subsistence costs actually incurred each day and show in the subsistence column the total for each day, not in excess of the prescribed maximum. The expenses (with the lodging exception noted below) will be shown as follows:

1. lodging for each day;
2. individual meals for each day;
3. an average of expenses that do not accrue on a daily basis; for example: laundry, cleaning and pressing of clothing; and
4. all lodging expenses, whether on actual or per diem must be supported by receipts (when lodging expenses continue for a period of time at the same daily rate, the total lodging expenses for the period may be supported by one (1) receipt).

H.

An employee may not remain in a travel status over a weekend solely to increase the entitlement to subsistence. The following requirements cover the completion of temporary duty on a Friday preceding a non-holiday weekend:

1. the traveler should return to home or POD on the Friday unless arrival would be at an unreasonable late hour; in the latter event, the return should be made on Saturday; in either case, per diem or other authorized subsistence expenses will be payable until the traveler's arrival at home or POD; and
2. instead of travel on Saturday as indicated in 1 above, the traveler may be allowed to return on Monday following the weekend; in this event, subsistence reimbursement will be suspended as of midnight Friday, but will be resumed at 12:01 AM Monday, continuing until the traveler reaches home or POD.
3. An employee whose official travel extends from one workweek through the next may travel home over the weekend or other non-workday using the cost comparison method to determine the amount of reimbursement the employee will receive for travel. The Employer agrees that, unless there is a finding of substantially increased costs, when lodging is included as part of a contract for conference rooms and/or other services, it will not include weekend lodging or lodging for non-workdays so that the cost comparison method, including the cost of the hotel room, can be used.

I.

1. When the use of a privately owned autmobile for official business is advantageous to the Government (it is expected that the employee will travel less than 15,000 miles annually), the employee providing such automobile will be reimbursed at the most current rate published by GSA in the Federal Register.
2. When it is reasonably determined that an employee is a high-mileage driver (it is expected that the employee will drive at least 15,000 miles annually) and that a Government vehicle is available for the employee's use, the employee will be reimbursed at the most current rate published by GSA in the Federal Register if the employee elects to use his or her own automobile for official business.
3. When employees have committed themselves to use Government vehicles and such are available for the employees' use, and the employees elect to use their own automobiles for particular trips, the employees will be reimbursed at the most current rate published by GSA in the Federal Register.

J.

Employees will be reimbursed for fees in connection with changing official travel arrangements caused by the needs of the Service, or due to a significant personal emergency such as a family, medical, or natural disaster emergency.

Section 4

A.

When the Employer makes housing available for the employee, the employee will have the option, except in unusual circumstances, of remaining in the Employer-provided housing or of securing other housing. If employees elect to secure their own housing, absent unusual circumstances, their per diem reimbursement will be as provided in Section 3 above.

B.

Unusual circumstances sufficient to justify requiring an employee to use Employer-provided facilities are not present when an ordinary benefit to the Government, such as economy or the ready availability of personnel, is the rationale. Unusual circumstances are present under the following circumstances:

1. the employee is participating in an investigation that requires the employee's presence in the quarters at all times; or
2. the quarters provide the only place of lodging reasonably close to the employee's place of duty so that daily travel to and from another place of lodging would be impracticable; or
3. the employees must keep in their possession highly valuable equipment or classified material whose security would be endangered if removed from the quarters; or
4. the official who authorizes the travel or training determines that utilization of quarters furnished by the Government is a necessary and integral part of a particular mission or training course.

C.

When a determination is made that unusual circumstances exist requiring an employee to use government eating and/or lodging facilities, employees concerned will be so notified, in writing, before they begin the travel. This notification will identify the days affected, will explain the need for the use of the facilities, and will inform the employees that their per diem will be reduced even if they use other facilities. However, in no case will the employee receive less than the standard meals and incidental expenses (M&IE) allowance for traveling to that area, minus the amount the Government actually paid for his or her food in the Government housing.

Section 5

Employees who are assigned to training or duty away from their regular assigned POD, and elect to return home during non-work days will be reimbursed for travel not to exceed the amount reimbursable for the per diem had they remained away from home.

Section 6

When the nature and location of the work at a temporary duty station are such that suitable meals cannot be obtained there, the expense of daily travel required to obtain meals at the nearest available place may be approved as necessary transportation, not part of per diem or actual expense reimbursement. A statement of the necessity for such daily travel shall accompany the travel voucher.

Section 7

A.

An employee may be reimbursed for taxicab fares, plus tip, for transportation between office and home incident to officially ordered overtime provided all of the following conditions are met:

1. reimbursement is authorized by the official authorized to order or approve the performance of the overtime duty (see Delegation Order No. 39, as revised);
2. the employee performed overtime duty incident to the conduct of official business at the designated POD;
3. the employee is dependent on public transportation, incident to the officially ordered overtime; and
4. the travel is performed during hours of infrequently scheduled public transportation or darkness.

Section 8

Each person having custody of transportation requests, tickets, or other transportation documents received in exchange for transportation requests or other procuring instruments, is responsible for their safekeeping. Such person is also accountable for any amount that the Government may be required to pay because of the person's fraud, fault, negligence, or other improper use of these documents.

Section 9

Employees having questions related to the content of the Travel Handbook (IRM 1763), or their entitlement thereunder, should take such matters up with their supervisors who shall be responsible for obtaining the answers to such questions.

Section 10

Employees who can be expected to drive 12,000 or more miles per year on official IRS business will be offered a GSA automobile for their use, subject to availability.

Section 11

An employee who rents a parking space at a POD on a regular basis, that is, at a weekly or monthly rate, shall be reimbursed on a pro rata basis for actual number of days the parking space is used for official business. Example: employee rents a parking space at a weekly rate for parking a privately owned automobile Monday through Friday, at or near the headquarters office. One-fifth (1/5) of the weekly rate will be allowed for each day that the employee uses a personally owned conveyance for official business. Example: an employee rents a parking space on a monthly basis at or near the office with the space available to the employee as provided by the rental agreement for twenty-one (21) days of the month. The employee uses the space for parking on official business seven (7) days during the month. The employee will be reimbursed for 7/21 or one-third (1/3) of the monthly cost. An employee who rents a parking space on a monthly basis and who receives a certificate from the parking facility that the space is available only during Monday through Friday shall be entitled to compute pro rata reimbursement based on the number of workdays in the month.

Section 12

Although handicapped employees may be directed to perform official travel, there are situations in which the assistance of an attendant or escort must be provided if the travel is to be accomplished. Under such circumstances the transportation and per diem expenses of an attendant will be allowed as necessary for travel.

Section 13

Changes in Government-wide regulations that result in a conflict with the provisions of this article shall entitle either party to reopen those provisions that conflict with the changed regulations.

Section 14

Employees in travel status will not be required to use privately owned vehicles for carpooling.

Section 15

The Employer will bargain with the Union to the extent required by law if it elects to release parking spaces to GSA.

Section 16

The Employer will subsidize the use of public transit to the maximum extent allowed by law (for example, by maximizing the dollar amount subsidized, or

maximizing the transit services covered, etc.). The subsidy must be in a form not readily convertible to cash or used for purposes other than intended, e.g., fare cards, passes, tokens, tickets or other instruments issued by authorized local transit authorities. Direct cash subsidies to employees are prohibited.

Section 17

If it is determined that an employee qualifies and is authorized Temporary Quarters Subsistence Expenses (TQSE), the expenses may be authorized in thirty (30) day increments, not to exceed sixty (60) consecutive days. If it is determined there is a compelling reason, an additional sixty (60) consecutive days may be authorized.

Section 18

The Employer will grant employees the full benefits of any discretion it has in connection with frequent flyer and similar benefits.

Section 19

The Employer will share one-half of all travel savings with employees. All the other terms of the Parties' Memorandum of Understanding on Travel Gainsharing shall continue to apply until renegotiated by the Parties, except that an employee must have generated $100 worth of savings to receive a disbursement.

Section 20

Newly hired employees or those newly assigned or promoted to positions that require overnight travel will be given access to the Imprest funds to cover costs before travel advance funds become available.

Article 30
Training

Section 1

A.

The training and development of employees within the unit is a significant investment. In conjunction with this goal, the Employer will, as funds permit, make available to all employees the training it deems necessary for the performance of the employees' presently assigned duties or proposed assignments.

B.

In accordance with 5 CFR Part 300 and the Uniform Guidelines for Employee Selection Procedures, the Employer may develop and administer assessments (including but not limited to written and on-the-job assessments), to determine the retention and/or advancement of employees in trainee/developmental positions, up to the journey level and above, as applicable. Such assessments shall not be implemented without appropriate negotiations with the Union, as provided for by Article 47. Non-probationary employees who do not demonstrate an acceptable level of proficiency or performance on such assessments, initially and/or after an appropriate performance improvement period, should be aware that the Employer may take an unacceptable performance action under 5 USC Chapter 43 and Article 40 of this Agreement based thereon; however, to the extent possible, the Employer will make every reasonable effort to place employees who have successfully completed a probationary period with the IRS in a position that takes full advantage of their skills and abilities.

Section 2

A.

Employees are responsible for self-development, for successfully completing and applying authorized training, and for fulfilling continued service agreements. In addition, they share with management the responsibility to identify training needed to improve individual and organizational performance and identify methods to meet those needs, effectively and efficiently.

B.

The parties agree to continue cooperative efforts to determine the use of job based competencies for employee development and training strategies. The Employer has determined that any expanded use of competencies into other human resource systems, such as promotions, will not proceed until appropriate validation is completed. Such validation will be based on a methodology that is mutually acceptable to both Parties. Further, the Employer will notify the Union and proceed using the procedures in Article 47.

C.

Where the Employer develops and administers valid training assessments (including needs assessments), the results of such assessments may be provided to the training coordinator and first-line supervisor, along with feedback from the classroom and on-the-job instructors, as appropriate. The results will not be used for performance evaluation purposes. Aggregate data will be supplied to management to make decisions regarding training and developmental needs for groups of individuals. An employee may choose to reveal assessment scores to a line manager to assist in the career development process but is under no obligation to do so.

D.

Each employee will be entitled to establish an Individual Development Plan (IDP) with assistance and advice provided by their supervisor. The primary emphasis of the plans will be, first, to address the competencies (or knowledge, skills, and abilities) needed by the employee in his/her current position; second, to prepare them for new career opportunities; and third, to address the competencies (or knowledge, skills, and abilities) needed for advancement beyond his/her current journey level. Although the primary responsibility for executing an IDP for career advancement falls with the employee, the Employer will provide reasonable advice and assistance. Each plan shall establish a series of milestones and shall state the responsibilities of each party to realize such milestones. For employees who have an individual development plan (IDP) approved by their supervisor, they may be granted up to sixteen (16) hours of administrative time per calendar year for self-directed training or developmental activities, if such activities are related to the employee's current or prospective job duties.

Section 3

A.

The Employer will maintain information and furnish counseling and guidance about suitable and available educational resources. The Union on its part, will encourage employees to take advantage of suitable self-development opportunities.

B.

The Employer will make available to employees current listings of Internal Revenue Service correspondence courses and after hours in-service courses.

Section 4

A.

The Employer has determined to provide appropriate training to all employees whose positions are abolished or significantly reengineered as a direct result of organizational restructuring, work elimination, introduction of new duties, transfer of work, or implementation of new technology before expecting employees to perform new or greatly altered duties. Whenever possible, such training will occur or be identified and scheduled within six (6) months.

B.

The Employer has determined that employees whose positions are abolished or significantly reengineered, as described above, will be provided the opportunity for training in the new work. The content, delivery method, and length of such training will be determined by the results of a appropriate assessment based upon the competencies required to be successful in the new position. Following the completion of the training, the need for additional assistance will be determined on a case-by-case basis by the Employer in consultation with the training professionals assigned to the office. Such determinations will consider:

1. what work remains in the commuting area at the employee's current grade level;
2. employee's experience (internal, external, and volunteer work) and education;
3. the results of a preliminary skills evaluation or competency assessment conducted with the assistance of the local internal or external training or counseling staffs;
4. business needs;
5. OPM qualification standards; and
6. employee's IDP, where applicable.

Section 5

A.

Employees will be reimbursed by the Employer for those portions of Certified Public Accountant (CPA) or bar review courses that are job related.

B.

Employees shall be reimbursed for all authorized expenses for out-service training when all of the following conditions are met:

1. the training will enable the employees to meet one (1) of their IDP milestones or competency needs, to the extent allowable under Government-wide regulation;
2. comparable training is not available in the next nine (9) months through Employer-developed courses and it would be too costly for the Employer to develop a suitable program at the time;
3. reasonable inquiry has failed to disclose suitable, adequate and timely programs being offered by other Government agencies within the local area;
4. the course meets the needs of the employee and of the Employer as well or better than other courses of its nature which also may be available within the next nine (9) months;
5. the course is not being taken solely for the purpose of obtaining a degree; and
6. funds are available to pay for the training without deferring or canceling higher priority commitments.

C.

If an employee fails to successfully complete out-service training, he/she shall reimburse the Employer for all tuition and related expenses incurred by the

Employer for such out-service training, unless the Employer's directed action resulted in the employee's failure to successfully complete the training.

D.

Limited administrative time will be provided for employees who attend, at their own expense, out-service training for career enhancement. If the employee fails to satisfactorily complete the course, the subsequent courses will be on the employee's own time until he or she exhibits satisfactory completion of a subsequent course.

Section 6

A.

When training is given primarily to prepare employees for promotion, selection for the training will be made under the competitive promotion procedures.

B.

Selection for on-the-job instructor training (except for Center Campuses) and classroom instructor training will be made under competitive promotion procedures. The Employer has determined that opportunities for classroom and on-the-job instructor assignments will first be offered to those employees who have successfully completed Employer approved instructor training and are certified in that regard.

1. The Employer will solicit volunteers and consider the following factors in making instructor assignments: availability, teaching expertise, subject matter expertise (including recency of technical training), and recency of instructor experience. Any ties among equally qualified instructors will be broken by IRS EOD, first among qualified candidates within the commuting area where the training is to take place, and then among remaining qualified instructors. If insufficient qualified employees volunteer, the Employer will select qualified employees.
2. Management will make every effort to rotate instructor assignments among qualified instructors so far as training and instructor requirements permit.
3. The National LMRC will recommend a process for the continuing certification of instructors who have successfully completed Employer approved instructor training, have been certified, and have instructed classes.
4. The Employer has determined that those instructors assigned to do training outside the employee's normal commuting area will receive a retention allowance of six percent (6%) of the employee's basic pay as long as the duration of the training assignment exceeds two (2) continuous weeks, including the time to prepare to teach the class.

C.

When the Employer is unable to accommodate all applicants for after hours courses established by the Employer and financed in whole or in part by the Employer, available slots will be given out by the Employer on the basis of the order in which the applications are received. Applications not accommodated will be given priority status when the same course is repeated.

D.

Subsection 6A will not be applicable to training provided to employees in career ladder positions who have not reached the full performance level.

Section 7

Job related IRS correspondence courses will be made available to employees; however, no official time will be available to the employee for the purpose of taking such courses (with the exception of employees referenced in Section 4 above).

Section 8

An employee will have the right to raise lack of necessary training as a defense to a disciplinary, adverse or unacceptable performance action.

Section 9

A.

Employees in the GS-905 classification will be reimbursed for continuing legal education courses consistent with the provisions of Sections 1, 2 and 5 of this article.

B.

The Employer will seek continuing legal education accreditation for the continuing professional education (CPE) courses offered to GS-905 employees.

Section 10

The Employer will continue to maintain the Human Resource Investment Fund (HRIF) and administer grants there under in accordance with the Parties' HRIF Memorandum of Understanding.

Section 11

A.

At Center Campuses, the Employer and the Union will continue to utilize training advisory committees composed of at least six (6) members, half of which are appointed by the Union. It shall be the function of the committee to advise the Employer on:

1. present training;
2. suggestions for additional training;

3. training needs as a result of reassignments, changes in law, and the type of work assigned; and
4. need for refresher training.

In all cases, the Union will be allowed at least one (1) representative from each chapter representing the Center Campus, not to exceed seven (7), and the size of the committee will be expanded to accommodate that, if needed.

B.

Further, the Employer will meet with the committee on these matters not less frequently than once each quarter.

C.

The committee members shall receive reasonable amounts of official time, but no more than eight (8) hours per quarter per member, to study the Employer's training program and to prepare for meetings with the Employer.

Section 12

Where the employee takes an on-line course sponsored by IRS, the Service will be obligated to provide the employee paper and/or a CD-ROM version of the training materials, subject to any applicable copyright restrictions.

Section 13
Miscellaneous Travel

A.1. When training is scheduled in a location outside the employee's commuting area, the employee will be allowed to travel home or anywhere else outside the training site in accordance with IRM 1763, other governing regulations, and other sections of this Agreement. Reimbursement for the travel will also be made in accordance with IRM 1763, other governing regulations, and other sections of this Agreement.

2. When training is scheduled outside the employees' commuting area and public transportation is not readily available, the Employer will provide reasonable access to public transportation, or in the alternative, authorize other means of transportation, when necessary, in accordance with IRM 1763, and other sections of this Agreement.

B.

1. The Employer will make every reasonable effort to secure accommodations that are generally comparable to a typical private hotel room (e.g., private bathroom, personal phone, TV, refrigerator, etc.), subject to requirements in Article 29, subsection 4B.
2. Otherwise eligible employees who attend training conferences may participate in the Travel Gainsharing program (e.g., they may volunteer to share a room, etc.).
3. When the Employer has not contracted for accommodations in accordance with Article 29, subsection 4B, the employee will have the option of off-site housing in accordance with IRM 1763 and other governing regulations.
4. Absent a legitimate business reason, the Employer will insure that employees will have access to computers at training facilities so that they may access their e-mail accounts in and outside of IRS, as well as the Intranet and Internet.

C.
Overtime

When the Employer directs an employee to participate in job required training, a reasonable amount of time as determined by the Employer may be authorized for study outside the employee's regular duty hours; under such circumstances, such study time will be compensable, as specifically determined in advance by the Employer. The Employer will not mandate overtime for the purpose of study, however if the employee chooses not to study, the employee will still be responsible for the course materials. The limits may be set by the employee's immediate supervisor or by the instructor in formal classroom situations where the instructor assumes supervisory responsibilities for the duration of the training. Nothing in this section waives an employee's rights to make a claim for induced overtime.

D.

Unless otherwise specifically noted, all the terms of this article apply to classroom and on-the-job instructors.

E.

1. Within a reasonable period of time after the conclusion of a training course, the Employer will provide the Union with an analysis showing the average test scores broken out for all protected classes. The data will be presented for each class and aggregated for all like classes given in the previous twenty-four (24) months. The data will indicate the drop-out and failure rate for each protected class.
2. Testing will be done with full respect given to the need to provide reasonable accommodations to employees with disabilities, e.g., untimed tests.

F.

When employees are assigned to a training location during their first year with IRS and they are to be at that location for more than six (6) weeks, the Employer will, to the extent possible, treat that location as an IRS facility for purposes of providing the Union,

upon request, with temporary meeting and conference room(s), telephone access, mail drop(s), means of distributing printed material to trainees, etc.

G.
Reasonable Accommodations

The Employer recognizes that where it provides facilities for training, sleeping, eating, etc., it is bound to provide any reasonable accommodations required for disabled employees by law.

Section 14

To the extent that the Employer establishes a condition of employment that employees must be members of particular professional societies and organizations, the Employer will reimburse employees for their dues, subject to the availability of funds.

Article 31
Leave Sharing

Section 1

A.

The IRS Leave Bank is a program that enables enrolled employees who have a medical emergency to use leave donated to the leave bank. A medical emergency is defined as a personal or family situation that may require the employee to be absent from duty for a prolonged period of time and may result in a substantial loss of income because the employee has exhausted his or her available paid annual or sick (as appropriate) leave.

B.

To join the leave bank, an employee must complete Form 9058 and return it to the local Leave Bank Coordinator during the Leave Bank open season. There are usually two (2) open season periods for Leave Bank membership: one in January and another at approximately mid-year.

1. To enroll, the employee must donate the number of hours equal to his or her annual leave accrual for one (1) pay period.
2. A new employee may join the Leave Bank within thirty (30) days of being hired.
3. An employee may also join the Leave Bank in his or her geographic location within thirty (30) days of being hired, transferred to a new geographic location, or returned to duty from extended leave.

C.

To apply to the Leave Bank for a leave donation, the employee must submit a written application to the Leave Bank Board in his or her geographic location or in National Office, if the employee is so designated.

1. Written applications vary in each geographic location. The employee should contact the local Leave Bank Coordinator for guidance.
2. If a Leave Bank member is not capable of applying on his or her own behalf, a personal representative may make the written application.
3. Local Leave Bank Coordinators will forward requests to the Geographic Location or National Office Leave Bank Coordinator who will submit the application to the Leave Bank Board for review.

D.

Following a thorough review of the application by the Leave Bank Board, the first decisions to be implemented will be those where there is a consensus. If there is still leave available for use, the board will implement all decisions which are supported by a majority of the voting members.

E.

An employee may donate annual leave to the Leave Bank at any time. However, donations made outside the official open season periods do not constitute a membership donation.

1. The maximum amount of annual leave an employee may donate is one-half (½) of the amount of annual leave the employee will accrue during the leave year. However, if an employee is contributing annual leave to a family member, the employee may donate up to 75 percent of the annual leave he or she will accrue during the leave year. If an employee donates annual leave that he or she has not yet earned, the donated annual leave becomes the donating employee's liability should he or she leave the Service before the leave is earned.
2. The amount of leave available for emergencies depends entirely upon the amount received in donations.

F.

For purposes of the Leave Bank, a family member is a spouse, parent, brother, sister, their spouses, parent of the employee's spouse, or any individual related by blood or affinity.

G.

If an employee has use or lose annual leave at the end of the year and would like to donate it to the Leave Bank, the employee must contact the local Leave Bank Coordinator. During October, the Employer will notify each employee, using the notice section of the Earnings and Leave Statement, of their right to donate unused annual leave to the Leave Bank.

H.

During the first year of this Contract the Employer will assemble two (2) representatives [one (1) Union and one (1) management] of each leave board for a conference of at least one full working day to compare their "best practices" to review solutions to their common problems, and to find ways to increase the donation of leave. The conference will be co-chaired by leaders of NTEU and IRS.

Section 2

A.

The Leave Transfer Program allows an employee to transfer annual leave to an approved leave recipient (excluding the employee's supervisor) up to one-half of the amount of annual leave the employee will accrue during the leave year.

1. To donate leave to an employee of the IRS or of another Federal agency, the employee must contact the local Leave Transfer Coordinator for the locally approved procedures and forms to use.
2. An employee must provide documentation showing that the proposed leave recipient has been approved to receive donated annual leave (e.g., an officially approved Leave Transfer Program application).

B.

To qualify as a leave recipient, an employee must apply by identifying a personal or family medical emergency (refer to Section 1, Leave Bank) which results or will result in an absence from duty without leave for at least 24 hours. The employee must have exhausted all his or her available leave to be eligible for the program.

C.

An employee does not have to be a member of the Leave Bank to apply for donated leave under the Leave Transfer Program. Employees may apply for donated leave for maternity purposes.

D.

To apply to become a leave transfer recipient, an employee must contact the local Leave Transfer Coordinator for the locally approved procedures and forms to use.

1. At a minimum, the employee must provide a brief description of the nature, severity, and anticipated duration of the medical emergency.
2. An employee also may be required to submit a signed statement by a physician.
3. The Coordinator will assist employees in preparing or will prepare the employee's solicitation memorandum which is directed to employees whom the employee designates.
4. When an employee receives donated leave, it may be used only for the medical emergency for which it was donated.

E.

If an employee has use or lose annual leave at the end of the leave year and would like to donate it, the employee must contact the local Leave Transfer Coordinator.

F.

Each SCR, or his or her designee, shall enter into discussions with the Union Chapters in his or her territory during the first six months of this contract to determine how to communicate the needs of employees who apply for leave transfer. Disputes will be resolved by negotiation, if needed.

Section 3

A.

In the event of major disasters or emergencies declared by the President, such as floods, earthquakes, tornadoes, terrorist acts, etc., that result in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management (OPM) to establish an Emergency Leave Transfer Program. Under such a program, an employee in any Executive agency may donate annual leave for transfer to employees of his or her agency or to employees of other agencies who are adversely affected by the disaster or emergency. This program provides Federal employees with a special opportunity to help their fellow workers in times of need.

B.

The Service is in the best position to determine whether donated annual leave is needed by its employees in disaster situations and can quickly facilitate the transfer of donated annual leave among agencies. The Employer is responsible for determining whether, and how much, donated annual leave is needed by affected employees; approving leave donors and/or leave recipients within the Service; and facilitating the distribution of donated annual leave from approved leave donors to approved leave recipients within the Service.

C.

When the Service notifies OPM that the amount of annual leave donated by its employees is not sufficient to meet the needs of its approved emergency leave recipients, OPM will coordinate Government-wide transfer of annual leave from donating agencies to the Service.

D.

Forms for donating and receiving annual leave under the Emergency Leave Transfer Program can be accessed on OPM's web site at http://www.opm.gov/forms/html/emerg.htm.

Article 32
Annual Leave

Section 1

A.

The Employer has determined that annual leave will be granted in a manner which permits each employee who wishes to take at least two (2) consecutive weeks of annual leave each year, unless permitting such leave causes a severe work interruption. Upon request, any denial of annual leave must be accompanied by a written statement of the reasons for the denial. Employees may utilize annual leave in fifteen (15) minute increments. Annual leave may not be charged in increments of less than fifteen (15) minutes.

B.

Employees whose leave balances on September 15 disclose that they have leave which is, or will become, “use or lose” will submit, on or before October 1, plans to use such leave. The Employer has determined that employees’ choices made in relation to the foregoing will be approved unless a severe work interruption may result. A severe work interruption includes, but is not limited to, a reasonable expectation of missing an assigned program completion date. Conflicts of choices related to the foregoing will be subject to the provisions of subsection 1C below.

C.

Subject to its right to assign work, the Employer will resolve a conflict in requests by employees in the same occupation for scheduled annual leave by granting preference to the employee with the most service as determined by enter on duty (EOD) date. An employee’s approved annual leave will not be disapproved if an employee with an earlier EOD date subsequently requests leave for the same period.

D.

In order to facilitate the making of personal plans by employees, the Employer agrees to respond to annual leave requests as soon as possible.

Section 2

The Employer may approve a change in selection of leave time provided another employee’s choice is not affected.

Section 3

A.

Seasonal employees who are to be placed in a non-pay status for a period of ten (10) workdays or less may charge such time to available annual leave.

B.

The Employer may refuse to grant annual leave requests made by seasonal employees for any period which includes any of the last five (5) workdays of any fiscal year, where such refusal is related to staffing and/or budgetary restrictions.

C.

Except as otherwise provided in this section, annual leave requests made by seasonal employees will be subject to the same considerations as requests made by other employees. The Employer has determined that annual leave requests will not be denied solely because it is peak season. However, such requests may be denied if approval would cause a severe workload interruption.

Section 4

The Employer has determined that, upon advance request, an employee will be granted annual leave for a workday which occurs on a religious holiday unless such a request causes a severe work load interruption.

Section 5

The Employer has determined that an employee will be granted annual leave or leave without pay for up to five (5) days in case of a death in the immediate family.

Section 6

A.

The granting of advanced annual leave by the Employer is discretionary. However, the Employer has determined that when an employee requesting advanced annual leave:

1. has completed his/her probationary or trial period;
2. has served more than ninety (90) days in his or her current appointment;
3. is eligible to earn annual leave;
4. does not request more advanced annual leave than would be earned during the remainder of the leave year or for the remainder of the period during which the employee will be employed; and
5. is not on a leave restriction letter or has not been the subject of a leave related action covered by Article 38, or any action covered by Articles 39, and/or 40 within the last twelve (12) months, then the request will be granted.

B.

Valid requests for annual leave by other employees will take precedence over requests for advanced annual leave.

Section 7

A.

Subject to its right to assign work, the Employer will authorize leave without pay for Union officers or their designees in each chapter, or joint council as appropriate, and to any national officer of the Union for attendance at any Union-sponsored convention, meetings, or other Union business on the following basis: 0-500 bargaining unit employees, four (4); 501-1000 bargaining unit employees, six (6); and 1001 plus bargaining unit employees, eight (8).

B.

In addition to the above, the Employer will grant Union officers and stewards leave to perform Union duties unless work requirements or the work schedule prohibits release. Such officers and stewards may charge such leave, at their option, to earned annual leave or leave without pay.

C.

In instances where employees have received advanced approval for leave, which is later disapproved, resulting in a loss of personal expenses to the employee, the Employer has determined to make every reasonable effort to accomplish the employee's work before rescinding the approval; e.g. details or changes in deadlines, if possible. If leave is approved and subsequently disapproved, the Employer will reimburse the employee for any costs associated with the disapproval if permitted by law or Government-wide regulation.

Section 8

Notwithstanding the above, nothing contained in this article will restrict the Employer's ability to require the presence of an employee, pursuant to its right to assign work under 5 USC 7106 (a)(2)(B), should the Employer determine that the employee's services are necessary.

Section 9

When the Employer determines that it will charge an employee AWOL, it will notify the employee being charged of its intention to do so in writing (Refer to Exhibit 32-1) as soon as possible, but no later than the end of the pay period in question. Such notice will include the reason for charging AWOL and include the time period(s) in question and will be delivered to the employee in person if the employee is present in the workplace. If the employee is not present and/or is not expected to be present within a reasonable period of time, the notice will be mailed to the employee's home address.

Article 33
Family Leave

Section 1

A.

There will be no specified time granted for absence for maternity reasons. The length of time will be determined by the employee, her supervisor, and her physician. However, the Employer will not ordinarily require the employee to return to duty earlier than six (6) months after childbirth absent severe work interruption. Sick leave may be used for the time due to delivery and recuperation. Annual leave may be used by the employee for a period of adjustment and to make arrangements for child care. Leave without pay, credit hours, or compensatory time may be substituted for sick or annual leave. The employee may use all, a part, or none of her available annual or sick leave time. In addition, an employee may, consistent with law and regulation, choose to use a combination of annual leave, sick leave, leave without pay, credit hours, or compensatory time during any pay period.

B.

The employee is responsible for notifying the supervisor of her intent to request leave for maternity reasons, including the type of leave, approximate dates, and anticipated duration. This will allow the supervisor to prepare for any staffing adjustments necessary to compensate for the employee's absence.

Section 2

A.

The Employer may request a medical certificate from the employee if there is a question as to the employee's physical fitness to continue work before delivery or to return to work.

B.

The Employer agrees to pay for the cost of obtaining such a certificate.

Section 3

The Employer will make a reasonable effort to accommodate a pregnant employee's request for a modification of duties or a temporary assignment when the request is supported by acceptable medical evidence.

Section 4

A male employee who has provided the Employer with reasonable advance notice may be absent on part-time or full time annual leave or leave without pay for a reasonable period of time for the purpose of

assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons, unless his absence causes a severe work load interruption.

Section 5

Absent just cause, and to the extent provided by law, the Employer will provide part-time or job sharing opportunities for employees who have children under six (6) years of age and pursuant to Article 22, subsection 3B, will provide such opportunities for employees to care for their spouses, children, or parents with serious health conditions.

Section 6

Consistent with the Family and Medical Leave Act, employees are entitled to a total of twelve (12) weeks of unpaid family and medical leave per year. An employee may substitute paid time off, that is annual leave, sick leave (as appropriate), compensatory time off, or credit hours for leave without pay. Employees must meet the criteria for leave and comply with the requirements and obligations under the Family and Medical Leave Act as referenced in Exhibit 33-1.

Article 34
Sick Leave

Section 1

Employees will earn sick leave in accordance with applicable statutes and regulations. Employees may utilize sick leave in fifteen (15) minute increments. Employees may not be charged sick leave without consent.

Section 2

Approval of sick leave will be granted to employees when they are incapacitated for the performance of their duties by such reasons as sickness, injury, pregnancy, or a period of emotional bereavement caused by the death of a close relative or equivalent. Normally, absence due to bereavement is charged to sick leave; an employee may not be charged LWOP or have any leave charged against his or her FMLA entitlement, unless specifically requested by the employee and approved by the Employer. Under certain circumstances involving contagious diseases as set forth in applicable statutes and regulations, and for medical, dental, or optical examination or treatment when required and requested prior to the beginning of the absence; sick leave will also be approved. Employees will be granted approval of sick leave if they are required to give care and attendance to a member of their immediate family who is afflicted with a contagious disease (to be applicable, the family member's disease must be contagious and, as ruled by the health authorities having jurisdiction, be subject to quarantine; require isolation of the patient; or require restriction of movement of the patient for a specified period) or if the employee's presence at the work site would jeopardize the health of others because of exposure to a contagious disease. Notice of unanticipated sick leave, not requested in advance, will be given by the employee to the supervisor as soon as possible, and in no event later than two (2) hours after normal time of reporting for work on the first day of absence. If the degree of illness or injury prohibits compliance with the two (2) hour limit, the employee will report the absence as soon as possible.

Section 3

A.

Employees may be required to furnish reasonably acceptable evidence to substantiate a request for approval of sick leave if sick leave exceeds three (3) consecutive workdays.

B.

Employees will not be required to furnish a doctor's certificate to substantiate a request for approval of sick leave for periods of three (3) consecutive workdays or less except as provided for in subsection 3C below.

C.

1. Where the Employer has reasonable grounds to question whether an employee is properly using sick leave (for example, when sick leave is used frequently or in unusual patterns or circumstances), the Employer may inquire further into the matter and ask the employee to explain. If further inquiry is made by the Employer regarding diagnosis prognosis, the employee may choose to provide this information only to Employer representatives who are medically certified. Absent a reasonably acceptable explanation, the employee will be orally counseled that continued frequent use of sick leave, or use in unusual patterns or circumstances, may result in a written requirement to furnish acceptable documentation for each subsequent absence due to illness or incapacitation for duty, regardless of duration.
2. If reasonable grounds continue to exist for questioning an employee's use of sick leave, the Employer may request that the employee provide a doctor's certificate from the employee's physician. This certification will indicate that the employee is under the care of

physician, is incapacitated for duty, and the expected duration of such incapacitation. If specific medical information such as diagnosis and prognosis is requested as part of such explanation, the employee may choose to provide this information only to Employer representatives who are medically certified.

3. If reasonable grounds continue to exist for questioning an employee's use of sick leave, the employee may be notified in writing that for a stated period (not to exceed six (6) months) no request for sick leave, or other leave in lieu of sick leave, will be approved unless supported by a doctor's certificate. Any such written notice will describe the frequency, patterns, or circumstances which led to its issuance.

D.

Employees who, because of illness, are released from duty, and are not subject to the restrictions of subsection 3C above, will not be required to furnish a medical certificate to substantiate sick leave for the day released from duty. Subsequent days of absence will be subject to the provisions of subsections 3A, 3B, and 3C above.

E.

Employees who are not subject to the restrictions of subsection 3C above will not be required to furnish a doctor's certificate on a continuing basis if the employee suffers from a chronic condition which does not necessarily require medical treatment although absence from work may be necessary and the employee has previously furnished medical certification of the chronic condition. The Employer may periodically require further medical certification to substantiate an employee's continued use of this provision.

Section 4

A.

An approved absence, which would otherwise be chargeable to sick leave, will be charged to annual leave if requested by the employee and there is no just cause for the Employer to deny such request.

B.

An employee who becomes ill while on annual leave may have the time of illness changed to sick leave provided that the employee notifies the supervisor on the first day of the illness and otherwise complies with the requirements of Section 3 of this article.

Section 5

A.

An employee will be given advanced sick leave when all of the following conditions are met:

1. the employee is eligible to earn sick leave;
2. the employee's request does not exceed thirty (30) workdays;
3. there is no reason to believe the employee will not return to work after having used the leave;
4. the employee has provided acceptable medical documentation of the need for advanced sick leave;
5. the employee has a serious disability or ailment (consideration of this factor should not be interpreted as restrictive as "serious health condition" under the Family and Medical Leave Act; 5 CFR 630.1202 and Article 33), or for purposes relating to the adoption of a child; and
6. the employee is not subject to the restriction of subsection 3C above, and even if all of the conditions above have been met, the Employer may deny advanced sick leave to probationary employees.

Section 6

The Employer will treat as confidential any medical information given by an employee in support of a request for sick leave. The Employer may disclose such information subject to its Privacy Act obligations, for work related reasons on a need to know basis only.

Section 7

The Employer will implement this article consistent with 5 CFR 630 as appropriate (see Exhibit 34-1).

Section 8

Notwithstanding the above, nothing contained in this article will restrict the Employer's ability to require the presence of an employee, pursuant to its right to assign work under 5 USC 7106(a)(2)(B), should the Employer determine that the employee's services are necessary.

Article 35
Leaves of Absence

Section 1

A.

The Employer will approve leaves of absence for any employee elected to a national officer position of the Union for the purpose of serving full time in the elected position.

B.

The Employer will approve leaves of absence for one (1) elected local chapter officer in each chapter that represents at least 500 bargaining unit employees.

C.

Leaves of absence granted under subsections 1A and B above will be for a period concurrent with the term of office of the elected official and will be automatically renewed by the Employer upon notification in writing from the elected official who has been reelected and wishes to continue in a leave of absence status.

D.

The Employer will approve leaves of absence for twenty (20) employees Service-wide for the purpose of serving in full time appointive positions for the Union. The term of the leave of absence will be two (2) years. All affected individuals will have their leaves of absence renewed for one additional two (2) year period upon request.

E.

Leaves of absence requested under subsection 1D above will not require the Employer to grant leaves of absence to more than two (2) employees of an office at any one time.

Section 2

A.

The Employer will allow an employee to take leave without pay (LWOP) for up to one (1) year after completion of five (5) years of service to engage in full time job related study, or to engage in any other activities, subject to the work requirements of the Employer.

B.

Employees may take LWOP for up to thirty (30) calendar days for political activities permitted under the Hatch Act Reform Amendments of 1993.

Section 3

A.

All of the leaves of absence granted or approved in accordance with Sections 1 and 2 are subject to the following conditions in addition to such other conditions as may be imposed by law or higher regulations:

1. they will be without pay;
2. access to the Employer's premises by such employees will be in accordance with the terms of this Agreement or IRS regulations, whichever is applicable; and
3. employees are subject to Office of Government Ethics rules and regulations and any other applicable rules or regulations related to ethics and conduct.

B.

In addition to the conditions cited in subsection 3A above, employees taking leaves of absence under Section 2 of this article are subject to the following additional conditions:

1. the course of study must be approved by the Employer as being designed to improve the job skills of the employee; and
2. if the course of study is one which combines work and study, the work portion is subject to the outside work requirements of the Employer.

C.

Subject to its right to assign employees, the Employer will attempt to accomplish the following to the extent practical:

1. place an employee returning from leave of absence in the position held at the time that the leave of absence began;
2. failing this, an effort will be made to place the employee in a like position in the commuting area; and
3. failing either of the foregoing, the employee will be placed in a like position somewhere in the office.

Section 4

Notwithstanding the above, nothing contained in this article will restrict the Employer's ability to require the presence of an employee, pursuant to its right to assign work under 5 USC 7106(a)(2)(B), should the Employer determine that the employee's services are necessary.

Article 36
Administrative Leave

Section 1

For purposes of this article, administrative leave is approved absence from duty without loss of pay and without charge to leave.

Section 2

A.

As a general rule, when the voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, such employee may be granted an amount of excused leave to vote or register which will permit the employee to report to

work three (3) hours after the polls open or leave work three (3) hours before the polls close, whichever requires the lesser amount of time. If a manager refuses to allow an employee administrative time off to vote, the matter will immediately be referred to the SCR or Campus equivalent executive for a determination whether the granting of administrative time off is appropriate.

B.

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

Section 3

A.

Whenever it becomes necessary to close an office because of inclement weather or any other emergency situation and to grant administrative leave to those who are excused because of emergency, reasonable efforts will be made to inform all employees by private or public media. An emergency situation is one which is general rather than personal in scope and impact. It may be caused by such developments as heavy snow or severe icing conditions, floods, earthquakes, hurricanes or other natural disasters, air pollution, massive power failure, major fires or serious interruptions to public transportation caused by incidents such as strikes of local transit employees or mass demonstrations.

B.

If the emergency conditions described above exist and prevent an employee from arrival at work and the post-of-duty is not closed, the employee will be granted administrative leave for absence from work for a part or all of the employee's workday upon providing the Employer with reasonably acceptable documentation that the employee made reasonable efforts to reach work, but that emergency conditions prevented timely arrival. Factors which shall be considered by the Employer and uniformly applied to all employees within the area affected by the emergency include:

1. the fact that the employee lives beyond the normal commuting area;
2. the mode of transportation normally used by the employee;
3. efforts by the employee to come to work;
4. the success of other employees similarly situated;
5. physical disability of the employee; and
6. local travel restrictions.

The Employer at its option may waive the above requirement for documentation for absences of four (4) hours or less. This provision does not apply to employees who are away from their post-of-duty for personal reasons and are prevented from returning to work due to emergency conditions. Any grievances filed must include an explanation of why the employee failed to arrive at work.

C.

Employees are obligated to contact their supervisors as early as practicable to explain the circumstances and provide an estimated time of arrival at work.

D.

When an emergency condition forces the closure of an IRS facility and employees thereof are granted administrative leave as a result, an employee of that same facility (a) who is working at home on an approved flexiplace program and (b) who is prevented from accomplishing work because of that same emergency condition (for example, where a power outage forces the closure of an office, and that same power outage prevents a flexiplace employee from completing his or her work assignments at home), that flexiplace employee will be provided the same amount of administrative leave granted employees who were working in the closed facility. A flexiplace employee claiming administrative leave under this provision is responsible for providing appropriate documentation in support of that claim.

E.

If the President, the Office of Personnel Management, or other appropriate authority declares a natural disaster area, employees who are faced with a personal emergency caused by that natural disaster will be eligible for a reasonable amount of administrative leave, based on the facts and circumstances of the personal emergency. An employee requesting administrative leave under this Section may be required to provide an explanation and/or documentation in support of his or her claim.

Section 4

A.

An employee will be granted administrative leave to attend a tax audit which is required as a condition of employment.

B.

An employee will be granted administrative leave to attend a discussion of the employee's own tax affairs with a representative of the Employer.

C.

An employee will be granted administrative leave to attend a tax audit which results from an investigation.

Section 5

A.

An internal revenue agent, estate tax examiner, appellate auditor, estate tax attorney, revenue officer, tax auditor, appeals officer, tax law specialist, systems accountant, or operating accountant not admitted to any bar or licensed as a CPA or professional engineer, within the United States or its possessions, will be granted administrative leave four (4) times to the extent necessary for the purpose of taking bar, CPA, or engineer examinations. Such administrative leave grants will be extended to include the time for necessary oral interviews.

B.

The Employer will grant additional administrative leave for this purpose to the above described employees who have shown reasonable progress toward achieving success in passing the applicable examinations.

Section 6

An emergency absence of less than one (1) hour will be excused when the affected employee provides the Employer with a reasonably acceptable explanation for the absence.

Section 7

If emergency repairs become necessary while an employee in official travel status is using a privately owned vehicle, the employee will be continued in official pay status, contingent upon the presentation to the supervisor of a reasonable, acceptable explanation/documentation relating to the emergency. In such situations, the employee will (within the hour if practicable) provide the supervisor with an estimate of the situation and obtain appropriate instructions.

Section 8

A.

Military leave shall be credited to a full time employee on the basis of an eight (8) hour workday. The minimum charge to leave is one (1) hour as required by law. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay. Employees who request military leave for inactive duty training (which is generally two (2), four (4), or six (6) hours in length) will now be charged only the amount of military leave necessary to cover the period of training and necessary travel. Members of the Reserves and National Guard will no longer be charged military leave for weekends and holidays that occur within the period of military service.

1. 5 U.S.C. § 6323(a) provides fifteen (15) calendar days per fiscal year for active duty, active duty training, and inactive duty training. An employee can carry over a maximum of fifteen (15) days into the next fiscal year.
2. Inactive Duty Training (IDT) is authorized training performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods and equivalent training.
3. 5 U.S.C. § 6323(b) provides twenty-two (22) workdays per calendar year for emergency duty as ordered by the President or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property.
4. 5 U.S.C. § 6323(c) provides unlimited military leave to members of the National Guard of the District of Columbia for certain types of duty ordered or authorized under Title 39 of the District of Columbia Code.
5. 5 U.S.C. § 6323(d) provides that Reserve and National Guard Technicians only are entitled to forty-four (44) workdays of military leave for duties overseas under certain conditions.

B.

Approval of military leave provided in the foregoing shall be based on a copy of the orders directing the employee to active duty and a copy of the certificate on completion of such duty.

C.

Military leave shall be without loss of pay.

D.

The Employer will comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301, et. al., which applies to persons who perform duty, voluntarily or involuntarily, in the uniformed services. The USERRA applies to persons who perform duty, voluntarily or involuntarily, in the uniformed services which includes the Army, Air Force, Navy, Marine Corps, Coast Guard, and Public Health Service Commissioned Corps, as well as the reserve components of each of these services. Uniformed service includes active duty, active duty for training, inactive duty training (such as drills), initial active duty training, and funeral honors duty performed by National Guard and reserve members as well as the period for which a person is absent from a position of employment for the purpose of an examination to determine fitness to perform any such duty.

E.

Service members returning from a period of service in the uniformed services must be reemployed by the "preservice" employer if they meet all five (5) eligibility criteria:

1. the person must have held a civilian job;
2. the person must have given notice to the Employer that he or she was leaving the job for service in the uniformed services unless giving notice is precluded by military necessity or otherwise impossible or unreasonable;
3. the period of service must not have exceeded five (5) years;
4. the person must not have been released from service under dishonorable or other punitive conditions; and
5. the person must have reported back to the civilian job in a timely manner or have submitted a timely application for reemployment.

Section 9

An employee who donates blood is entitled to receive four (4) hours of administrative leave immediately following the donation for recuperative purposes. In addition, administrative leave will be granted for reasonable travel to and from the donation site and to actually give blood. If necessary, additional recuperative time will be provided. However, the total administrative leave will be limited to the remaining scheduled hours of duty on that day. An employee who is not accepted for donating blood is only entitled to the time necessary to travel to and from the donation site and the time needed to make the determination.

Section 10

Notwithstanding the above, nothing contained in this article will restrict the Employer's ability to require the presence of an employee, pursuant to its right to assign work under 5 USC § 7106(a)(2)(B), should the Employer determine that the employees' services are necessary.

Section 11

A.

If workload permits, employees who are rated fully successful and above may be granted up to eight (8) hours of excused absence (administrative leave) per year to volunteer their time to legitimate public service organizations. Time spent in such activities outside an employee's regular working hours is not hours of work. Excused absence for volunteer activities will be limited to those situations in which the employee's absence, as determined by the Employer, is not specifically prohibited by law and meets at least one (1) of the following criteria:

1. the absence is directly related to the Service's mission;
2. the absence is officially sponsored or sanctioned by the Employer;
3. the absence will clearly enhance the professional development or skills of the employee in his or her current position; or
4. the Employer determines that the activity is in the best interests of the Service.

B.

If the supervisor determines that workload permits, employee requests for excused absence to perform voluntary activities will be submitted to the Embedded Human Resources Office for review and determination. Denials of such requests are not grievable.

Section 12

Subject to workload considerations the Employer may grant an employee up to a total of four (4) hours excused absence per calendar year for the purposes of attending a health benefits fair, reviewing health benefits information and materials, receiving financial counseling, and seeking supplemental retirement counseling. Except for excused absence for retirement planning, as provided for in Article 21, no other administrative time shall be authorized for general benefit counseling.

Article 37
Probationary Employees

Section 1

A.

The Employer has determined that probationary employees will be advised of their progress at least ninety (90) days prior to the end of their probationary period with the Service. In cases where the employee has not been successful, but shows potential as an employee, the Employer will attempt to place the employee in another position during the balance of their probationary period to see if they may become successful.

B.

The Employer has determined that a letter of termination will advise probationary employees of their statutory appeal rights. If the employee previously completed a probationary period with the IRS, but demonstrates unacceptable performance while serving in a new probationary period following selection from an OPM certificate, the Employer will make every reasonable attempt to return that employee to his or her former position.

C.

All provisions of this Agreement apply to probationary employees, except those provisions which are inconsistent with law, rule, or regulation.

Article 38
Disciplinary Actions

Section 1

A.

A disciplinary action for purposes of this article is defined as an admonishment, a written reprimand, or a suspension of fourteen (14) calendar days or less.

B.

This article applies to bargaining unit employees who have completed their probationary or trial period except to the extent prohibited by law.

C.

No bargaining unit employee will be the subject of a disciplinary action except for such cause as will promote the efficiency of the Service.

D.

The Union shall be given the opportunity to be represented at any examination of an employee in the 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.

E.

A meeting between an employee and the supervisor, acting supervisor or other line management official during which the principal topic of discussion is discipline or potential discipline will entitle the employee involved to request to be accompanied by the Union steward during such meeting. If such a request is made, the supervisor, acting supervisor or other line management official will honor the request. Any meeting held for the purpose of issuing a disciplinary or proposed disciplinary letter to a bargaining unit employee will not be investigative in nature.

F.

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

1. the nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical and inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. the employee's job level and type of employment, including supervisor or fiduciary role, contacts with the public, and prominence of the position;
3. the employee's past disciplinary record;
4. the employee's past work record; including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the Employer's confidence in the employee's ability to perform assigned duties;
6. consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. the notoriety of the offense or its impact upon the reputation of the Employer;
8. the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
9. potential for the employee's rehabilitation;
10. mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
11. the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

G.

The Employer recognizes the importance of completing an investigation of an employee in as timely a manner as is practicable. Further, discipline, when proposed by the Employer, will also be administered as timely as possible; however, when an employee has been the subject of an investigation, and a determination is made not to propose a disciplinary action, the designated proposing official will issue the appropriate letter (i.e., clearance or closed without action) to the employee within a timely fashion, normally within thirty (30) days of when the case involving the employee is closed. The letter will not be placed in the employee's Official Personnel Folder (OPF) unless requested by the employee in writing.

Section 2
Alternative Discipline

A.

The Employer and the Union encourage the use of alternative approaches to traditional disciplinary actions. The goal of such an approach is to positively

change an employee's conduct by offering an alternative means of correcting such conduct. The Employer will publicize to supervisors the benefits of alternative discipline and will include such information on alternative discipline in the Guide to Penalty Determinations. The Employer will recommend that traditional discipline and alternative discipline should not normally be combined. The parties agree to conduct a study comparing the use of alternative vs. traditional discipline proposals in 2002 and issue a report covering such matters as usage, cost effectiveness and benefits.

B.

Alternative discipline methods and mechanisms shall be implemented consistent with the following objectives:

1. improving communications and interpersonal working relationships between supervisors and employees;
2. correcting behavioral problems;
3. reducing the costs and delays inherent in traditional disciplinary actions; and
4. decreasing the contentiousness between the parties at the local level.

C.

Alternative discipline is offered solely by agreement of the parties. Under no circumstances is alternative discipline required to be used but, if used, the provisions of this Agreement must be met.

D.

Alternative discipline is an option when the disciplinary action would otherwise involve an official reprimand or a suspension of fourteen (14) days or less.

E.

Alternative discipline discussions must occur prior to entering into the "traditional" disciplinary process.

F.

1. Prior to the issuance of a letter of reprimand or a proposal to suspend, the Employer will inform the employee that "traditional" discipline is being contemplated and that the employee may request consideration of an alternative form of discipline. The employee will have five (5) workdays to request consideration of the alternative discipline option. Should the employee request consideration of alternative discipline, meeting(s) will be held and concluded within five (5) workdays of the request. At the conclusion of the meeting(s):
   (a) an agreement on alternative discipline must be reached; or
   (b) the "traditional" disciplinary process will begin.
2. If such meetings are held, they will include the proposing official or designee, other Employer representatives deemed necessary, the employee, and the employee's representative. Should alternative discipline meetings prove to be unproductive, either party may elect to terminate them prior to the five (5) workday time frame and proceed with the "traditional" discipline. If an alternative discipline agreement is reached, it will be reduced to writing consistent with this Agreement. Should an alternative discipline agreement not be reached, the employee will be afforded his or her rights as described in this article.

G.

The parties may agree to extend the time frames in subsection 2F.

H.

In any alternative discipline agreement, it is understood that:

1. should future misconduct occur, the alternative discipline agreement will constitute a prior disciplinary action that may be considered in future disciplinary actions;
2. the alternative discipline agreement will be maintained by the Employer in a manner which is consistent with the retention requirements of the underlying action (that is, for a period of two (2) years when the alternative discipline agreement takes the place of a reprimand and indefinitely when the alternative discipline agreement takes the place of a suspension);
3. the alternative discipline agreement will not be placed in the employee's Official Personnel Folder (OPF);
4. the alternative discipline agreement does not preclude the Employer from taking appropriate action regarding any other misconduct not covered by the alternative discipline agreement;
5. the alternative discipline agreement is not precedential;
6. should the employee violate the alternative discipline agreement, the employee will be notified in writing of the violation and that the penalty as outlined in the alternative discipline agreement will be effected immediately;
7. should the employee dispute whether a violation of the alternative discipline agreement occurred, the employee may file a grievance within five (5) workdays of receipt of written notification on only whether a violation of the alternative discipline agreement occurred;
8. should the employee grieve whether the violation occurred, imposition of the penalty will be stayed pending resolution of the grievance;

9. if the grievance is not resolved prior to arbitration, the grievance must be submitted to the expedited arbitration process where an arbitrator's review is limited to the dispute of whether or not there was a violation of the alternative discipline agreement; and
10. the alternative discipline agreement must be signed by the employee, the employee's representative, and an Employer representative with the delegated authority to take the "traditional" discipline which was replaced by the alternative discipline.

I.

Any alternative discipline agreement must include the following:

1. a detailed description of the alternative discipline which has been agreed to;
2. a statement of the penalty for which the alternative discipline agreement is a substitute;
3. a statement of the misconduct;
4. a statement that the employee admits to engaging in the misconduct; and
5. a statement that the employee and the Union waive all oral and/or written reply, grievance, appeal and complaint rights in any forum.

Section 3

A.

An employee will, in any disciplinary action and upon request, be furnished a copy of that portion of all written documents which contain evidence relied on by the Employer which form the basis for the reasons and specifications. In addition, the employee and/or NTEU may request other information in response to the proposed action, consistent with appropriate Statutes (e.g., 5 U.S.C. §7114(b)(4), 5 U.S.C. §552, and 5 U.S.C. §552 (a).

B.

Upon request, an employee, or the Union when designated by the employee, will be furnished all written documents pertaining to the investigation of the employee that were available to the proposing official at the time the notice of proposed action was issued to the employee. The parties will issue joint guidance to facilitate the timely and accurate release of information, and meet on a periodic basis to assess the effectiveness of the process and ways in which it can be improved.

C.

If probable cause exists and is demonstrated to the arbitrator by the Union on appeal that information provided for in an investigative report relating to the specifications has not been furnished by the Employer, upon request of the arbitrator, the report will be furnished for an "in camera" inspection to be made in conformity with the Privacy Act (5 USC 552(a)). Material determined by the arbitrator to be favorable under the criteria of subsection 3B, and not previously furnished to the Union, will be furnished to the Union.

D.

Nothing in this section is to be construed as a waiver of the employee's or Union's right to request additional information under other authorities, such as Freedom of Information Act, Privacy Act, or Civil Service Reform Act.

Section 4

Matters which may otherwise be appealable to arbitration may not be processed under this article if the matter is pending before a Federal court or the employee is under arrest or indictment.

Section 5

A.

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

1. the Employer will provide the affected employee with fifteen (15) calendar days advance written notification of the proposed suspension;
2. The employee has the right, but is not obliged, to make an oral/written reply on the reasons and specifications prior to a final decision, provided that the oral or written reply is received by the Employer within a reasonable period of time after the employee's receipt of the letter of proposed action. Any request for an oral reply must be made within seven (7) days of the employee's receipt of the letter of proposed action. The Employer agrees that when a record of an oral/written reply is made, it will always contain as an attachment, all documents submitted by the employee and his or her representative. Any documents not submitted at the oral reply, but received within five (5) workdays of the date of the oral reply, where practicable, will be included in the reply record; and
3. the Employer will issue a final decision after receipt of the written and/or oral reply, or the termination of the fifteen (15) calendar day notice period. This letter will state which reasons and specifications are sustained and will address factual disputes, if any, raised in the employee's reply by stating the reasons why each factual dispute was rejected.

Section 6

A.

In cases where a suspension is proposed for reasons of off-duty misconduct, the Employer's written notification provided for in Section 5 above, will also contain a statement of the nexus between the off-duty misconduct and the efficiency of the Service. The notification will describe why and how there is a connection between the specific off-duty misconduct and the efficiency of the Service. (For example, how would drunk driving that led to an arrest interfere with the efficiency of the Service so as to warrant discipline?)

B.

If the Employer elects to change or modify the stated nexus prior to issuing a final decision letter, the employee will be informed of such changes or modifications in writing in accordance with Section 1 of Article 52.

C.

The employee will have the opportunity to make an oral and/or written answer to the new statement of nexus. The parties intend that an oral response should be made only in exceptional cases.

1. Within five (5) workdays of the employee's receipt of the new nexus statement, the Employer shall be notified of the employee's intention to submit an oral and/or written answer. The oral answer must be made within ten (10) days of the employee's receipt of the new nexus statement, absent mutual consent. The written answer must be served on the Employer on or before the tenth (10th) workday following receipt by the employee of the new nexus statement, absent mutual consent. "Served" means mailing by certified mail or hand delivery to the appropriate Employer office.
2. Where an oral answer is submitted, the Employer shall make a written summary of the answer. The written summary shall be sent to the employee's representative. The employee's representative shall have three (3) workdays from receipt of the written summary to send corrections of the summary to the Employer. If the Employer sent the summary to the representative by express mail or hand delivery, the representative will return the corrections by express mail or hand delivery.

D.

After issuance of the decision letter, the Employer may amend or change its nexus statement under the following circumstances:

1. a new nexus statement is based on newly discovered evidence which was not discoverable earlier with the exercise of due diligence; or
2. a change occurs in applicable case law or statute.

E.

If the Employer amends the nexus statement due to the discovery of new evidence as described in subsection 6D1, the Employer will expeditiously notify the employee's representative (or the employee, if unrepresented) of its intent to rely on a new nexus theory because of the newly discovered evidence. If it becomes necessary to delay or cancel an arbitration hearing because of the need of the Union to respond at hearing to this new nexus theory, and if the Employer's notification to the Union of the new nexus theory occurs within seven (7) days of a scheduled hearing, the Employer and the Union shall equally share the expenses of a cancellation fee.

F.

Nothing in this section shall preclude the Employer from responding to or rebutting any evidence, arguments, or defenses raised by or on behalf of the employee.

G.

Letters of official reprimand which are based on reasons of off-duty misconduct will also state a nexus between such misconduct and the efficiency of the Service.

Section 7

A.

If the Employer's final decision is that an employee will be suspended for a period of not more than fourteen (14) calendar days, the suspension will take effect as soon as possible, but no sooner than seven (7) workdays after the employee's receipt of the final decision.

B.

Suspensions of between four (4) and fourteen (14) calendar days will be stayed pending an arbitration decision provided that:

1. for suspensions of four (4) to fourteen (14) days, a grievance is filed within seven (7) workdays of the final decision on the action, and arbitration is invoked within seven (7) workdays of the last step grievance decision; and
2. the arbitrator's decision is issued within one hundred eighty (180) calendar days of the invocation.

C.

Suspensions of fourteen (14) calendar days or less will be grieved to the last step of the grievance procedure. Unless a stay is requested pursuant to

subsection 7B1 above, the employee has fifteen (15) workdays to file a grievance. The Union may appeal such grievances to expedited arbitration.

D.

Notice of appeal to arbitration must be given by certified mail, FAX with proof of receipt, E-mail with proof of receipt, or by hand delivery to the appropriate deciding official. Notice of appeal by certified mail shall be effective when mailed and notice of appeal by hand delivery shall be effective when received.

E.

If timely notice of appeal to arbitration is not received by the appropriate deciding official, the decision of the Employer may not be appealed in any other manner under the terms of this Agreement.

F.

The standard of proof will be substantial evidence for arbitration provided for in this article.

G.

The arbitrator shall have the obligation of assuring that all necessary facts and considerations are brought before him or her by the representatives of the parties. This may include drawing an appropriate inference when either party fails to present facts or witnesses that the arbitrator deems necessary and relevant.

Section 8

A.

1. To the extent not prohibited by law, the Employer will provide the Union with copies of all admonishments, written reprimands, and proposal and decision letters for suspensions of fourteen (14) days or less simultaneously with their issuance to employees. One (1) copy shall be provided to the chapter office that represents the affected employee, and to the servicing NTEU National Field Office. It shall be the responsibility of both the local Union office and the NTEU National Field Office to maintain this information for their use in grievances and arbitrations and all other representative matters.
2. The letters referenced in this section and the case data provided in subsection 8B will be coded with the same case number in order for the Union to cross-reference the data. The Employer will sanitize documents in compliance with applicable laws, rules and regulations, and not over-sanitize so as to cause the information to be unusable.
3. The Employer agrees that it will not effect discipline until it has complied with subsections 3A and 3B of the article.

B.

Beginning with the effective date of this Agreement, the Employer will, to the extent not prohibited by law, provide National NTEU with a quarterly report showing disciplinary, adverse, and unacceptable performance actions. This data file will include all information from ALERTS not prohibited from disclosure in accordance with governing statutes. This data file will be forwarded electronically and the format will be determined after discussions between NTEU and the Employer.

C.

Information provided by the Employer pursuant to this section need not be provided again to any Union chapter, office, or representative pursuant to any statutory or contractual request.

Section 9

At the time the Employer issues its proposal letter and its decision letter to an employee, it shall include a letter written by the Union which outlines the employee's right to representation and his or her appeal rights. Failure to include such a letter shall be grievable, but shall not constitute a basis for overturning the disciplinary action.

Article 39
Adverse Actions

Section 1

A.

An adverse action, for purposes of this article, is defined as a removal; a suspension for more than fourteen (14) calendar days; a reduction in grade; a reduction in pay; and a furlough of thirty (30) calendar days or less of a full time employee. This article does not apply to a reduction in grade or a removal based on unacceptable performance as defined in 5 USC § 4303.

B.

This article only applies to bargaining unit employees who have completed their probationary period or trial period, except to the extent prohibited by law.

C.

No bargaining unit employee will be subject to an adverse action except for such cause as will promote the efficiency of the Service.

D.

The Union shall be given the opportunity to be represented at any examination of an employee in the

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.

E.

A meeting between an employee and the supervisor, acting supervisor or other line management official during which the principal topic of discussion is an adverse action or proposed adverse action will entitle the employee involved to request to be accompanied by the Union steward during such meeting. If such a request is made, the supervisor, acting supervisor or other line management official will honor the request. Any meeting held for the purpose of issuing an adverse action or proposed adverse action letter to a bargaining unit employee will not be investigative in nature.

F.

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

1. the nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical and inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. the employee's job level and type of employment including supervisorial or fiduciary role, contacts with the public, and prominence of the position;
3. the employee's past disciplinary record;
4. the employee's past work record; including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the Employer's confidence in the employee's ability to perform assigned duties;
6. consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. the notoriety of the offense or its impact upon the reputation of the Employer;
8. the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
9. potential for the employee's rehabilitation;
10. mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
11. the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

G.

The Employer has determined that the principal of progressive discipline should be considered unless the offense warrants a severe penalty, such as removal.

H.

The Employer recognizes the importance of completing an investigation of an employee in as timely a manner as is practicable. Further, adverse actions, when proposed by the Employer, will also be administered as timely as possible; however, when an employee has been the subject of an investigation, and a determination is made not to propose a disciplinary action, the designated proposing official will issue the appropriate letter (i.e., clearance or closed without action) to the employee within a timely fashion, i.e., normally within thirty (30) days of when the case involving the employee is closed. The letter will not be placed in the employee's Official Personnel Folder (OPF) unless requested by the employee in writing.

Section 2

A.

In all cases of proposed adverse action, the employee will be given written notice stating the specific reasons for the proposed action thirty (30) calendar days in advance of the action, except as provided in subsection 2C below.

B.

In all cases of proposed adverse action, except as provided in subsection 2C below, the employee will be given the opportunity but will not be obliged to respond orally and/or in writing to the reasons and specifications prior to a decision on them provided that the oral and/or written reply is received by the Employer within a reasonable period of time after the employee's receipt of the letter of proposed action. Any request for an oral reply must be made within seven (7) days of the employee's receipt of the letter of proposed action. The Employer agrees that when a record of an oral/written reply is made, it will always contain as an attachment, all documents submitted by the employee and his or her representative. Any

documents not submitted at the oral reply, but received within five (5) workdays of the date of the oral reply, where practicable, will be included in the reply record.

C.

In cases of proposed removal or indefinite suspension where the Employer has reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, the employee will be given written notice stating the specific reason(s) for the proposed action seven (7) calendar days in advance of the action. The employee will be given the opportunity, but will not be obliged to respond orally and/or in writing to the proposed action prior to a decision being provided, however, that the employee's reply or replies must be received by the Employer within seven (7) calendar days of receipt by the employee of the advance written notice.

D.

If the employee elects to make an oral reply, the Employer will prepare a verbatim transcript of the oral reply and will provide a copy to the employee or designated Union representative upon request.

Section 3

A.

In cases where an adverse action is proposed for reasons of off-duty misconduct, the Employer's written notification provided for in subsection 2A above, will also contain a statement of the nexus between the off-duty misconduct and the efficiency of the Service. The notification will describe why and how there is a connection between the specific off-duty misconduct and the efficiency of the Service. (For example, how would drunk driving that led to an arrest interfere with the efficiency of the Service so as to warrant adverse action).

B.

If the Employer elects to change or modify the stated nexus prior to issuing a final decision letter, the employee will be informed of such changes or modifications in writing in accordance with Section 1 of Article 52.

C.

The employee will have the opportunity to make an oral and/or written answer to the new statement of nexus. The parties intend that an oral response should be made only in exceptional cases.

1. Within five (5) workdays of the employee's receipt of the new nexus statement, the Employer shall be notified of the employee's intention to submit an oral and/or written answer. The oral answer must be made within ten (10) days of the employee's receipt of the new nexus statement, absent mutual consent. The written answer must be served on the Employer on or before the tenth (10th) workday following receipt by the employee of the new nexus statement, absent mutual consent. "Served" means mailing by certified mail or hand delivery to the appropriate Employer office.
2. Where an oral answer is submitted, the Employer shall make a written summary of the answer. The written summary shall be sent to the employee's representative. The employee's representative shall have three (3) workdays from receipt of the written summary to send corrections of the summary to the Employer. If the Employer sent the summary to the representative by express mail or hand delivery, the representative will return the corrections by express mail or hand delivery.

D.

After the issuance of the decision letter, the Employer may amend or change its nexus statement under the following circumstances:

1. a new nexus statement is based on newly discovered evidence which was not discoverable earlier with the exercise of due diligence; or
2. a change occurs in applicable case law or statute.

E.

If the Employer amends the nexus statement due to discovery of new evidence, it will expeditiously notify the employee's representative (or the employee if unrepresented) of its intent to rely on a new nexus theory because of newly discovered evidence. If it becomes necessary to delay or cancel an arbitration hearing because of the need of the Union to respond at hearing to this new nexus theory, and if the Employer's notification to the Union of the new nexus theory occurs within seven (7) days of a scheduled hearing, the Employer and the Union shall equally share the expenses of a cancellation fee.

F.

Nothing in this section shall preclude the Employer from responding to or rebutting any evidence, argument, or defenses raised by or on behalf of the employee.

Section 4

An official who sustains the proposed reasons against an employee in an adverse action will set forth findings with respect to each reason and specification against the employee in the notice of decision. Such notice will also address factual disputes, if any, raised in the employee's reply by stating the reasons why each factual dispute was rejected.

Section 5

A.

An employee will, in any adverse action and upon request, be furnished a copy of that portion of all written documents which contain evidence relied on by the Employer which form the basis for the reasons and specifications. In addition, the employee and/or NTEU may request other information in response to the proposed action, consistent with appropriate Statutes (e.g., 5 U.S.C. §7114(b)(4), 5 U.S.C. §552, and 5 U.S.C. §552 (a).

B.

Upon request, an employee, or the Union when designated by the employee, will be furnished all written documents pertaining to the investigation of the employee that were available to the proposing official at the time the notice of proposed action was issued to the employee. The Parties will issue joint guidance to facilitate the timely and accurate release of information, and meet on a periodic basis to assess the effectiveness of the process and ways in which it can be improved.

C.

If probable cause exists and is demonstrated to the arbitrator by the Union on appeal that information provided for in subsection 5B above has not been furnished by the Employer, upon request by the arbitrator the report will be furnished for an "in-camera" inspection to be made in conformity with the Privacy Act (5 USC 552(a)). Material determined by the arbitrator to be favorable under the criteria of subsection 5B and not previously furnished to the Union will be furnished to the Union.

D.

Nothing in this section is to be construed as a waiver of the employee's or Union's right to request additional information under other authorities such as the Freedom of Information Act, Privacy Act, or Civil Service Reform Act.

Section 6

A.

If the Employer's final decision is to effect an adverse action against a bargaining unit employee, the employee may appeal the decision to the Merit Systems Protection Board (MSPB) in accordance with applicable law, or with the consent of the Union to binding arbitration. Under no condition may an employee appeal an adverse action to both MSPB and arbitration.

B.

If the Union elects to appeal an adverse action to arbitration, the Union must give the Employer notice of its decision within twenty-one (21) calendar days of the employee's receipt of the Employer's final decision. If timely notice of appeal is not received by the office of the appropriate deciding official, the action may not be appealed to the grievance or arbitration procedure.

C.

The notice of appeal must be given by certified mail, FAX with proof of receipt, E-mail with proof of receipt, or by hand delivery to the appropriate deciding official. Notice of appeal by certified mail shall be effective when mailed and notice of appeal by hand delivery shall be effective when received.

D.

The standard of proof in any arbitration over this matter will be the preponderance of evidence.

E.

The arbitrator shall have the obligation of assuring that all necessary facts and considerations are brought before him or her by the representatives of the parties. This may include drawing an appropriate inference when either party fails to present facts or witnesses that the arbitrator deems necessary and relevant.

F.

In order to expedite resolution of removals, suspensions, and reductions in grade of three (3) grades or more covered by this article, the parties agree to the following procedures for arbitration of such actions:

1. the parties shall establish a hearing date so that the hearing will be conducted within one hundred twenty (120) days of the action's effective date. If the parties are unable to agree to such a date, the assigned arbitrator shall be empowered and instructed upon the motion of either party to establish a date and conduct the hearing within the time set forth above. Once established, a hearing date may be changed only by the parties' mutual agreement, and the arbitrator shall permit either party to proceed ex parte in the event the other party fails to present its case on the established hearing date;
2. if the assigned arbitrator is unable to provide a hearing date within the time set forth above, a new arbitrator will be promptly assigned; and
3. after conducting the hearing, the assigned arbitrator shall be responsible for scheduling closure of the record and issuing a decision not later than sixty (60) days after the hearing is concluded.

Section 7

A.

1. To the extent not prohibited by law, the Employer will provide the Union with unsanitized

copies of adverse action proposal and decision letters, simultaneously with their issuance to employees. One (1) copy shall be provided to the chapter office that represents the affected employee and one (1) copy shall be provided to the servicing NTEU National Field Office. It shall be the responsibility of both the local Union office and the NTEU National Field Office to maintain this information for their use in grievances and arbitrations and all other representative matters.

2. The letters referenced in this section and the case data provided in subsection 7B will be coded with the same case number in order for the Union to cross-reference the data. The Employer will sanitize documents in compliance with applicable laws, rules and regulations, and not over-sanitize so as to cause the information to be unusable.
3. The Employer agrees that it will not effect discipline until it has complied with subsection 5A of this article.

B.

Beginning with the effective date of this Agreement, the Employer will, to the extent not prohibited by law, provide National NTEU with a quarterly report showing disciplinary, adverse, and unacceptable performance actions. This data file will include all information from ALERTS not prohibited from disclosure in accordance with governing statutes. This data file will be forwarded electronically and the format will be determined after discussions between NTEU and the Employer.

C.

Information provided by the Employer pursuant to this section need not be provided again to any NTEU chapter, office, or representative pursuant to any statutory or contractual request.

Section 8

At the time the Employer issues its proposal letter and its decision letter to an employee, it shall include a letter written by the Union which outlines the employee's right to representation, and his or her appeal rights. Failure to include such a letter shall be grievable, but shall not constitute a basis for overturning the adverse action.

Section 9

The Employer has determined that the Guide for Penalty Determinations is a guide, and that supervisors are responsible for determining the type of penalty to initiate for alleged conduct violations.

Article 40
Unacceptable Performance

Section 1

A.

An action based on unacceptable performance, for the purpose of this article, is defined as the reduction in grade or removal of an employee whose performance fails to meet established performance standards in one or more critical job elements of the employee's position.

B.

This article applies only to bargaining unit employees who have completed their probationary or trial period, except to the extent prohibited by law.

C.

No bargaining unit employee will be the subject of an action based on unacceptable performance unless that employee's performance fails to meet established performance standards in one or more critical job elements of the employee's position, after having been afforded an adequate opportunity to demonstrate acceptable performance.

1. If at any time during the performance appraisal cycle that an employee's performance is determined to be unacceptable in one or more critical job elements, the Employer will:
   (a) notify the employee of the critical job elements(s) for which performance is unacceptable; and
   (b) issue a written plan to the employee, including but not limited to suggestions as to how the employee can improve his/her performance, the type of assistance the Employer will provide, and instructions on ways the employee can be expected to raise his/her performance to an acceptable level.
2. To avoid a reduction in grade or removal, the employee must meet and sustain at an acceptable level, the performance standard(s) for the critical job element(s) at issue.

D.

A meeting between an employee and the supervisor or other line management official during which the principal topic of discussion is action or potential action based on unacceptable performance will entitle the employee involved to request to be accompanied by the Union steward during such meeting. If such a request is made, the supervisor or other line management official will honor the request.

E.

Any action based on unacceptable performance will be fair, equitable, and administered as timely as possible.

Section 2

A.

Prior to issuing a notice of proposed action based on unacceptable performance, the Employer will issue a letter to the employee which contains the following:

1. an identification of the critical job elements and performance standards for which performance is unacceptable;
2. advice as to what the employee must do to bring performance up to an acceptable level;
3. a statement that the employee has a reasonable period of time (specified in calendar days) but never less than sixty (60) days in which to bring performance up to an acceptable level; and
4. a description of what the Employer will do to assist the employee to improve the allegedly unacceptable performance during the opportunity period.

B.

A grievance may not be filed on either the substance or procedural aspects of this notice until a final decision is issued.

Section 3

A.

In all cases of proposed action based on unacceptable performance, the employee will be given written notice of the reasons and specifications of unacceptable performance on which the proposed action is based thirty (30) calendar days in advance of the action.

B.

The advance written notice proposing either to remove or downgrade an employee for unacceptable performance will include:

1. specific instances of unacceptable performance by the employee on which the proposed action is based;
2. the critical job element(s) of the employee's position involved in each specification of unacceptable performance;
3. the performance standard(s) of the employee's position involved in each specification of unacceptable performance;
4. a statement of the employee's right to be represented by an attorney or representative;
5. a statement of the employee's right to answer orally and/or in writing; and
6. a statement of the employee's right to review the material relied upon to support the reasons and specifications in the notice.

C.

The employee will be given the opportunity, but will not be obliged, to respond orally and/or in writing prior to a decision on the reasons and specifications, provided that the oral and/or written reply is received by the Employer within a reasonable period of time after the employee's receipt of the letter of proposed action. Any request for an oral reply must be submitted within seven (7) days of the employee's receipt of the letter of proposed action. The Employer agrees that when a record of an oral/written reply is made, it will always contain as an attachment all documents submitted by the employee and his/her representative as part of that reply. Any documents not submitted at the oral reply, but received within five (5) workdays of the date of the oral reply, where practicable, will be included in the reply record.

D.

If the employee elects to make an oral reply, the Employer will make a verbatim transcript of the oral reply and will provide a copy to the employee or designated Union representative upon request.

Section 4

A.

An official who sustains the proposed reasons against an employee in an action based on unacceptable performance will set forth findings with respect to each reason and specification against the employee in the final decision letter. Such letter will also address factual disputes, if any, raised by the employee's reply by stating the reasons why each factual dispute was rejected.

B.

An action to remove or downgrade an employee based on unacceptable performance must be supported by substantial evidence.

C.

The final decision in the case of a proposed action to either remove or downgrade an employee based on unacceptable performance will be made no later than thirty (30) calendar days after the expiration of the advance notice period, and will be based only on those instances of unacceptable performance by the employee which occurred during the one (1) year period ending on the date of the advance notice letter.

D.

The final decision regarding a proposed action based on unacceptable performance will be concurred in by

an official in a higher position than the official who proposed the action.

E.

In taking an action based on unacceptable performance, the Employer will consider the employee's performance during the advance notice period. If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for one (1) year from the date of the advance written notice letter, any entry or other notification of the unacceptable performance for which the action was proposed shall be removed from any Agency record relating to the employee.

Section 5

A.

An employee will, upon request, be furnished a copy of that portion of all written documents which contain evidence relied on by the Employer which forms the basis for the reasons and specifications. In addition, the employee and/or NTEU may request other information in response to the proposed action, consistent with appropriate Statutes [e.g., 5 U.S.C. §7114(b)(4), 5 U.S.C. §552, and 5 U.S.C. §552 (a)].

B.

Upon request, an employee, or the Union when designated by the employee, will be furnished all written documents pertaining to the unacceptable performance of the employee that were available to the proposing official at the time the notice of proposed action was issued to the employee. The Parties will issue joint guidance to facilitate the timely and accurate release of information, and meet on a periodic basis to assess the effectiveness of the process and ways in which it can be improved.

C.

If probable cause exists and is demonstrated to the arbitrator by the Union on appeal that all information provided for in an investigative report relating to the specifications has not been furnished by the Employer, upon request of the arbitrator the report will be furnished for an "in camera" inspection to be made in conformity with the Privacy Act (5 USC 552(a)). Material determined by the arbitrator to be favorable under the criteria of subsection 5B and not previously furnished to the Union will be furnished to the Union.

D.

Nothing in this section is to be construed as a waiver of the employee's or Union's right to request additional information under other authorities such as the Freedom of Information Act, Privacy Act, or Civil Service Reform Act.

Section 6

A.

If the Employer's final decision is to effect an action based on unacceptable performance against a bargaining unit employee, the employee may appeal the decision to the Merit Systems Protection Board (MSPB) in accordance with applicable law, or, with the consent of the Union to binding arbitration. Under no condition may an employee appeal an action based on unacceptable performance to both MSPB and arbitration.

B.

If the Union elects to appeal an unacceptable performance action to arbitration, the Union must give the Employer notice of its decision within twenty-one (21) days of the employee's receipt of the Employer's final decision. If timely notice of appeal is not received by the office of the appropriate deciding official, the action may not be appealed to the arbitration procedure.

C.

The notice of appeal must be given by certified mail or by hand delivery to the appropriate deciding official. Notice of appeal by certified mail, FAX with proof of receipt, E-mail with proof of receipt, or hand delivered shall be effective when sent and notice of appeal by hand delivery shall be effective when received.

D.

The standard of proof in any arbitration over this matter will be substantial evidence. The Employer will raise no cases against the employee other than those cited in the notice of proposed action except to the extent necessary to rebut defenses or arguments raised in the employee's behalf, such as an argument that the cited cases are but a small portion of the employee's total work product which is otherwise acceptable.

E.

The arbitrator shall have the obligation of assuring that all necessary facts and considerations are brought before him or her by the representatives of the parties. This may include drawing an appropriate inference when either party fails to present facts or witnesses that the arbitrator deems necessary and relevant.

F.

In order to expedite resolution of removals and reductions in grade of three (3) grades or more which are covered by this article, the parties agree to the following procedures for arbitration of such actions:

1. the parties shall establish a hearing date so that the hearing will be conducted within one hundred twenty (120) days of the effective date

of the action; if the parties are unable to mutually establish such a date, the assigned arbitrator shall be empowered and instructed, upon the motion of either party, to establish a date and conduct the hearing within the time set forth above; once established, a hearing date may be changed only by agreement of the parties and the arbitrator shall permit either party to proceed ex parte in the event the other party fails to present its case on the established hearing date;

2. if the assigned arbitrator is unable to provide a hearing date within the time set forth above, a new arbitrator will be promptly assigned; and
3. the assigned arbitrator shall be responsible for scheduling closure of the record and issuing a decision not later than sixty (60) days after the hearing is concluded.

Section 7

To the extent not prohibited by law, the Employer will provide the Union with unsanitized copies of all unacceptable performance action proposal and decision letters, simultaneously with their issuance to employees. One (1) copy shall be provided to the impacted chapter office and one (1) copy shall be provided to the appropriate NTEU National Field Office. It shall be the responsibility of both the chapter and the NTEU National Field Office to maintain this information for their use in grievances and arbitrations and all other representative matters.

Section 8

At the time the Employer issues its proposal letter and its decision letter to an employee, it shall include a letter written by the Union which outlines the employee's right to representation and his or her appeal rights. Failure to include such a letter shall be grievable, but shall not constitute a basis for overturning the adverse action.

Section 9

The letters referenced in this article and the case data will be coded with the same case number in order for the Union to cross-reference the data. The Employer will sanitize documents in compliance with applicable laws, rules and regulations, and not oversanitize so as to cause the information to be unusable.

Article 41
Employee Grievance Procedure

Section 1

A.

The Employer and the Union recognize and endorse the importance of bringing to light and addressing employee concerns through the negotiated grievance procedure promptly and, whenever possible, informally. In this regard, the parties will insure that their representatives are properly authorized to resolve matters raised under this article.

B.

The purpose of this article is to provide an orderly method for the disposition and processing of grievances brought by employees or by the Union on behalf of employees. Nothing in this article shall apply to institutional grievances brought by employees concerning the effect or interpretation, or a claim of breach of the provisions, of this Agreement relating to the rights and benefits accruing to the Union as the exclusive representative of bargaining unit employees.

C.

The Union will submit virtually all Contract-related matters to the negotiated grievance procedure for final disposition and will use sparingly unfair labor practice procedures concerning Contract-related issues which may occur in the day-to-day administration of this Agreement.

Section 2

A.

The term "grievance" means any complaint:

1. by an employee concerning any matter relating to the employment of the employee;
2. by the Union concerning any matter relating to the employment of any employee; or
3. by an employee or the Union concerning:
   (a) the effect or interpretation, or a claim of a breach, of a collective bargaining agreement; or
   (b) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

B.

This procedure will be the only procedure available to bargaining unit employees for the processing and disposition of grievances as defined in subsection 2A

above, except when the employee has a statutory right of choice, that is, adverse actions, actions taken for unacceptable performance, or EEO complaints.

C.

Matters not grievable under this Agreement that are covered by the Agency grievance procedure are grievable under that procedure. However, stewards representing IRS employees under that procedure may use reasonable time consistent with 5 CFR 771.202 (1995).

D.

Employees who believe they have been illegally discriminated against on the basis of race, color, religion, sex, national origin, age, or handicapping condition have the right to raise the matter under the statutory procedure or the negotiated grievance procedure of this Agreement, but not both.

E.

When the employee elects to raise the matter under the negotiated grievance procedure, the grievance shall specify the specific nature of the discrimination (for example, race, religion) and the facts upon which the allegation is based. Pursuant to subsection 8B, this information must be raised no later than the conclusion of the Step 3 meeting. In cases arising under Articles 38, 39, or 40 in which discrimination is alleged, this information should be presented in writing at the oral or written reply stage, even if no other oral/written reply is presented, in order for the allegations of discrimination to be grieved or arbitrated under the terms of this Agreement. Regardless of the above, allegations of discrimination must be described in writing no later than the submission of the notice invoking arbitration and in all cases it must be raised within the deadlines provided by the regulations.

Section 3

A.

Grievances under this article may be initiated by employees in the unit either singly or jointly, or by the Union on behalf of employees.

B.

Where an employee has initiated a grievance and does not elect to be represented by the Union, the Union will have a right to be present at all informal and formal discussions between the employee and the Employer concerning the grievance. The Employer will resolve all grievances presented under such circumstances consistent with the terms and conditions of this Agreement. The Union will be provided with a copy of the Employer's response one (1) full workday before it is given to the grieving employee.

Section 4

Grieving employees will have the right to be accompanied, represented and advised by the Union steward or chief steward or chapter president responsible for representing them at whatever step of the procedure a grievance is being heard. Union stewards who file grievances concerning a matter of personal concern will be represented by a steward appointed by the Chapter President.

Section 5

A.

In the event that two (2) or more grieving employees have designated the Union to serve as their representative on one (1) or more grievances involving the same facts and the same issues, or the Union has filed one (1) or more grievances on behalf of two (2) or more employees involving the same facts and the same issues, official time pursuant to Article 9, Section 2 of this Agreement will be available as follows:

1. if the grievance involves more than one (1) but less than twenty (20) employees in a unit or group, three (3) grievants may participate or attend;
2. if the grievance involves twenty (20) or more employees in a unit or group, four (4) grievants may attend; and
3. the number of grievants in attendance will be expanded to ensure that one grievant from each chapter may participate or attend in accordance with the provisions for the Step 2 meeting as described in Section 7.

B.

The numbers described above will control the number of employees who may participate or attend. Mass grievances will be processed in accordance with the uniform employee grievance procedure as described in Section 7, except that such grievances will be initiated at Step 2 of that procedure. Mass grievances involving employees in more than one (1) division will be heard by the appropriate designated second step official for the division with the largest number of impacted bargaining unit employees.

Section 6

A.

Except as provided in other provisions of this Agreement, grievances will not be considered unless they are filed with the Employer within fifteen (15) workdays after the incident which gives rise to the grievance or within fifteen (15) workdays after the aggrieved became aware of the matters out of which the grievance arose.

B.

For grievances alleging discrimination as described in subsection 2D, the time limits for filing grievances shall be forty-five (45) calendar days. This forty-five (45) calendar day period may be extended if the employee utilizes alternative dispute resolution procedures. Any extension of the filing requirements will be consistent with the procedures outlined in the alternative dispute resolution process utilized by the employee. However, the above procedure will in no way extend the one hundred eighty (180) calendar days requirement provided by regulation.

Section 7
Uniform Employee Grievance Procedure

The parties are encouraged to seek informal resolution of grievances. Accordingly, such matters may be brought to the attention of the employee's manager for informal resolution, before filing a formal grievance. However, as provided in Section 6 above, a grievance must be filed with the Employer within fifteen (15) days of the incident giving rise thereto, or within fifteen (15) workdays after the aggrieved employee becomes aware of the matter giving rise to the complaint, but time limits may be extended in accordance with subsection 10B of this article.

Step 1

A.

A grievance is required to be presented in writing to the employee's immediate supervisor, and provide information concerning the nature of the grievance, the articles and sections of the Agreement that are alleged to have been violated and the remedy sought. Either party may then request that a meeting be held on the matter, or the parties may agree that no meeting be held. If either party elects a meeting, it shall take place within five (5) days of the submission of the grievance. The meeting shall include the supervisor, the employee, and the employee's union representative. The meeting is intended to provide the opportunity for the employee to present and discuss aspects of the issues giving rise to his or her grievance with the supervisor in an attempt to clarify issues and find an appropriate resolution.

The employee and the Union will be provided with a written response to the grievance within ten (10) days of the close of the meeting, if one is held, or within five (5) days of the filing of the grievance if a meeting is not held. Such decision will not normally exceed two pages in length.

Step 2

B.

If an employee is dissatisfied with the response provided in Step 1, he or she may appeal the grievance to the appropriate next higher level of management (absent formal agreement otherwise). Such notice of appeal will be timely if made within ten (10) workdays of receipt by the Union of the decision in Step 1. If an appeal is made, either party may request that a meeting be held to discuss the matter or the parties may agree that no meeting be held. If either party elects a meeting, it shall take place within ten (10) workdays of the notice of appeal.

C.

The employee, a designated union representative (chief steward, chapter president, or designee) and the next higher-level manager will meet face-to-face, unless the parties mutually agree to a telephonic meeting. The union steward filing the grievance at Step 1 and any witnesses who are not within the commuting area where the meeting is held will participate telephonically. A representative of the Employer will also attend for the purpose of making a record of the proceedings. The Union reserves the right to make an electronic recording and will be provided with a copy of the summary proceedings to review and approve, or to supplement the record.

D.

The employee and the Union will be provided with a written response to the grievance within ten (10) workdays of the close of the meeting, if one is held, or within five (5) workdays of the appeal if a meeting is not held.

E.

If the Step 2 management official is an executive, there will be no further appeal under the grievance procedure. Rather, this meeting should focus on settling the grievance. If unresolved, the matter may proceed directly to arbitration, in accordance with Article 43.

Step 3

F.

If an employee is dissatisfied with the decision rendered at Step 2 above, he or she may appeal the grievance to a resolution meeting between the chapter president or designee, and the executive who supervises the Step 2 management official. Such appeal must be filed in writing within ten (10) workdays of receipt of the Step 2 decision. (As noted above, if the Step 2 management official was an executive, there will be no further appeal under the grievance procedure and the matter may proceed directly to arbitration, in accordance with Article 43.)

G.

The purpose of this meeting is to review the record and relevant evidence with the goal of resolving the grievance.

H.

The location and time of the resolution meeting will be mutually determined by the executive and the chapter president. Meetings may be conducted in the following manner:

1. As part of a standing meeting to hear all grievances at a particular POD. Such face-to-face meetings may be scheduled on a monthly or semi-monthly basis;
2. Telephonically, or by other electronic means; and/or
3. By duly authorized designees of either party.

I.

Within ten (10) workdays of the meeting, the executive shall issue a written response to the union one day prior to providing a copy of the response to the employee. If the resolution meeting cannot be held within thirty (30) calendar days of the appeal, the union may invoke arbitration in accordance with Article 43.

J.

The parties may agree to have additional representatives attend any step of the grievance procedure, so long as there are an equal number of representatives.

K.

Employee(s) and/or union officials attending, or participating telephonically in, meetings under this grievance procedure shall be afforded official time in accordance with Article 9.

L.

The partnering councils of each division and function will, on a semi-annual basis, oversee a process to collect and analyze data on the effectiveness and settlement rates of the grievance process within their respective divisions/functions.

Section 8

A.

1. The parties will have the obligation of making a complete record during the steps of the grievance procedure, including the obligation to produce any and all witnesses who have information relevant to the matter at issue. The Union will be granted access to returns and return information consistent with I.R.C. Section 6103(L)(4).
2. The parties acknowledge their obligation to produce any and all witnesses who have information relevant to the matter at issue. Evidence and witnesses that are relevant to the resolution of a grievance may be introduced at any stage of the grievance or arbitration process. The Union's request for the participation of a witness, who is an employee of the IRS, will normally be approved consistent with Article 9, absent a severe workload interruption. The Employer and its agents or representatives will not interfere with, intimidate, or retaliate against any employee who appears as a witness at a grievance or arbitration hearing.
3. The parties agree to exchange information that is relevant and necessary to understand the dispute and maximize the potential of settling the matter. Disputes over access to information will be determined in accordance with applicable law, rule or regulation.

B.

With the exception of subsections 2E and 8D below, new issues may not be raised by either party unless they have been raised at Step 2 of the grievance procedure provided, however, that the parties may agree to join the new issues with a grievance in process.

C.

If the Employer raises questions of grievability or arbitrability, the grievance will be amended to include a resolution of this question in the processing of the grievance.

D.

Failure to cite a specific Agreement provision, regulation, or statute shall not bar an employee or the Union from amending the grievance to include such violations provided the issue has been raised in the grievance.

Section 9

A.

Adverse decisions rendered at the last step may be appealed to binding arbitration as provided for in Article 43.

B.

The Union must notify the appropriate executive of an appeal submitted pursuant to subsection 9A above by certified mail, return receipt requested, or by hand carrying the appeal within thirty (30) calendar days of receipt by the Union of the decision rendered at the last step of the grievance procedure. Notice may be given by e-mail with voice mail or telephonic confirmation.

Section 10

A.

"Days" means workdays except as otherwise provided.

B.

The parties may agree to extend the time limits in this article.

C.

The parties may agree in writing to waive any step of this procedure.

D.

Responses to grievances shall be served on the appropriate Union steward or the grievant if not represented by a steward. Time periods set forth in this article shall be computed from the day after the receipt of a grievance or appeal by the Employer and the day after the receipt of a response by the Union. Consistent with subsection 3B of this article, the Union steward shall be provided with a copy of the Employer's response one (1) full workday before it is given to the grieving employee.

E.

The Employer will give a substantive response to each issue raised by the Union in the written response.

Section 11

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

Section 12

Grievance meetings will be scheduled at a time agreeable to the Union and the Employer. In the absence of agreement, the meeting will be scheduled during the grievant's normal tour of duty. Under circumstances where the meeting cannot be scheduled during the representative's normal tour of duty, and the representative is not eligible for credit hours under Article 9, the Employer has determined that the representative's tour of duty will be changed to meet this representational need, consistent with local agreements regarding tours of duty.

Section 13

In grievances where the steward or manager is processing or hearing one of his or her first three (3) grievances, either party may bring one (1) additional representative, with the Union representative on official time under Article 9.

Section 14

All grievances having been heard by the same executive and involving the same issues which are pending when grievances are assigned to arbitrators shall be assigned to the same arbitrator.

Section 15

A.

1. Where the Union believes that a personnel action involves an alleged violation of a prohibited personnel action, the Union will raise that matter in the grievance, reply, or arbitration invocation as appropriate. Where there is a proposed personnel action that the Union believes involves an alleged violation of a prohibited personnel action, the Union shall file a written statement with the deciding official for the proposed action, which shall contain the same information as a grievance. Once raised, the Union may petition an arbitrator for a stay of the action.
2. The parties will create two (2) arbitrators panels. There will be at least three (3) arbitrators on each panel. One (1) panel will be for cases arising from offices west of the Mississippi, the other panel will be for cases arising from offices east of the Mississippi. These arbitrators will hear all stay cases in their geographic areas for the duration of this Contract.

B.

The petition for a stay must contain the following:

1. a chronology of the facts including a description of the alleged prohibited personnel practices involved and the action or actions that the agency has taken or intends to take which form the basis for the petition;
2. evidence and/or argument showing that the action taken or threatened is a personnel action, that the action taken or threatened was based on a prohibited personnel practice, and that there is a substantial likelihood that the grievant will prevail on the merits of the appeal;
3. documentary evidence that supports the stay request; and
4. a specific request for remedies.

C.

The petition for a stay must be filed with the selected arbitrator and the appropriate servicing General Legal Services office, which will be identified in the deciding official's response. Filings may be made by personal delivery, FAX, mail or by commercial overnight delivery, or e-mail with voice mail or telephonic confirmation.

D.

The arbitrator will have jurisdiction over the case forty-eight (48) hours after the Union has served the Employer with its petition for a stay. After forty-eight (48) hours, the arbitrator has the authority to issue an interim stay, pending a final decision on the stay. Any

interim stay ordered must be consistent with the burdens of proof and standards established by the Merit Systems Protection Board cases concerning stays. If the arbitrator does not issue an interim stay, the Employer's response must be filed within ten (10) calendar days of the expiration of the forty-eight (48) hour period consistent with subsection 15E below. If the arbitrator does issue an interim stay, any request for an extension of time to file the Employer's response will be granted by the arbitrator. The arbitrator will not issue an interim stay ex parte, but will discuss and accept any argument or comment via telephone relevant to an interim stay request.

E.

The Employer's response must be filed with the arbitrator and grievant's representative within ten (10) calendar days of the expiration of the forty-eight (48) hour period. The Employer's response must contain the following:

1. evidence and/or argument addressing whether there is a substantial likelihood that the grievant will prevail on the merits of the appeal;
2. evidence and or argument addressing whether the grant of a stay would result in extreme hardship; and
3. any documentation relevant to the agency's position on these issues.

F.

1. Once under his or her jurisdiction, the arbitrator may seek a mutually agreed resolution of the matter, or clarify the issues via telephone prior to issuing a decision on the stay. The arbitrator must issue a written ruling on the stay petition within ten (10) calendar days of the receipt of the Employer's response. The arbitrator may only grant a stay consistent with the burdens of proof and standards established by the Merit Systems Protection Board in cases concerning 5 USC 1221(c). A stay must not be granted for any other reason. Any and all decisions on a petition for a stay are final and binding on the parties.
2. A hearing on a petition for a stay may be held by mutual agreement of the parties or by order of the arbitrator. Any hearing must be scheduled and held within thirty (30) calendar days of the date of the petition requesting a stay. The arbitrator must issue a written ruling consistent with subsection 15F1.
3. The arbitrator will be responsible for assessing any and all costs associated with the petition for a stay consistent with Article 43, subsection 4A1.

G.

Absent mutual agreement, the arbitrator who ruled on the request for a stay will hear the ultimate arbitration related to that action, if any. When such arbitration decisions result in the reversal of the Agency's action, based upon a specific finding of a prohibited personnel practice, the arbitrator has the authority to issue all legal remedies.

Section 16
Use of Alternative Dispute Resolution (ADR) Procedures

During the life of this Agreement, the local parties are advised to make aggressive use of peer mediation and other ADR tools. However, these tools are to be applied within the normal grievance process or in a way that will not prejudice an employee's right to file a grievance, should it be necessary.

Section 17
Streamlined Grievance Process

A.

The parties acknowledge that certain types of individual grievances must be addressed as quickly as possible, and they agree to do so according to a special streamlined grievance and arbitration procedure. For workplace complaints identified below, streamlined grievances will be processed in accordance with the uniform employee grievance procedure as described in Section 7, except that such grievances will be initiated at Step 2 of that procedure. This process will be used to consider grievances concerning:

1. outside employment;
2. hours of work (including AWS, credit hours and distribution of overtime);
3. absence and leave (including AWOL)
4. disputes over the approval of official time under Article 9; and
5. any other matters which the parties mutually agree upon.

Article 42
Institutional Grievance Procedure

Section 1
Purpose

The purpose of this article is to establish an orderly and uniform procedure for the processing and disposition of institutional grievances stemming from application of this Agreement.

Section 2

Definitions and General Provisions for Local/National Institutional Grievances

A.

Unless otherwise noted, “days” means workdays.

B.

“Institutional grievance” means any complaint by the Union concerning the effect or interpretation, or a claim of breach of the provisions of this Agreement relating to the rights and benefits that accrue to the Union as the exclusive representative of bargaining unit employees. Grievances on behalf of employees, or that relate to the employment of employees, or that concern any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment of employees are not institutional grievances within the meaning of this procedure.

C.

Grievances must be in writing, signed by the appropriate Chapter President or designee, and filed with the Employer within fifteen (15) workdays of the incident that gives rise to the grievance, or within fifteen (15) workdays from the time the Union learned, or should have learned, of the matter out of which the grievance arose. However, where the grievance is for failure to invite the Union to a formal meeting, as provided for in 5 USC § 7114 or for alleged violations of 5 USC § 7116(a)(2),(3),(5),(6), and/or (7), the time limits for filing grievances shall be one hundred and eighty (180) calendar days.

D.

Grievances must:

1. cite the Agreement provision alleged to have been violated;
2. describe the violation with sufficient specificity to advise the Employer of the nature of the harm; and
3. state the remedy sought.

E.

The time limits specified for each step of this procedure shall be computed from the day after the receipt of a grievance or an appeal by the Employer, and from the day after the receipt of a response by the Union.

F.

Time limits may be extended, and any step of this procedure may be waived, by written agreement of the Employer and the Union.

G.

Meetings between the Employer and the Union to process grievances under this procedure, if not scheduled during the Union’s representative’s tour of duty, shall be scheduled as close to the Union’s representative’s tour of duty as possible, and at the office of the appropriate Employer representative, unless otherwise agreed.

H.

Whenever a grievance is processed through a step where, for any reason, no meeting is held, the Employer will issue its response for such step within ten (10) workdays of the submission of the grievance to that step.

I.

Failure by the Union to comply with the provisions of this procedure will have the effect of nullifying the grievance for lack of prosecution. Failure by the Employer to comply with the provisions of this procedure will have the effect of raising the grievance to the next higher step.

Section 3
Uniform Local Institutional Grievance Procedure

A.

The grievance must be filed with the first-level executive of the Division, Function, or Campus in which the grievance arose, unless the parties mutually agree that the issues(s) could be more appropriately addressed by a different official. If the grievance involves more than one (1) division, function, or Center in a particular SCR area, must be filed with the SCR with jurisdiction over the area within which the grievance arose. If the grievance involves more than one division, function, or Center in more than one SCR area, it shall be treated as a national grievance under Section 4 or 12 as appropriate.

B.

Within ten (10) workdays of the filing of the grievance, the Employer will meet with the chapter president or designee to discuss the grievance.

C.

Within twenty (20) workdays of the meeting, the Employer will issue a written response to the chapter president.

D.

If the Union is not satisfied with the response issued, the Union may invoke arbitration.

Section 4
National Union Institutional Grievance Procedure

A.

The Union’s National President may file grievances as provided in this section. For purposes of this

section only, the term “grievance” means:

1. an institutional grievance as defined in subsection 2B of this article; or
2. a grievance concerning an issue of rights afforded to employees under this Agreement which otherwise would be cognizable only as separate grievances from two (2) or more chapters over identical issues.

B.

Such grievances must be in writing and filed with the Chief Human Resources Officer within fifteen (15) workdays of the date the Union became aware, or should have become aware, of the issue grieved. Upon presentation of a proper and timely grievance under this section, any related grievances shall be held in abeyance. Attendance at meetings provided herein shall be limited to the parties’ representatives.

C.

Within ten (10) workdays of the filing of the grievance, a meeting will be held between representatives of the parties. Within twenty (20) workdays of the meeting, the Employer will issue a written decision on the grievance.

D.

The Employer’s decision is appealable to arbitration.

E.

The Union will be entitled to bring two (2) unit employees to any meeting with the Employer under the National Union Procedure. They will be on official time to travel to and attend the meeting.

Section 5
Union Invoked Arbitration

A.

If the Union is not satisfied with the last step response of the Employer, the Union may invoke arbitration, including expedited or streamlined arbitration.

B.

The Union must notify the appropriate head of office of an invocation pursuant to subsection 5A above by certified mail, return receipt requested, electronic mail with voice mail or telephonic confirmation or by in-hand service within thirty (30) calendar days of receipt by the Union of the response.

C.

Arbitration of grievances filed under this article shall be conducted in accordance with the applicable provisions of Article 43 of this Agreement. Provisions of the above mentioned article that conflict with this procedure are not considered applicable provisions for purposes of this procedure.

Section 6
Grievability, Arbitrability and New Issues

Except for questions of grievability or arbitrability, issues not raised by either the Employer or the Union during the grievance procedure may not be raised at arbitration except by written agreement of the parties.

Section 7
Record and Witnesses for Local/National Union Grievances

A.

The parties will have the obligation of making a complete record during the grievance procedure including the obligation to produce any and all witnesses who have information relevant to the matter at issue.

B.

The Parties acknowledge their obligation to produce any and all witnesses who have information relevant to the matter at issue. Evidence and witnesses that are relevant to the resolution of a grievance may be introduced at any stage of the grievance or arbitration process. The Union’s request for the appearance of a witness who is an employee of the IRS will normally be approved, absent a severe workload interruption. The Employer and its agents or representatives will not interfere with, intimidate, or retaliate against any employee who appears as a witness at a grievance or arbitration hearing.

Section 8
Precedence of Decisions in Union Grievances

Grievances resolved by arbitration will be precedential throughout the unit unless otherwise agreed to in writing by the Employer and the Union. Any other disposition of a grievance is non-precedential.

Section 9

The purpose of Sections 10 through 17 is to establish an orderly and uniform procedure for the processing and disposition of Employer-initiated grievances.

Section 10
Definitions and General Provisions for Local/National Employer Grievances

A.

“Days” means workdays.

B.

“Institutional grievance” means any complaint by the Employer concerning any claimed violation of 5 U.S.C

§ 7116(b)(5)-(7). All other complaints are excluded from this grievance procedure.

C.

Grievances must be in writing and filed with the chapter president or with the National NTEU President, as appropriate, within fifteen (15) workdays of the incident that gives rise to the grievance, or within fifteen (15) workdays from the time the Employer learned, or should have learned, of the matter from which the grievance arose.

D.

Grievances must:

1. describe the violation with sufficient specificity to advise the Union of the nature of the harm; and
2. state the remedy sought.

E.

The time limits specified for each step of this procedure shall be computed from the day after the receipt of a grievance or an appeal by the Union, and from the day after the receipt of a response by the Employer.

F.

Time limits may be extended, and any step of this procedure may be waived, by written agreement of the Employer and the Union.

G.

Meetings between the Employer and the Union to process grievances under this procedure shall be scheduled by the chapter president.

H.

Whenever a grievance is processed, and no meeting is held, the Union will issue its response for such step within thirty (30) calendar days of the submission of the grievance to that step.

I.

Failure by the Employer to comply with the provisions of this procedure will have the effect of nullifying the grievance for lack of prosecution. Failure by the Union to comply with the provisions of this procedure will have the effect of raising the grievance to the next higher step.

Section 11
Local Uniform Employer Procedure

Step 1

A.

Any local grievance initiated by management must be filed by the first-level executive, or designee, of the Division, Function, or Campus in which the grievance is alleged to have occurred, with the chapter president.

B.

Within ten (10) workdays of the filing of the grievance, the chapter president or designee will meet with the official or designee who filed the grievance or executive level designee to discuss the grievance.

C.

Within twenty (20) workdays of the meeting, the chapter president will issue a written Step 1 response to the official or designee who filed the grievance.

D.

If the Employer is not satisfied with the response issued at Step 1, he or she may file an appeal with the National President of the Union.

E.

Such appeal must be filed within ten (10) workdays of receipt of the response in Step 1.

F.

The Union will be entitled to have the number of bargaining unit representatives it deems appropriate participate in any meeting with the Employer under this article. Union representatives will be on official time to travel to attend such meetings. The Employer shall pay all of the travel and per diem and provide official time for not less than two (2) such bargaining unit representatives but not more than the number of Employer representatives, up to a maximum of four (4) bargaining unit representatives. Meetings will be held at the office of the Union representative unless otherwise agreed. In addition, Union staff persons are entitled to participate in such meetings.

Step 2

G.

Within ten (10) workdays of the filing of the appeal, the National President of the Union or designee will meet with the next higher level executive or designee to discuss the grievance.

H.

Within twenty (20) workdays of the meeting, the National President of the Union will issue a written last-step response to the highest level executive with whom the discussion was held.

I.

If the Employer is not satisfied with the Step 2 response, the Employer may invoke arbitration consistent with Article 43. Should the Employer invoke arbitration, the proceedings shall be expedited in accordance with Article 43 and the Employer shall pay one hundred percent (100%) of all fees and expenses for such a hearing including the travel expenses of the arbitrator hearing the case.

J.

The Employer will notify the National President of the Union of an invocation pursuant to this section of this article by certified mail, return receipt requested; electronic mail with voice mail or telephonic confirmation; or by in-hand service within twenty-one (21) days of receipt by the Employer of the response or by personal service within thirty (30) calendar days of the receipt of the Step 2 response.

Section 12
National Employer Grievance Procedure

A.

The Commissioner of the Internal Revenue Service may file grievances as provided in subsection 10B of this article.

B.

Such grievances must be in writing, signed by the Commissioner, or designee, and filed with the National President of the Union within fifteen (15) workdays of the date the Employer became aware, or should have become aware, of the issue grieved. Upon presentation of a proper and timely grievance under this section, any related grievances shall be held in abeyance. Attendance at meetings provided herein shall be limited to the Commissioner or designee, two (2) Employer representatives and the National President of the Union or designee and two (2) Union representatives.

C.

Within twenty (20) workdays of the filing of the grievance, a meeting will be held. Within twenty (20) workdays of the meeting, the Union will issue a written response on the grievance.

D.

If the Employer is not satisfied with the Union's response, the Employer may invoke arbitration consistent with Article 43. Should the Employer invoke arbitration, the proceedings will be expedited in accordance with Article 43 and the Employer shall pay one hundred percent (100%) of all fees and expenses for such a hearing including the travel expenses of the arbitrator hearing the case.

E.

The Employer must notify the National President of the Union of an invocation pursuant to this section of this article by certified mail, return receipt requested, electronic mail with voice mail or telephonic confirmation, or by personal service within thirty (30) calendar days of the receipt of the response.

Section 13
Grievability, Arbitrability and New Issues Governing Local/National Employer Grievances

Except for questions of grievability or arbitrability, issues not raised by either the Employer or the Union during the grievance procedure may not be raised at subsequent steps of the local procedure or arbitration of the national procedure, except by written agreement of the parties.

Section 14
Record and Witnesses for Local/National Employer Grievances

A.

The parties will have the obligation of making a complete record during steps of the grievance procedure including the obligation to produce any and all witnesses who have information relevant to the matter at issue.

B.

Evidence and witnesses that are relevant to the resolution of the grievance may be introduced at any stage of the proceeding prior to arbitration.

Section 15
Precedence of Decisions In Employer Grievances

Grievances resolved by arbitration will be precedential throughout the unit unless otherwise agreed to in writing by the Employer and the Union. Any other disposition of a grievance is non-precedential.

Section 16
Exclusivity of the Process

If the Employer files a grievance under this article, it will maintain the status quo pending resolution of the grievance.

Section 17
Official Time

All time used by chapter representatives to prepare for, and to attend meetings in accordance with this article will be considered official time in accordance with Article 9.

Article 43
Arbitration

Section 1

A.

Matters not settled in the grievance procedure or that are otherwise appealable to arbitration will be arbitrated pursuant to the terms of this article.

B.

There are three (3) types of arbitration procedures available:

1. conventional arbitration - used when a matter is not identified as one which is to be arbitrated by means of expedited procedures;
2. expedited arbitration - used for the following matters provided that the grievance does not allege discrimination based on race, color, sex, national origin, religion, age, or physical or mental handicap, and provided that the dispute does not involve questions of bargaining history:
   (a) suspension of fourteen (14) calendar days or less;
   (b) written reprimands;
   (c) oral admonishments confirmed in writing;
   (d) dues withholding;
   (e) cases involving the accuracy of data contained in IPRs, PERS, CEPS, and EPELs (or their successors) and cases involving whether that data is valid and indicative of the performance of employees;
   (f) improper maintenance of personnel records;
   (g) involuntary reassignments in violation of Article 15 of this Agreement;
   (h) bulletin board postings;
   (i) literature distribution;
   (j) performance appraisals;
   (k) ranking panel/official evaluations;
   (l) release/recall appraisals;
   (m) contracting out, procurement of space and equipment pursuant to Article 42.
3. Additionally, in order to address workplace disputes and other time sensitive complaints in a prompt fashion, the parties agree to utilize a “streamlined” method of arbitration for the following kinds of disputes, consistent with Article 41, Section 17;
   (a) Absence and leave (including AWOL);
   (b) denial of Union time;
   (c) hours of work(including AWS, credit hours and distribution of overtime);
   (d) denial of outside employment requests; and
   (e) any other matters which the parties involved in the dispute mutually agree upon.
4. Grievances processed through the streamlined arbitration procedure will be appealed to an outside arbitrator using telephonic mediation/arbitration, written briefs where the facts are not in dispute, or to certain geographically appointed arbitrators who will hear all such disputes on a particular day(s) of each month and issue bench decisions (to be confirmed in writing with a summary which generally should be no more than two (2) pages in length). Such decisions shall not be precedential.

Section 2

A.

The arbitration procedures shall be supported by an appropriate number of geographic panels of arbitrators as determined by the parties at the national level. Some of the arbitrators on the panels must possess adequate experience or knowledge of the Equal Employment Opportunity (EEO) laws to hear grievable matters which allege discrimination based on race, religion, color, sex, national origin, age, or physical or mental handicap and shall be designated to hear grievances where one of these forms of discrimination has been alleged. Arbitrator’s names will be placed alphabetically on each list.

B.

Each party may strike up to one (1) arbitrator from each panel during each twelve (12) month period of this Agreement by giving notice to the other party and the arbitrator. Upon receipt of that notice, no further cases will be assigned to that arbitrator, but the arbitrator will hear and decide any cases already assigned.

C.

In replacing arbitrators or otherwise filling vacancies, the parties will request three (3) names, within the region, from the Federal Mediation and Conciliation Service (FMCS) for each vacancy. Each party may add two (2) names to the list for each vacancy. This will be done through the FMCS so that the names each party submits are not known to the other party. They will then alternately strike names from each list until the requisite number of names remains to fill the vacancies.

D.

Cases will be assigned to arbitrators on each panel by invocation date. Case assignments will be made by telephone contact between the Union's Assistant Counsel/National Field Representative and the Employer's national office. Hearing dates will then be scheduled by telephone contact between the Union's Assistant Counsel/National Field Representative and the Employer's appropriate office.

Section 3

A.

Arbitration will be invoked in accordance with the time deadlines specified elsewhere in this Agreement.

B.

When invoking arbitration the Union will serve a copy of invocations on the head of office.

Section 4

A.

The following procedures apply to all arbitrations.

1. The parties will each pay one-half (1/2) of the regular fees and expenses including travel expenses of the arbitrator hearing a case unless the grievant substantially prevails as determined by the arbitrator. In such cases, the Employer shall pay seventy-five percent (75%) of the regular fees and expenses including travel expenses of the arbitrator hearing the case.
2. Arbitration hearings will be held on the Employer's premises at the appellant's or grievant's post of duty (POD) when practicable or at any site agreed to by the parties.
3. The grievant, the grievant's representative, and all employees who are called as witnesses will be excused from duty to the extent necessary to participate in the arbitration proceedings without loss of pay or charge to annual leave. However, in the event the grievance was processed through the grievance procedure in accordance with Article 41, subsection 5B, the number of grievants who will be excused from duty to participate in the arbitration proceedings will be the same as the number in Article 41, subsection 5B.
4. It shall be the sole discretion of the arbitrator to determine who may testify. By agreement, bargaining history testimony may be provided to the arbitrator over the telephone.
5. Except in emergency situations, the arbitrator will not have the authority to keep the record open in order to hear testimony of additional witnesses. Each party has the responsibility and obligation to produce its witnesses on the day of the hearing. For purposes of this article, emergency has the same definition it has in 5 USC § 7106.
6. The arbitrator shall have the authority to make all arbitrability and/or grievability determinations. The arbitrator shall make grievability and/or arbitrability determinations prior to addressing the merits of the original grievance.
7. If the Employer declares a grievance non-arbitrable or non-grievable the original grievance shall be considered amended to include the issue of non-grievability. Such declaration may be made at any time.
8. The arbitrator's decision shall be final, binding and, except for expedited or streamlined awards, precedential, and the arbitrator shall possess the authority to make an aggrieved employee whole to the extent such remedy is not limited by law, including the authority to award back pay and interest in accordance with 5 CFR 550.801(a), reinstatement, retroactive promotion where appropriate, and to issue an order to expunge the record of all references to a disciplinary, adverse, or unacceptable performance action, if appropriate.
9. Consistent with Article 2 of this Agreement, arbitrators must follow laws, binding Government-wide regulations, and applicable precedents.
10. The arbitrator will set the date of the hearing with the concurrence of the representatives of the parties. Once that date has been established, a party unilaterally requesting that an arbitration hearing be postponed, delayed, and/or canceled for any reason (which results in any fees being charged by the arbitrator and/or court reporter) shall pay any and all fees.
11. If after sixty (60) calendar days of invocation the parties are unable to agree to a hearing date, either party may contact the arbitrator who will select the hearing date. That date will be no sooner than forty-five (45) calendar days and not later than seventy-five (75) calendar days from the date the arbitrator is contacted. Cases for which the Union does not schedule a hearing within six (6) months of the invocation date will be considered withdrawn unless agreed to do otherwise, or the arbitrator is unable to provide a hearing date, or there are other arbitration cases already scheduled involving the same issue or issues.
12. In any grievance where the parties agree to postpone, delay, and/or cancel an arbitration proceeding, they will equally share the cost of any fees being charged by the arbitrator and/or court reporter. The fact that one party has no objection to the request of the other party for

postponement, delay, or cancellation of the arbitration hearing will not absolve the requesting party from the paying of all the fees being charged.

13. In any grievance where the parties settle the matter prior to an arbitration hearing and there are fees being charged due to the cancellation of the hearing, both parties will equally share the cost of any fees being charged.
14. The strict rules of evidence are not applicable, and the hearing shall be informal.
15. The parties have the right to present and cross examine witnesses and issue opening and closing statements.
16. The arbitrator may exclude testimony or evidence which is determined to be irrelevant or unduly repetitious.
17. Testimony shall be under oath or affirmation.
18. The jurisdiction, authority, and expressed opinions of the chosen arbitrator will be confined exclusively to the interpretation of the expressed provision or provisions of this Agreement at issue between the parties. The arbitrator will have no authority to add to, subtract from, alter, amend, or modify any provision of this Agreement, or impose on either the Employer or the Union any limitation or obligation not specifically provided for under the terms of this Agreement. The parties reserve the right to take exceptions to any award to the Federal Labor Relations Authority. Awards may not include the assessment of expenses against either party other than as specified to in this Agreement.
19. The arbitrator shall have the obligation of assuring that all necessary facts and considerations are brought before him or her by the representatives of the parties. This may include drawing an appropriate inference when either party fails to present facts or witnesses that the arbitrator deems necessary and relevant.
20. The Employer will make employees available as witnesses when requested by the Union. If the Employer determines it is not administratively practicable to comply with the Union's request, and the arbitrator determines the employee's testimony is relevant, then the hearing may be postponed. However, the Union may agree to submit an affidavit in place of the direct testimony of the employee.
21. Bargaining history may not be used in an arbitration hearing unless the party proposing to use it has notified the other in writing at least thirty (30) calendar days prior to the hearing of its intent to use it. If a party gives notice of intent to use bargaining history, the other party may use it without providing notice. The parties should attempt to stipulate the bargaining history of each side and to take testimony via the telephone; however, neither must be done.

B.

1. Transcripts will only be used in those conventional arbitration cases where the issues involve an adverse action, unacceptable performance action, civil rights complaint or unfair labor practice. Transcripts only will be used in other conventional arbitration cases by mutual agreement or by order of the arbitrator in response to a motion showing that it will do significant harm to the hearing or the rights of one party not to have a transcript. The transcript will be made by an authorized court reporter. The arbitrator and each of the parties will be provided with a copy. The costs of the transcript will be equally shared by the parties.
2. In all cases, post hearing briefs may be submitted.

C.

The following procedures apply to expedited arbitration only:

1. expedited cases will be heard by the same arbitrators who hear conventional cases;
2. arbitrators are encouraged to try to mediate a settlement providing it does not delay closure of the case; decisions on cases shall be issued within thirty (30) days of the close of the hearing; the decisions shall not exceed four (4) pages;
3. there will be no transcript;
4. neither party may file written post hearing briefs;
5. either party has the right to submit actual copies of applicable case law, for example, copies of Employer-Union arbitration decisions, and relevant court decisions, up to the close of the hearing; and
6. bargaining history testimony may not be introduced except by agreement of the parties.

Section 5

A.

The arbitrator shall hold the hearing notwithstanding that one party refuses to attend the arbitration. The first issue to be addressed shall be the question of whether the case is properly before the arbitrator. If the case is proper, the grievance will be heard on the merits. Copies of any transcripts, briefs, and decisions will be served on the other party. The party going forward will notify the other party of its intent, listing the date and location of the hearing.

B.

Any written decision by the arbitrator will be provided to the parties as well as to the IRS, Workforce Relations Division and the NTEU Director of Field Operations. The arbitrator will also provide disk copies of the decisions in a designated word processing format.

Section 6

In any case where an arbitrator modifies an award pursuant to a request for reconsideration made by the Office of Personnel Management (OPM), the parties will share equally the additional fees of such reconsideration. In cases where OPM does not finally prevail, the Employer will assume full responsibility for the additional fees of the arbitrator.

Section 7

In cases where an arbitration decision has been modified or rejected by a reviewing body solely because the remedy was ruled illegal, the case will be remanded to the arbitrator by the parties to fashion a new remedy if appropriate.

Article 44
Attorneys Fees

Section 1

Reasonable attorney fees will be provided to employees (the Union) who suffer unwarranted and unjust personnel actions if the employee (the Union) is the prevailing party and the arbitrator determines that payment of attorney fees is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the Employer or any case in which the Employer's action was clearly without merit, and is otherwise consistent with applicable law.

Section 2

Upon issuance of an award, the arbitrator shall retain jurisdiction to determine the entitlement to attorney fees, if any. The Union may request attorney fees within twenty (20) days of the date the award is final and all appeals have been exhausted. Such a request shall be accompanied by documentation, legal argument and citation sufficient to enable the arbitrator to decide. The Union's request shall be simultaneously served on the Employer. Within twenty (20) days of receipt of the Union's request, the Employer shall submit its response. Such response shall be accompanied by sufficient documentation, legal argument and citation. The Employer's response shall be simultaneously served on the Union. The arbitrator shall decide whether to accept further rebuttal briefs.

Section 3

The arbitrator's award, which shall be final and binding, shall be issued within thirty (30) days of receipt of the Employer's response. The award shall contain a detailed explanation of why fees were granted as well as the hours and rates allowed. All charges of the arbitrator will be shared equally by the parties.

Section 4

For purposes of this article, "days" means calendar days.

Article 45
Diversity and Equal Employment Opportunity Committee

Section 1
IRS/NTEU National Diversity and EEO Committee

A.

Consistent with Article 46, an IRS/NTEU National Diversity and EEO Committee shall be established to identify and address Service-wide diversity and EEO issues, as well as other related issues deemed relevant by the Committee.

B.

Ground rules and operating procedures (including Privacy Act considerations) for the Committee will be determined by the members of the Committee.

C.

Any recommendations made by the Committee will be presented to the Employer's Chief, EEO and Diversity and the National President of the Union through the National LMRC.

D.

Nothing in this article shall augment or detract from the Union's statutory right to bargain over any issues, provided that the Union will not initiate bargaining over any issues which are being actively addressed by the Committee. If the Committee fails to issue a report or recommendations concerning a subject that it has addressed, or if the Employer fails to act upon a Committee report or recommendations, the Union

shall be free to initiate bargaining to address such issues.

E.

Upon request, the Employer will make available to the Committee information requested by the Committee such as, but not limited to, performance scores, awards, discipline, and promotion information; broken out by the Race, National Origin, and Gender (RNOG), and grade level of employees.

Section 2
Composition and Operation of Other DEEO Committees

A.

The Employer and the Union reaffirm their commitment to the principles of diversity and equal employment opportunity and will promote and support a positive program which has as its objective the realization of the commitment. To that end, the parties hereby seek to reemphasize the critical role of managers, employees and the Union at the national and local levels.

B.

The Employer will maintain Diversity and Equal Employment Opportunity (DEEO) Advisory Committees in all areas under the jurisdiction of SCRs or designees, as well as the four (4) Operating Divisions and the Modernization and Information Technology Services (MITS) Division. Other DEEO Committees may be established by mutual agreement of the parties.

C.

The composition of each DEEO Advisory Committee will be determined jointly by the Employer and the Union. Absent agreement otherwise, the composition and ground rules should conform to past practice. Where the composition is revised, one half (1/2) of the committee will be members selected by the Union, and one half (1/2) will be selected by the Employer. The Union will be allowed at least one (1) representative from each chapter having representational jurisdiction in the geographic area covered by the advisory committee (absent mutual agreement otherwise).

D.

If the Employer decides to establish other permanent DEEO Advisory Committees, and such committees are to include bargaining unit employees, the Union shall have the right to appoint one-half (1/2) the membership of the committee(s). Notwithstanding the above, the Employer will continue to designate individual employees or groups of employees to perform functions such as the planning and conduct of Federal Women's Program, Black Heritage, and Native American observances. Committees established by the Employer will be given a reasonable amount of official time to conduct their business.

E.

The parties will strive to select a majority of the committee's members from minorities as defined by Executive Order 11478.

F.

The tenure of office of members of the committee will be two (2) years. Such two (2) year terms will be calculated from the date of each member's appointment and shall not be affected by the renegotiation of the Agreement. Members may be reappointed to serve additional terms.

G.

During the first year of the committee's life, the Union will select the chairperson from among its members, and the Employer will select the vice-chairperson. During the second year of the committee's life, the Union will select the vice-chairperson and the Employer will select the chairperson. The parties will rotate the selection of chairperson and vice-chairperson in subsequent years.

H.

DEEO Advisory Committees established under this section are to be only advisory and consultative in nature. Specifically, they exist to serve the EEO and diversity interests of both the Employer and the work force by functioning as a continuing link of communication on matters of an EEO nature.

I.

Operations and functions of DEEO Advisory Committees typically should consist of:

1. identifying and bringing to the attention of local management any trends, problems, issues, or circumstances of an EEO nature;
2. focusing the attention of the Employer on specific personnel management practices or problems of a EEO nature which are producing or could produce dissension and dissatisfaction among employees (for example, merit promotion procedures, selection for training, distribution of awards, disciplinary, adverse, and unacceptable performance actions);
3. advising the Employer of those actions of a diversity or EEO nature that need to be explored or undertaken to prevent, alleviate, or terminate any practices that tend to foster or promote dissatisfaction among the work force;
4. promoting and communicating the efforts of the Employer to achieve and operate a realistic, ongoing DEEO program;
5. acting as a forum for an exchange of ideas and action proposals on sensitive issues, matters, or concerns of a diversity or EEO nature;

6. assisting the Employer by encouraging the support and cooperation of the total work force in the promotion of the overall diversity and EEO program;
7. receiving any Affirmative Action, Affirmative Employment or similar report that needs to be filed with any higher level authorities for which the committee will normally be given thirty (30) days to review and discuss before the report is filed. NTEU reserves the right to negotiate over any changes in employment conditions resulting from these reports;
8. providing feedback to the EEO officers and officials who are responsible for working with the committee or the employees over which the committee has jurisdiction; and
9. addressing other matters related to local Diversity and EEO issues, as the committee sees fit.

J.

DEEO Advisory Committees shall not:

1. be used as media or means to express, present, or press employee demands upon the Employer;
2. be used as channels for receiving, reviewing, or considering individual EEO complaints;
3. engage in the conduct of investigations or the processing of formal or informal EEO complaints; or
4. engage in or otherwise assume the role reserved to exclusively recognized labor organizations nor serve as forums for discussion of employee organization or labor union matters.

K.

Members of DEEO Advisory Committees shall not engage in the conduct of investigations or the processing of formal or informal EEO complaints.

L.

Consistent with Article 47, if the Committee is unable to reach agreement, or its recommendations are rejected or not acted upon, the Union may initiate negotiations over the issue(s) to the extent they are otherwise negotiable.

Section 3
EEO Counselors

A.

EEO Counselors will be available to all employees within their location. The number will be determined after consultation with the DEEO Advisory Committee.

B.

Subject to its right to assign employees, the Employer will select EEO counselor(s) from a list of nominees who have been nominated by a majority vote of the DEEO Advisory Committee. The committee will nominate twice as many persons as the number of counselor positions to be filled. Counselors may not be stewards or Union officers.

C.

The Employer will post the counselors' names, phone numbers, and office locations on all official bulletin boards.

Section 4
Support

A.

The Employer will furnish each chapter or joint council with twenty (20) copies of the Employer's discrimination complaints procedure.

B.

The Employer will provide the DEEO Advisory Committee with copies of all EEO Annual Affirmative Employment Plans that apply to employees covered by this Agreement in the area covered by the Advisory Committee. The Employer will share the EEO Annual Employment Plan with the DEEO Advisory Committee for input and comment before the document is finalized.

C.

The Employer will regularly provide the DEEO Advisory Committee and the local chapter or joint council with Uniform Guidelines statistics submitted to the Employer's national EEO function.

D.

The Employer will quarterly provide the DEEO Advisory Committee and the local chapter or joint council with statistics showing the number of employees in each occupation in the area covered by the Advisory Committee by sex, race, and grade.

Article 46
Labor-Management Relations Committees

Section 1

The Union and the Employer, as evidenced in the Preamble to this Agreement, recognize that the participation of employees in the formulation and implementation of personnel policies and practices

affects their well being and the efficient administration of the Government. The parties further recognize that the entrance into formal agreement with each other is but one act of joint participation and that the success of a labor-management relationship is further assured if a forum is available and used to communicate with each other. The parties, therefore, agree to the structure of Labor-Management Relations Committees (LMRC) for the purpose of exchanging information and the discussion of matters of concern or interest to each of them in the broad area of personnel policy or practice.

Section 2
National LMRC

A.

A National LMRC will meet semi-annually and at other times as agreed. The meeting will be co-chaired by officials appointed by the Union (e.g., the NTEU National Vice-President) and the Employer (e.g., the IRS Director, Strategic Human Resources).

B.

Five (5) bargaining unit employees shall receive official time to participate in meetings of the National LMRC. At the Union's invitation, other bargaining unit employees may attend, provided they obtain properly authorized annual leave. However, the Employer will not pay for any travel and/or per diem expenses associated with those employees beyond the five (5) employees on official time. There will be no limit on the number of Union staff personnel that may attend. Agenda items should normally be exchanged fifteen (15) workdays in advance of the meeting.

Section 3
National LMRC Subcommittees

A.

The National Diversity and Equal Employment Opportunity (DEEO) Committee, the National Health and Safety Committee and any other subcommittee mutually agreed to by the national parties will exist as subcommittees to the National LMRC.

B.

The following operating guidelines will apply to the subcommittees in subsection 3A above and any other subcommittees mutually agreed to by the national parties.

1. Subcommittees will meet semi-annually and at other times as mutually agreed.
2. Subcommittee members shall receive official time, travel and per diem expenses to attend the meetings as permitted by applicable law, rule and regulation.
3. Subcommittees shall be composed of five (5) members chosen by the Employer and five (5) members chosen by the Union.
4. Each subcommittee will be jointly chaired by a representative designated by the Employer and a representative designated by the Union.
5. Unresolved issues of the subcommittees shall be addressed during the National LMRC meetings, and status reports of the subcommittees shall be presented to the National LMRC.

Section 4
Local LMRC

A.

A local LMRC, and by mutual agreement a subcommittee, will be established for each SCR with Union representatives drawn from chapters within the SCR's geographic area. There will be up to two (2) meetings per year if an agenda is submitted. The LMRC shall consist of a maximum of eight (8) representatives: four (4) from the Union and four (4) Management. However, the Union will be allowed at least one (1) representative from each chapter in the area covered by the LMRC, absent local mutual agreement otherwise, and the size of the committee will be expanded to accommodate that, if necessary.

B.

Any meeting conducted under this article shall be conducted during the normal tour of duty and in facilities furnished by the Employer.

C.

The parties shall exchange agenda items fifteen (15) workdays before each scheduled local LMRC meeting described in this section. Matters not on the agenda may be discussed by mutual consent. If either party timely forwards an agenda, the meeting will be held.

D.

The Employer will pay the necessary travel and per diem expenses for employees who attend local LMRC meetings.

Section 5

A.

The parties recognize that the LMRC forum is an informal adjunct to, not a substitute for, the negotiations process. To preserve the benefits of such informality as well as the Union's right to negotiate, the following principles will be followed for disposition of issues not resolved in the regular LMRC process:

1. if it appears at any time within thirty (30) days of discussion of an issue at the LMRC that an agreeable resolution cannot be reached, either party may refer the issue to a joint subcommit-

tee for resolution; the subcommittee will be jointly chaired by a representative designated by the Employer and a representative designated by the Union; the subcommittee will have access to Employer information that is deemed relevant; the subcommittee will recommend a resolution as soon as practical, but no later than the next LMRC meeting and shall report such recommendations to the next LMRC meeting; and

2. if the issue is not resolved by the subcommittee, or by the subsequent LMRC meeting, the Union may immediately invoke negotiations over all negotiable issues notwithstanding the limits of Article 47.

Article 47
Mid-Term Bargaining

Section 1
General Provisions

A.

This article establishes ground rules for mid-term bargaining between the parties. The provisions of this section apply to all mid-term negotiations between the parties.

B.

The Union's bargaining team may include up to four (4) bargaining unit members, unless more are agreed to by the parties. There is no limit on the number of professional staff members on the Union team.

C.

Negotiation sessions will be scheduled for such places as are mutually convenient, normally between the hours of 8 AM and 6 PM, taking into consideration the nature and proposed implementation date of the change.

D.

It is the intent of the parties to consolidate issues for bargaining to the greatest extent possible.

E.

Unless otherwise agreed, no new proposals nor changes in the substance of the original proposals shall be submitted by either party after the first day of negotiations.

F.

The parties recognize that once negotiations begin, the effect of publicity concerning issues on the table may be detrimental to the negotiating process.

G.

All agreements are tentative until full agreement is reached.

H.

Unless otherwise agreed, agreements reached will be reduced to writing and executed by both parties.

I.

Agreements will set forth an "effective date" and a "termination date". The effective date will be no sooner than thirty-one (31) days from execution (or upon agency head approval) and the termination date will be no later than the termination date of this Agreement.

J.

Copies of agreements executed pursuant to this article will be distributed by the Employer to affected employees.

K.

Agreements negotiated pursuant to this article will be subject to agency head approval pursuant to 5 USC 7114 (c). In the event of a disapproval, the Union will have the option of renegotiating the entire disapproved agreement, provided the parties have not agreed otherwise, for example, by the inclusion of a severability provision. The option to renegotiate the entire agreement must be exercised by the Union by notice to the Employer within twenty-one (21) days of notice of disapproval.

L.

Proposals declared non-negotiable and subsequently found negotiable will be timely negotiated, if requested by either party.

M.

The Employer will provide National NTEU with access to electronic mail (e-mail) by October 1, 2002.

N.

Access to e-mail will also be provided in one (1) office per chapter.

O.

NTEU access to e-mail is provided for the purpose of communicating with management or other chapters for representational purposes only pursuant to 5 USC 7101, et seq. All NTEU users will comply with the system usage rules which the Employer establishes that apply to any other employee users. E-mail may not be used to communicate any material which slanders, libels, or reflects on the integrity or motives of any individuals, government agencies, or activities of the Federal Government.

P.

Notice of proposed changes in conditions of employment by the Employer at the National (including Divisional) or local level will be served on the Union

by any one of the following methods: certified mail, first class mail, FAX, e-mail with a telephonic or voice mail confirmation, or hand delivery. Where e-mail has been made available to the Union, notification via e-mail with evidence of transmission, meets the Employer's notification requirements.

Q.

In accordance with 5 U.S.C. Chapter 71, to the extent permitted by law, either party may initiate mid-term bargaining by proposing changes in conditions of employment provided that such changes are not covered by this or any other collective bargaining agreement between the parties, and provided further that such changes do not relate to matters over which either party has expressly waived its right to bargain during the negotiation of this Agreement.

R.

Where the Union proposes a change in a condition of employment that is not Service-wide in nature and that affects employees in a single Division, the Union will serve notice in this regard on the applicable Division's Director of Human Resources, or his or her designee. Where the Union proposes a change in a condition of employment that is not Service-wide in nature, but that affects employees in more than one (1) Division, the Union will serve notice in this regard on the SCR/Campus Director, or designee having responsibility for the geographic area impacted by the proposed change. In either case, notice will be served by certified mail, FAX, e-mail with a telephonic or voice mail confirmation, or hand delivery.

S.

1. Unless otherwise permitted by law, no changes will be implemented by the Employer until proper and timely notice has been provided to the Union, and all negotiations have been completed including any impasse proceedings.
2. When the Employer initiates a change, it will provide all necessary and relevant information to the Union at the time of the briefing. Additional requests for information will be satisfied in an expeditious manner.

Section 2
National Bargaining

A.

Where either party proposes changes in conditions of employment that are Service-wide in nature (to include those matters that affect employees in one (1) or more Divisions in multiple geographic areas), it will consolidate those proposed changes and serve notice thereof on a quarterly basis. Such notice will be due to the Union within five (5) workdays of April 1, July 1, October 1, and January 1, of each year, respectively.

B.

These notification requirements may be modified when a shorter implementation schedule is necessary due to circumstances beyond the control of the Employer, for example, changes required by law or Government-wide rule or regulation, or implementation schedules determined by procurement contract award. Additionally, the parties may treat any single issue as an exception to the above by mutual agreement.

C.

Within fifteen (15) calendar days of receipt of such notice, the appropriate party will either request to negotiate or request a briefing.

D.

Within fifteen (15) calendar days of submission of a request to negotiate, or the date of a briefing (whichever is later), the Union will submit its proposals. If the fifteenth day, referred to herein and in subsection 2C, falls on a Saturday, Sunday, or holiday, the period shall run until the end of the next workday which is not a Saturday, Sunday, or holiday.

E.

Proposals submitted pursuant to this section must be related to the changes proposed by the initiating party.

Section 3
Mid-Term Bargaining below the National Level

A.

Designated representatives of the parties are authorized to bargain over mid-term changes in conditions of employment that are not service-wide in nature, but that affect employees in more than one (1) Division, and other matters specifically delegated to them by this Agreement. As specified in subsection 1R above, where a change in conditions of employment is strictly not service-wide in nature and only affects employees in a single Division in that locality, the appropriate Division will designate an authorized representative to bargain with the affected Union chapter or chapters. The parties must consolidate their proposed changes. The changes will be served on the other party within five (5) workdays of January 1, March 1, May 1, July 1, September 1, and November 1 of each year, respectively. These notification requirements may be modified when a shorter implementation schedule is necessary due to circumstances beyond the control of the Employer, including, but not limited to, changes required by law or Government-wide rule or regulation; the implementation schedules determined by procurement contract award; by agreement of the national parties; or by agreement of the local parties. Additionally, the

parties may mutually agree to treat any single issue as an exception to the above.

B.

The right of the Union to propose mid-term changes described in subsection 3A above shall be in accordance with the provisions of subsection 1Q above.

C.

Notice of any proposed changes in conditions of employment by the Employer will be served by an authorized representative thereof on the appropriate chapter president having jurisdiction over the employees affected by a particular decision or change in conditions of employment, or the designated representative(s) thereof, and the appropriate NTEU field office.

D.

Within fifteen (15) calendar days of receipt of a notice of proposed changes, the party(ies) receiving such notice will either request to negotiate or request a briefing from the initiating party.

E.

Within fifteen (15) calendar days of submission of a request to negotiate, or the date of a briefing (whichever is later), the party receiving proposed changes will submit its proposals.

F.

Proposals submitted pursuant to proposed changes will be related to such changes.

G.

Negotiations will begin no later than thirty (30) calendar days after the submission of proposals.

H.

No more than a ten (10) workday block of time to negotiate will be allocated for each proposed change. If following bargaining, the parties have not reached agreement on all issues, the parties will adjourn for one (1) week. The parties will meet the following week in the same office space and in accordance with the time requirements provided above to negotiate through the close of business on Wednesday.

I.

On Wednesday, if agreement has not been reached, the parties will either contact Federal Mediation and Conciliation Service (FMCS) or will have previously arranged to have an arbitrator present on Thursday.

J.

On Thursday, the parties will meet with the arbitrator or FMCS to submit the remaining issues to mediation. The arbitrator or FMCS will use whatever tools necessary to assist the parties in reaching an agreement by the close of business on Friday (i.e., 2:30 PM).

K.

If either party is dissatisfied with the results of the bargaining/mediation/arbitration, then the dissatisfied party will retain their right to proceed to the Federal Services Impasses Panel (FSIP) for resolution of the matter.

L.

The right of either party to initiate bargaining below the national level pursuant to this section does not extend to matters that are Service-wide in nature (to include those matters that affect employees in more than one (1) SCR area and in one (1) or more Divisions in multiple geographic areas) or that involve changes implemented locally but on a varied basis because local management officials are given discretion in that regard. “Pilot”, “prototype”, or “test” programs for National matters, unless otherwise specifically provided in this Agreement or by the parties at the national level, must be negotiated nationally.

M.

All mid-term agreements, including those extended or renegotiated pursuant to Article 54, Section 2, must be consistent with the terms of this Agreement, national mid-term agreements in effect, and any existing laws, and Government-wide rules and regulations.

N.

All local parties are authorized during the term of this agreement to negotiate to establish a local process to resolve bargaining impasses, in lieu of the statutory process. However, these negotiations may proceed no further than FMCS and any agreement reached must be acceptable to the National parties.

O.

Local parties in offices with one NTEU chapter present may open negotiations pursuant to this section to negotiate alternative ground rules to govern their local bargaining. If they are unable to reach agreement on an alternative set of ground rules, the ground rules contained in this section apply by default. No impasse process is authorized.

P.

The ground rules in this section are effective with the implementation date of this Agreement unless:

1. the parties agree to roll over existing local ground rules; or
2. have engaged in negotiations pursuant to subsection 3O above to modify their ground rules.

Section 4
Mid-Term Bargaining With Multiple NTEU Chapters

The purpose of this section is to provide ground rules that apply to local mid-term negotiations that (1) affect employees in more than one (1) Division, and (2) involve more than one (1) chapter in the geographic area of jurisdiction assigned to a SCR's area, or that involve multiple chapters in that area that have not formed into a single joint council. Other provisions of this article not in conflict may also apply. This section does not apply to local negotiations involving employees in a single Division, nor does it apply to negotiations that are Service-wide in nature (to include those matters that affect employees in more than one (1) SCR's area and in one (1) or more Divisions in multiple geographic areas). The Employer recognizes that the multiple chapters are free to present diverse proposals during negotiations. The Union recognizes that the Employer is free to present consolidated proposals during negotiations.

A.

As set forth above, local representatives of the parties are authorized to bargain over Employer initiated mid-term changes, other matters specifically delegated to them by this Agreement and/or the National parties, and Union initiated mid-term proposals that are within the scope of the Employer's designated representative (typically the designated SCR). The parties must consolidate their proposed changes. The changes will be served on the other party within five (5) workdays of January 1, March 1, May 1, July 1, September 1, and November 1 of each year, respectively. These notification requirements may be modified when a shorter implementation schedule is necessary due to circumstances beyond the control of the Employer, including, but not limited to, changes required by law or Government-wide rule or regulation; the implementation schedules determined by procurement contract award; by agreement of the national parties, or by agreement of the local parties. Additionally, the parties may mutually agree to treat any single issue as an exception to the above.

B.

When issues to be negotiated below the national level affect bargaining unit employees represented by more than one local NTEU chapter, the Union's bargaining team may include four (4) representatives or more, if needed, to ensure that each impacted chapter may have at least one (1) representative at the table. However, unless otherwise mutually agreed, in no case may there be more than seven (7) Union representatives on a bargaining team involving a Division/Function, as appropriate. Travel and per diem will be paid for no more than one (1) representative from each chapter in a multi-chapter bargaining situation, unless the parties agree to otherwise.

C.

The right of the Union to propose mid-term changes described in subsection 4A above shall be in accordance with the provisions of this article.

D.

Notice of any proposed local changes in conditions of employment by the Employer will be served on all chapters impacted by the change, irrespective of whether the change impacts employees in one (1) or more of the chapters.

E.

Notice of a party's desire to initiate mid-term negotiations regarding changes in conditions of employment by either party will be served on the other party in accordance with this article.

F.

Within fifteen (15) calendar days of receipt of a notice of proposed changes, the impacted party or parties receiving such notice will either request to negotiate or request a briefing.

G.

Once the Employer's representative (typically the designated SCR) has received notification from the affected chapters of their desire to be briefed regarding a proposed change, management will prepare and distribute a briefing schedule reflecting the prescribed dates, times, places and subject matters in accordance with the provisions contained below.

H.

Union representation at the briefing will be in accordance with the following:

1. The Union team at the briefing may include one representative from each chapter that has requested a briefing. Travel and per diem for those attending the briefing will be determined as provided in this article. When a face-to-face briefing is held, travel and per diem will be paid for one (1) representative from each chapter.
2. All briefings will be conducted in space provided by the SCR or Campus Director on the first workday of the month following the month in which the notice of change was provided. The briefings will begin at 10 AM and, if necessary continue through to 4 PM. If the briefing is scheduled for a Monday, it will begin at noon, and if it continues to Friday, it will end at noon. The topics covered will be in chronological order as listed in the notice.

I.

Within fifteen (15) calendar days of submission of a request to negotiate or the date of a briefing (whichever is later), the party receiving the notice of pro-

posed changes will submit its proposals. The parties recognize that a chapter may express its desire to participate in local negotiations in either of the following ways:

1. submission of proposals, either individually or in cooperation with another chapter; or
2. documentation provided to management stating that the chapter desires to participate in the negotiations without submission of proposals.

Such desire must also be expressed within fifteen (15) calendar days of the chapter having requested to negotiate or receiving a briefing.

J.

Proposals submitted pursuant to notice of proposed changes will be related to such changes.

K.

Negotiations will begin no later than thirty (30) calendar days after the chapters have expressed their desire to participate in negotiations pursuant to this article.

L.

As soon as possible, but not later than three (3) calendar days prior to the start of negotiations, the Union will furnish to the Employer's representative a listing of bargaining team members by chapter and will identify the representative(s) who represent the impacted chapter(s) who will be claiming travel and per diem.

M.

Any representative(s) of impacted chapter(s) designated to participate in local negotiations in accordance with this article above, but who does not attend the initial bargaining session, will be free to join any existing negotiations between management and the other local chapter(s). However, that impacted chapter may not demand separate or separate/simultaneous negotiations. If a chapter fails to participate in or complete the negotiations, the Employer may implement the agreement reached with other chapters as to the absent chapter(s).

N.

The right of either party to initiate local bargaining pursuant to this section does not extend to matters other than those provided above. "Pilot", "prototype", or "test" programs for National matters, unless otherwise specifically provided in this Agreement or by the parties at the National level, must be negotiated nationally.

O.

Negotiations by multiple chapters must be conducted in a consolidated manner.

P.

No more than a ten (10) workday block of time to negotiate will be allocated for each proposed change. If following bargaining, the parties have not reached agreement on all issues, the parties will adjourn for one (1) week. The parties will meet the following week in the same office space and in accordance with the time requirements provided above to negotiate through the close of business on Wednesday.

Q.

On Wednesday, if agreement has not been reached, the parties will either contact FMCS or will have previously arranged to have an arbitrator present on Thursday.

R.

On Thursday, the parties will meet with the arbitrator or FMCS to submit the remaining issues to mediation. The arbitrator or FMCS will use whatever tools necessary to assist the parties in reaching an agreement by the close of business on Friday (i.e., noon).

S.

If either party is dissatisfied with the results of the bargaining/mediation/arbitration, then the dissatisfied party will retain their right to proceed to the FSIP for resolution of the matter.

T.

All local mid-term agreements, including those extended or renegotiated pursuant to Article 54, Section 2, must be consistent with the terms of this Agreement, National mid-term agreements in effect, any existing laws, and Government-wide rules and regulations.

U.

All local parties are authorized during the term of this Agreement to negotiate to establish a local process to resolve bargaining impasses in lieu of the statutory process. However, these negotiations may proceed no further than FMCS, and any agreement reached must be acceptable to the National parties.

V.

The local parties may open negotiations pursuant to this section to negotiate alternative ground rules to govern their local bargaining. If they are unable to reach agreement on an alternative set of ground rules, the ground rules contained in this section apply by default. No impasse process is authorized.

W.

The ground rules in this section are effective with the implementation date of this Agreement unless:

1. the parties agree to roll over existing local ground rules; or
2. have engaged in negotiations pursuant to subsection 4V above to modify their ground rules.

Article 48
Furlough Due to Lapse in Appropriations/Debt Ceiling Limitations

Section 1

A.

The following procedures apply when a furlough is necessary due to lapse in appropriations/debt ceiling limitation, failure to extend the debt ceiling, or lack of continuing resolution.

B.

On designated days, all Service employees will be furloughed except for those employees performing excepted functions. When there is more than one (1) qualified employee in the same position, grade, post of duty, and tour of duty available for an excepted position, the Employer has determined that employees will be assigned to the excepted position by inverse seniority based on enter on duty (EOD) date. The Service will consider an employee's request not to work due to a hardship. If the employee's request is honored, the Employer has determined that the next employee, meeting the above criteria, will be assigned to the excepted position.

C.

The Service will provide local NTEU chapters with one copy of the decision letter together with a list of those employees who have been designated as excepted. The local parties will determine the form of and the timing for delivery of the list. Employees will be given a written document notifying them in applicability to the employee.

D.

Employees are expected to listen to radio and/or television broadcasts to learn when an appropriation or continuing resolution has been signed or when the debt ceiling has been raised. The Employer and the Union are free to negotiate additional methods of notifying employees about the conclusion of the furlough. Employees will then be expected to report to work no later than four (4) hours after that announcement. In the event the announcement contains instructions on reporting to work later than that, employees will be expected to follow those instructions. A liberal leave policy will be in effect on the day employees are to return to work. Employees who travel during the time of the furlough will be expected to return to work in accordance with the terms of this article or with the more specific instructions.

Section 2

If an employee is unable to use their officially scheduled and approved "use or lose" annual leave due to the furlough, and if they are unable to reschedule it, provided that they qualify for carry over of annual leave, such annual leave will be carried over.

Section 3

A.

During any fiscal year in which a furlough occurs, the Service and NTEU shall jointly issue an all-employee notice with Questions and Answers attached which will advise employees of the impact of non-pay status on civil service benefits and programs and which will address some financial concerns employees may have when faced with a pay reduction. The Service will distribute this notice to all employees.

B.

All employees will receive from the servicing Personnel Office a fact sheet describing unemployment benefits available in their jurisdiction. At a minimum, this notice will contain information on unemployment benefits availability, the waiting period, if any, benefits eligibility requirements, and the location and phone number of State and/or municipal agencies responsible for administering the program in the local area.

Section 4

Requests for outside employment for any employment during the period of the furlough will be in accordance with the Interim Handbook of Employee Conduct and Ethical Behavior and Article 6, of this Agreement. Employees may not engage in any activity prohibited therein. While in a non-pay status, such employees may engage in outside employment without obtaining prior written permission that is otherwise required. Upon return to duty status, employees must submit a written request to engage in outside employment if such activity continues.

Article 49
Transfer of Function

Section 1
Purpose and Definition

A.

This article establishes procedures for movement of work under Transfer of Function (TOF) regulations. Any TOF will be in accordance with applicable law, rule, and regulation.

B.

A TOF means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected. A TOF is also movement of the competitive area in which the function is performed to another commuting area. In a TOF, the operation of the function must cease in one competitive area and must be carried on in an identifiable form in another competitive area where it was not being performed at the time of transfer.

Section 2
Notification

A.

When it is determined that a TOF is necessary, management agrees to inform the Union as far in advance as practicable, giving the reason for the action, the appropriate numbers, types and geographic location of positions affected, and the approximate date of the action. At that point the Union will be permitted to invoke negotiations over this change.

B.

The Service will notify impacted employees of the proposed TOF plan in writing. The employee will be able to consider the action and decide whether he or she will transfer with the function or not. Where the TOF is to another commuting area, the employee will not have less than ten (10) calendar days to state his or her intentions.

C.

Affected employees may be covered under the provisions of Article 51 CTAP, and/or may be separated under provisions consistent with 5 CFR Part 752 and 5 CFR Part 351.

Article 50
Flexiplace

Section 1
General

A.

Flexiplace is a program that permits employees to work at home or at other approved locations remote to the assigned post of duty. The terms “flexiplace”, “telework”, and “telecommuting” are synonymous and include working at home or in satellite office sites or other approved flexiplace work sites, with or without computers and other electronic equipment. A supervisor’s official relationship with, authority over, and accountability for an employee participating in the Service’s Flexiplace Program (on an occupational or situational/hourly basis) is no different than his or her relationship with, authority over, and accountability for employees who are not participating in said program. In this regard, the supervisor retains the authority to review, determine, and approve participation in this program.

B.

Employees may be eligible for Occupational (formerly “Traditional”) Flexiplace or Situational/Hourly Flexiplace under the criteria set forth in subsections 2E and 2F. Under Situational/Hourly Flexiplace, employees may work up to eighty (80) hours per month at a flexiplace site.

C.

Participants may be permitted to work at home or other flexiplace work sites full days or a portion of a day. Unless as otherwise provided by this article, there is no limitation on how the work schedule may be configured as long as the scheduling is not disruptive to the work that remains in the office nor cause an unreasonable burden on those who choose not to work a flexiplace arrangement.

D.

Work away from the office may vary depending upon the individual arrangements between the employee and the manager. Management has determined that participants must individually enter into a Flexiplace Work Agreement (see Exhibit 50-1).

E.

Any time an employee believes he or she needs to permanently or temporarily return to work in the IRS office, the employee will normally provide management with thirty (30) calendar days notice of the needed change, except in emergency situations. Management will make reasonable efforts to accommodate the employee’s needs. Employees returning to the IRS office in these circumstances must recognize that the equipment and workstations that are made available by management may not immediately be the same as the ones they had prior to participating in the Flexiplace Program. Management is expected to provide the employee a complete work area equal or similar to that of others in his or her occupation in their assigned POD within a reasonable time frame.

F.

Flexiplace is not a replacement for dependent/family care.

G.

The implementation of the Flexiplace Program shall be the responsibility of the Telework Subcommittee of the National LMRC, with additional implementation details addressed through negotiations in accordance with Article 47.

H.

Employee participation in the Flexiplace Program is voluntary.

I.

Employees who choose to work Occupational Flexiplace should be prepared to continue in that program for a period of at least twelve (12) months given the impact it could create by returning to the office and requiring office space.

Section 2
Eligibility

To be considered for a flexiplace arrangement or to continue to work on a Flexiplace arrangement, an employee must meet the following criteria:

A.

An employee must have been in the Service's employ for at least twelve (12) months and have a "Fully Successful" (or equivalent) performance appraisal. If the employee has worked for more than twelve (12) months and does not have an appraisal, he/she will be assumed to be "Fully Successful." If the employee is on a Performance Improvement Plan, he or she is not considered to be fully successful and not eligible for participation in the Flexiplace program.

B.

1. The employee must not have received any disciplinary/adverse action in the last twelve (12) months that would impact the integrity of the Flexiplace Program.
2. If the employee's duties are changed due to a conduct investigation in which management has sufficient evidence of serious wrongdoing that would impact the integrity and efficiency of the Service, the employee may be suspended from flexiplace pending resolution of the conduct investigation.

C.

The employee must be at the journey or full working level of his or her position, e.g., Revenue Officer GS 9, or have been in the position for more than two (2) years, whichever is less. Any employee participating in a Flexiplace arrangement on the date this Agreement is effective who does not meet this criteria will be eligible to continue in the program without regard to this factor.

D.

The employee must have a telephone, work space suitable to perform work, utilities adequate for installing equipment, and a general work environment that is free from interruptions and provides reasonable security and protection for government property. The cost of these will not be paid by the Service.

E.

Occupations and Occupational Criteria.

1. Employees that meet the performance criteria set forth in subsection 2A above and who are in an occupation that involves regular and recurring duties that (1) can be effectively accomplished outside of the traditional office/team setting; (2) require frequent and/or regularly recurring visits to client and/or stakeholder locations; or (3) can be accomplished by an employee working independently of other co-workers, support staff, and/or his or her manager, without any adverse impact on individual and/or overall team or office productivity or customer service, may subject to the approval of their supervisor, be eligible to participate in a Occupational Flexiplace agreement. The following occupations are examples of those that meet the above criteria:
   (a) Non-CIC Revenue Agents
   (b) Computer Audit Specialists
   (c) Revenue Officers, OIC, ROE
   (d) Estate & Gift Tax Attorneys
   (e) Engineers and Appraisers
   (f) Economists
   (g) Dyed Diesel Fuel Compliance Officers
   (h) Program Analysts
   (i) Tax Specialists in TEC(SBSE)/SPEC (W&I)
   (j) Appeals Officers and Auditors (Technical Specialists & Settlement Specialists);
2. Additional occupations may be added to the list by the Telework subcommittee of the National LMRC and/or by negotiations in accordance with Article 47.
3. This article does not limit the parties from agreeing to place or keep other positions on Flexiplace.

F.

Situational/Hourly Criteria

1. Employees that meet the performance criteria set forth in subsection 2A above and who are in an occupation that is not listed above, or that does not meet the above criteria, may nevertheless be eligible for "Situational/Hourly" Flexiplace (that is, Flexiplace that is authorized

on a case-by-case hourly or daily basis) if, subject to the approval of their supervisor, they have a particular temporary project or work assignment that (1) can be effectively accomplished outside of the traditional office/team setting; and (2) can be accomplished independently of other co-workers, support staff, and/or the employee's supervisor, without any adverse impact on individual/team or overall office productivity or customer service. Supervisors are not precluded from granting blanket approval for categories of work assignments or situations for single or multiple days. The following occupations are eligible for the "Situational/Hourly" Flexiplace program:

(a) All positions eligible for Occupational flexiplace
(b) CIC Revenue Agents
(c) Secretarial and Clerical support positions
(d) Research Staff
(e) Employee Development Specialist
(f) Resident Lead Instructors
(g) Tax Auditors /Tax Compliance Officers
(h) Correspondence Tax Examiners
(i) RO and Accounting Aides
(j) TRR (excluding walk-in)

2. Additional occupations may be added to the list by the Telework subcommittee of the National LMRC and/or by negotiations in accordance with Article 47.
3. All other positions that can be performed independent of the conventional office, at least a portion of the day or week, and have little or no negative impact upon the remaining work are also eligible. Where an employee's participation is denied, the Employer will provide a written explanation upon request as to why the employee's work does not meet these requirements.
4. Campus positions whose duties are comparable or similar to those identified in subsections 2E and F are also eligible.
5. This article does not limit the parties from agreeing to place or keep other positions on Flexiplace.

Section 3
Implementation

A.

Employees participating in the program, their support personnel such as time keepers and secretaries and their supervisors will receive an orientation on the Flexiplace Program. The local chapter or joint council will be provided with a copy of the training material in advance and will be invited to attend the orientation.

B.

The Employer will provide the local chapter(s) with the names, job titles, grades and series of employees participating in the Flexiplace Program and a copy of all completed individual Flexiplace Work Agreements. It will also provide the local chapter(s) with the business telephone, IRS e-mail address, and IRS beeper number of the employee should he or she have one. The Employer will provide the local chapter(s) with copies of any applications and work agreements.

Section 4
Management Responsibilities

A.

Managers will meet with employees working Occupational Flexiplace at least once a year for the purpose of discussing, reviewing and updating the Flexiplace agreement.

B.

Management has the right to direct flexiplace employees to report to the office due to special circumstances, e.g., office assignments, meetings, and/or training classes, Filing Season Agreements, and details to other duties. These should be planned to give the employee notice in time to travel to the official duty site during his/her regular commute time. Time spent traveling will not be considered hours of work if it is commuting. When the employee is scheduled for a full day tour of duty (TOD) at the flexiplace site and receives notification to report to the official duty station too late to travel during normal commute time, official time will be granted.

C.

Management has the right to meet with employees to give assignments and to review work as necessary at either the official duty station, approved Flexiplace location, or a mutually agreed upon site.

D.

To ensure that Information Systems and sensitive information procedures are in place at alternate work sites, the Employer may inspect the employee's work site with twenty-four (24) hours notice to the employee. The employee may arrange for an NTEU representative to accompany the manager at the inspection. If the employee refuses a work site inspection, the Employer may immediately cancel the employee's flexiplace rights and the employee must surrender all Employer equipment and return to the appropriate office setting. The Employer will notify the employee as to the date and approximate time of arrival, the number of management officials coming

to his or her home, the estimated duration of the inspection and other appropriate information. The employee is entitled to 24 hours notice of any visit to the employee's worksite except in cases of emergency or similar extraordinary cause. In all cases, as much notice as possible will be given.

Section 5
Employee Responsibilities

A.

1. Employees must provide the supervisor and/or clerk in advance with all the specific information regarding their work schedule, type of work to be performed and location of the alternate work place. This includes the obligation to inform the supervisor when they are unable to perform work due to illness or personal problems during the Flexiplace TOD and requesting appropriate leave.
2. Employees must call the office to report time, to retrieve messages, and to notify the supervisor and/or clerk of changes in work locations.

B.

Employees must protect all government records and data against unauthorized disclosure, access, mutilation, obliteration, and destruction. Files and other information that are subject to the Privacy Act regulations must be secured in a way that renders these records and data inaccessible to anyone other than the employee. At a minimum, this will require that all records and data be kept under lock and key when not in the possession of the employee.

C.

Employees must comply with all required security measures and disclosure provisions, including password protection and data encryption so that at no time are the security, disclosure, or Privacy Act requirements of the Service compromised.

D.

Employees must ensure that government provided equipment/property is used only for authorized purposes.

Section 6
Time and Attendance, Hours of Duty, and Alternate Work Schedules (AWS)

A.

Existing rules in 5 USC and the Fair Labor Standards Act (FLSA) apply to flexible work place arrangements.

B.

Participants may work any schedule allowed for their positions under their local AWS agreement. Unstructured/staggered work schedules are prohibited. Employees may earn credit hours on Flexiplace.

C.

Overtime, compensatory time and credit hours must be approved in advance.

D.

Regulations regarding leave remain unchanged under the Flexiplace Program.

E.

When an emergency condition forces the closure of an IRS facility and employees thereof are granted administrative leave as a result, an employee of that same facility (a) who is working at home on an approved Flexiplace program and (b) who is prevented from accomplishing work because of that same emergency condition (for example, where a power outage forces the closure of an office, and that same power outage prevents a Flexiplace employee from completing his or her work assignments at home), that Flexiplace employee will be provided the same amount of administrative leave granted employees who were working in the closed facility. A Flexiplace employee claiming administrative leave under this provision may be responsible for providing appropriate documentation in support of that claim.

F.

In order to ensure accountability a participating employee and his/her supervisor must communicate at least one time during each pay period to verify the employee's time and attendance.

Section 7
Furniture and Equipment

A.

Subject to standards and limits established by the Telework Subcommittee of the National LMRC, employees participating in Occupational Flexiplace will be reimbursed for the purchase and/or installation of an appropriate commercial telephone line, a lockable file cabinet, calculator, phone card, and an alpha-numeric beeper/pager or a cell phone.

B.

Subject to standards and limits established by the Telework Subcommittee of the National LMRC, employees participating in Situational/Hourly Flexiplace will normally be provided a Government phone card and alpha-numeric pager to assist in their communication needs with management and customers. A portable computer may be provided on a case-by-case basis.

C.

Anytime the employer gives up space or otherwise downsizes the office, any excess equipment or furniture may be made available to employees in this program, subject to the limitations of subsection 7A above. When there are more requests for equipment

than available, local agreements will address how the equipment will be assigned.

Section 8
Space

A.

All employees participating under an Occupational Flexiplace agreement, and who are otherwise reimbursed equipment listed in subsection 7A, will be required to give up individually assigned work space in the traditional office. A common work area, which will include the equipment necessary to perform work while in the office, will be available to flexiplace employees. The Employer is responsible for any privacy and security requirements. In no case will this space be configured on less than a 3 to 1 ratio.

B.

Employees will not have to release their voice mail access as part of the movement to Occupational Flexiplace or the reduction of work space. Work stations will not be reduced below the number previously agreed upon in the National Integrated Collection System Agreement.

Section 9
Local Flexiplace Negotiations

A.

Local agreements which conform to the provisions of subsections 2E and 2F of this article will remain in effect, and there will be no locally initiated changes. Changes to this issue will be addressed by The National Telework Subcommittee of the LMRC and/or negotiations in accordance with Article 47.

B.

Except as set forth below, all terms and conditions of Flexiplace agreements which conform to the provisions of subsections 2E and 2F of this article will remain in effect unless the parties mutually agree to renegotiate (or mutually agree to authorize their local representatives to renegotiate) said local agreements. In this regard, the Parties agree that any changes to Flexiplace will be addressed by the National Telework Subcommittee of the LMRC and/or negotiations in accordance with Article 47. Further, to the extent the National Parties authorize any local flexiplace negotiations, such negotiations may invoke the impasse procedures contained in Section 10 below with the concurrence of the Parties (in this case, the Service's Director, Workforce Relations Division and the Union's Director of Negotiations). Finally, absent voluntary agreement to do otherwise, where there are negotiations over which flexiplace schedule should apply to newly created jobs, the Parties agree to use the schedules that were available to employees in the closest local predecessor position. Thus, Taxpayer Resolution Representatives (TRRs) would have available to them the local schedules available to former Taxpayer Service Specialists; and Tax Compliance Officers (TCOs) would have available to them the local Flexiplace schedules available to former Tax Auditors.

Section 10
Flexiplace Impasse

A.

The following procedures will be followed to resolve all outstanding local negotiations disputes:

1. If the local parties are at impasse, unable to reach agreement, either may contact a designated mediator/factfinder to schedule a factfinding session.
2. At the factfinding session, the mediator/factfinder is empowered to use whatever process he or she prefers unless the parties agree on a process in advance. The mediator/factfinder must issue a written recommendation within seven (7) workdays or less.
3. The parties may accept the recommendation and/or resolve the disputes based on the recommendation. However, either party may submit the disputes for final resolution pursuant to 5 USC 7119 or other appropriate provision of 5 USC 7101, et seq.
4. The party that submits the dispute to the statutory impasse resolution or appeal must pay the full cost of the factfinding and carry the burden at impasse. If both object and ask for a different ruling on an issue, they will equally split the neutral's fees.
5. If the parties resolve the dispute based on the factfinder's recommendation, all costs will be split equally.

Article 51
Career Transition Assistance Plan (CTAP)

Section 1

A.

For the purpose of this article the following definitions are provided:

1. Displaced employee is an IRS employee serving under an appointment in the competitive service, in tenure group I or II, who has received a specific Reduction in Force (RIF)

separation notice or notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area.

2. Surplus employee is an IRS employee serving under an appointment in the competitive service, in tenure group I or II, who has received a Certificate of Expected Separation or other official certification issued by IRS indicating that the position is surplus, for example, a notice of position abolishment, or a notice stating that the employee is eligible for discontinued service retirement.
3. Local commuting area, for purposes of CTAP, means the geographic area that usually constitutes one area for employment purposes as determined by the IRS. It includes any population center (or two (2) or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

Section 2

A.

The Service's CTAP provides employees identified as "displaced and/or surplus" with the necessary human resource tools to assist them in obtaining a permanent position either within or outside the Federal Government. This article is in compliance with the current regulations identified in 5 CFR 330.601, subpart F, effective July 9, 1997. The current regulations expire on September 30, 1999, unless the Office of Personnel Management extends the program based on its determination that the Federal Government is still experiencing severe downsizing. This article and any priority selection rights and services contained within will expire with the expiration of the current regulations.

B.

An employee will be determined eligible for career transition services and selection priority immediately upon receipt of a notice of RIF or notice of proposed separation for declining a directed reassignment or transfer of function outside of the local commuting area, Certificate of Expected Separation, notice of position abolishment, a notice stating that the employee is eligible for discontinued service retirement or other official certification identifying the employee or position as being in a surplus organization or occupation, whichever is earliest.

1. The Employees' eligibility will expire upon receipt of a continuing position without time limit in the Service, date of separation from the Service as a result of voluntary resignation, retirement, transfer to another government entity, RIF separation date, or upon written notification from the Service as to the continuation of their current position.

C.

The Service will provide written notification to NTEU fourteen (14) days in advance of the issuance of any notice that provides eligibility to employees under CTAP. The notification will include the employees name, position (title, series and grade), type of notice issued, reason for issuance of notice, and the date and time of scheduled employee briefings (Section 6). This does not take the place of the notification obligation under Article 47.

Section 3

A.

An employee identified as "displaced or surplus" will receive selection priority for any vacancy for which they apply and are determined to be well-qualified as defined in Section 4, prior to selecting any other candidate from within or outside of the Service. With the exception of filling a vacancy through the use of an exception identified in 5 CFR 330.606, management must select from the well-qualified "displaced or surplus" eligible employees within the categories below. The most senior displaced or surplus employee will be selected for any vacancy. Management will use the following selection order when filling a vacancy:

1. exceptions identified in 5 CFR 330.606, (d)(1) through (28), except (24) see subsection 3B below;
2. IRS bargaining unit (BU) & non-bargaining unit (NBU) displaced employees within the commuting area;
3. IRS BU & NBU surplus employees within the commuting area;
4. priority placement/priority consideration of IRS employees within the commuting area;
5. competitive/non-competitive movement of BU & NBU IRS employees within the commuting area (Exception identified in 5 CFR 330.606(d)(24));
6. Treasury displaced employees within the commuting area;
7. Treasury surplus employees within the commuting area;
8. IRS BU & NBU displaced employees out-side the commuting area;
9. IRS BU & NBU surplus employees outside the commuting area;
10. hardship reassignment; and
11. competitive/non-competitive movement of BU & NBU IRS employees outside the commuting area.

B.

Exceptions identified in 5 CFR 330.606(d)(1) through (28) referenced in subsection 3A include but are not limited to:

1. exchange of positions between or among Agency employees, when the actions involve no increase in grade or promotional potential, i.e. job swaps;
2. details;
3. time-limited promotions of under 121 days, including all extensions;
4. career ladder promotions or position changes resulting from reclassification actions;
5. recall of seasonal or intermittent employees from non-pay status; and
6. an action taken pursuant to the settlement of a formal complaint.

Section 4

A.

A surplus or displaced employee will be determined well-qualified who possesses the knowledge, skills, and abilities which clearly exceed the minimum qualification requirements for the position. A well-qualified employee will not necessarily meet the definition of highly or best qualified but must satisfy the following criteria:

1. meets the basic qualification standards and eligibility requirements for the position, including any medical qualifications, suitability, and minimum educational and experience requirements;
2. meets all selective factors where applicable;
3. is physically qualified, with reasonable accommodation where appropriate, to perform the essential duties of the position;
4. meets any special qualifying condition(s) that OPM has approved for the position; and
5. is able to satisfactorily perform the duties of the position upon entry.

B.

Employees who apply for vacancies within the local commuting area will be advised, in writing, of the results of their application, and whether or not they were found well-qualified. If they were not found well-qualified, the notice must include information on the results of an independent, second review as described in subsection 4C. If the employee is found well-qualified, and another well-qualified candidate is selected, the applicant will be so advised.

C.

The Service will ensure that an independent second review is conducted and documented whenever an otherwise eligible employee is determined to be not well-qualified. The applicants must be advised in writing of the results of the second review.

Section 5

For the purpose of allowing all “displaced or surplus” employees to apply for vacancies within the Service, management will post all appropriate vacancies consistent with Article 13, subsection 3A. Local offices are encouraged to ensure that vacancy information is readily available for eligible employees. Vacancy announcements must contain information on how eligible employees can apply, what proof of eligibility is required, and what is required for an applicant to be determined as well qualified.

Section 6

Management will provide briefings in the form of an orientation session for all displaced or surplus employees defined in Section 1 of this article. The session will include information on the use of the career transition services and the eligibility requirements for selection priority for CTAP.

Section 7

Career transition services will be made available to displaced or surplus employees and to other employees whose departure would create a local placement opportunity for a surplus employee. Career transition services will include:

1. a reasonable period of time (administrative absence) for use of out placement facilities and/or participation in career transition services;
2. reasonable access to telephones, copy machines, computers and software, typewriters, local E-mail/Internet access (where available) and FAX machines;
3. out placement assistance, self-administered continuing education/training courses, and other services identified within the Employee Assistance Program; and
4. other learning and development activities and interventions such as experiential/action learning or classroom/workshop activities.

Article 52
Notices to Employees

Section 1

A.

An employee who receives from the Employer:

1. a notice of Reduction in Force;
2. a notice of proposed separation of a probationary employee;
3. a notice of decision to separate a probationary employee;
4. a letter issued to the employee pursuant to Article 40, Section 2;
5. a leave restriction letter;
6. a notice of involuntary reassignment to another post-of-duty (POD) (other than an SF-50);
7. a notice of reclassification of the position the employee occupies (other than an SF-50);
8. a written request for information concerning employee alleged under reporting or non-filing; or
9. a notice of changed or modified nexus statement

will simultaneously receive a copy of such notice which states at the top of the first page in capital letters "THIS COPY MAY AT YOUR OPTION BE FURNISHED TO NTEU CHAPTER _____."

Section 2

A.

The Union and the Employer recognize that employees should be informed of their rights and benefits. Accordingly, the Employer will notify employees periodically on matters including, but not limited to, the following:

1. incentive awards;
2. health and safety;
3. annual leave, sick leave and leave without pay; and
4. promotion plan.

Section 3

A.

The Employer will distribute to each incoming employee within the unit an announcement card (furnished to the Employer by the Union at each POD) as described in Exhibit 28-1.

B.

Information contained on this announcement card may be deleted by the Union at any time. New information may be added, or existing information may be modified, with approval from the Employer. Such approval may not be unreasonably withheld.

Section 4

The Employer will continue to provide each employee during each pay period a written statement showing pay, deductions, and leave status together with the total cumulative yearly earnings and total cumulative deductions in each category.

Section 5

The Employer will hold a formal discussion with employees annually concerning the Office of Government Ethics rules and regulations, as well as any other applicable rules and regulations relating to ethics and conduct. Employees who have an immediate personal interest should direct written questions concerning an interpretation or application of any of these rules and/or regulations to their supervisors. Answers will be provided to employees in writing.

Article 53
Miscellaneous Provisions

Section 1

A.

1. Participation in the Combined Federal Campaign, blood donor drives, bond campaigns, and other worthy drives will be on a completely voluntary basis. This does not preclude general publicity of the programs by the Employer.
2. Further, verbal encouragement will only be permissible when given to groups of five (5) or more employees. However, in some instances due to absence of employees or new employee orientation, it may be necessary for the Employer to discuss these programs below the aforementioned levels.

B.

Immediate supervisors may not collect pledges or contributions from individual employees under their supervision.

Section 2

The Employer will notify a deceased employee's designated next of kin of any benefits to which the next of kin may be entitled, and assist the next of kin in filing claims for unpaid compensation, including

lump sum leave payments and any retirement insurance or Social Security benefits, and will further assist, when necessary, in the preparation of the Federal income tax return.

Section 3

When, through administrative error or oversight, the employee is denied benefits or pay to which otherwise entitled, restoration of said benefits or pay shall be made in accordance with higher regulations and as expeditiously as practicable.

Section 4

A.

Where, through administrative error, an employee receives an excess amount of money which would normally go unnoticed or undetected, such employee shall agree to repay the excess amount consistent with the terms of the Debt Collection Act.

B.

If an employee terminates employment with the Employer prior to liquidation of any overpayment described in subsection 4A above, the Employer retains the right to satisfy any outstanding balance from any funds due and owing the employee prior to the effective date of separation.

Section 5

A.

1. When an employee's regular salary payment is not issued, the employee will be provided with an emergency salary payment within seventy-two (72) hours of providing the Employer with notification on the proper form for that purpose.
2. When an employee's regular salary payment was issued, but it was lost, stolen, mutilated or not received, the employee will be provided with a re-certified salary check within five (5) to seven (7) workdays of providing the Employer with notification on the proper form for that purpose.

B.

The notification referred in subsection 5A above shall be given to the Employer as soon as possible following regular salary payment distribution.

C.

Where the failure to receive a regular salary payment creates a hardship on the employee that cannot be timely cured by the issuance of an emergency salary payment or a recertified salary check, the employee will receive an emergency payment equal to the expected net salary.

Section 6

The Employer will, upon request, provide to employees information as to whether or not their bank participates in the Direct Deposit Program. Employees retain the right to receive their salary checks at their post-of-duty so long as such receipt is permissible under Government-wide regulations. The Union shall have the opportunity to bargain over any such proposed change prior to its implementation.

Section 7

A.

Pursuant to 5 CFR 890.303 and 890.501, employees may, at their option, make direct payments for FEHB to the Employer while they are in non-pay status, or have such payments deducted from their salaries upon return to duty status.

B.

At least twenty-one (21) calendar days in advance of being placed in a non-pay status, or as soon as practicable if there are less than twenty-one (21) calendar days between the date it becomes known that an employee will enter non-pay status and the effective date of entering non-pay status, the Employer will give employees written notice of their options under subsection 7A. Such written notice shall provide employees with all necessary information, for example, where to make direct payments.

C.

If an employee chooses to make direct payments while in non-pay status, such payments may be made in any amount of five dollars ($5.00) or more, provided that such payments do not exceed the amount owed.

D.

If employees choose to have payments deducted from their salaries upon return to pay status, such deductions must be made in accordance with the provisions of the Debt Collection Act, and shall begin in the second contiguous pay period following the employee's return to pay status. If, considering an employee's personal circumstances, an employee asserts that the deduction proposed would cause a financial hardship, an employee may appeal such proposed deductions in accordance with the Debt Collection Act.

Section 8
Payment Discretion

The Employer will pay financial benefits, such as transportation subsidies in accordance with law, regulation, Executive Order and applicable negotiated agreements.

ARTICLE 54

Section 9
Waiver of Payments

An employee, or the Union on behalf of an employee, may make a written request for a waiver of collection of an overpayment. The Employer will, consistent with its legal authority, waive a claim arising out of an overpayment to an employee if all the following conditions are satisfied:

1. the Employer has determined that the erroneous overpayment occurred due to administrative error, with no indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee; and
2. collection of the claim would be against equity and good conscience and not in the best interest of the United States.

Article 54
Duration and Termination

Section 1
Term Agreement

A.

This Agreement will become effective thirty-one (31) calendar days from execution or agency head approval, whichever occurs first. However, the terms and conditions of the current NORD/NC V Agreements, as modified, will continue to apply through June 30, 2002, after which time the terms and conditions of this Agreement will be implemented and will remain in effect until June 30, 2006.

B.

Unless otherwise agreed, the successor Agreement will become effective on or about July 1, 2006.

Section 2
Local Mid-Term Agreements

A.

All local agreements in effect upon the effective date of this Agreement may continue in effect (rollover)

for the duration of this Agreement, subject to subsection 2B below.

B.

Either party to any local agreement referred to in subsection 2A above, or either of the National Parties, may propose to terminate or re-negotiate such Agreement by submitting its proposals to the other party no later than September 30, 2002. This section should not be used to force Division-wide bargaining in a manner that is inconsistent or contrary to Article 47.

Section 3
National Mid-Term Agreements

No later than September 30, 2002, the parties will exchange lists of national mid-term agreements they seek to modify. Within thirty (30) days of this exchange, the parties will reconcile any differences on the composition of the lists and adopt a joint list. At the expiration of this thirty (30) day period, any agreements not on the joint list will be extended for the term of this Agreement, and any agreements on the list will expire subject to negotiation. Any impasse arising from those negotiations will be handled under the same impasse process as existed in the ground rules leading to this Agreement, i.e., there will be a med-arb process before the designated factfinder/arbitrator.

Section 4
Reopener

Either party may reopen five (5) existing articles and propose two (2) new articles by serving proposals on the other party during the twenty-fourth (24th) month of this Agreement. Ground rules for those negotiations will be established at that time.

Section 5
Waiver

A.

Nothing in this Agreement shall serve as a waiver by either party of the right to negotiate over matters that are affected by a change (during the life of this Agreement) to the Federal Service Labor-Management Relations Statute that expands or contracts the scope of bargaining in the Federal sector.

B.

Such bargaining may be initiated at any time after sixty (60) days from the effective date of the statutory change.

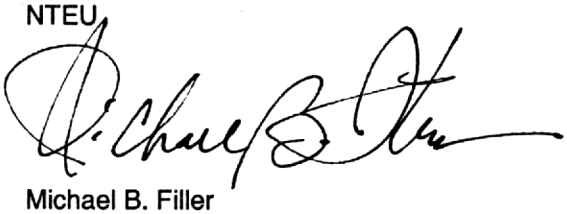
This Agreement is entered into on February 14, 2002, at Washington, D.C.

Robert E. Wenzel
Deputy Commissioner
Internal Revenue Service

Colleen M. Kelley
National President
NTEU

Ronald P. Sanders
Chief Human Resource Officer
Chairperson, IRS Negotiating Team

Frank D. Ferris
National Executive Vice President
NTEU



Michael B. Filler
Director of Negotiations
NTEU

IRS Negotiating Team Members

Robert Buggs
Deputy Director, AWSS

Keith Jones
Director, LMSB

Jerry L. Lalu
Chief Spokesperson

Ellen Murphy
Director, SB/SE

Terry O'Brien
Director, W&I

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Joe Abbott
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Luis Acosta
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Gary Barrack
Chapter 61 President, Albany

Vince Bernola
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Dan Fusco
Personnel Management Specialist
Personnel Policy/Staffing

Mark Krull
Labor Relations Specialist

Kelley LaDeau
Lead Personnel Management Specialist
Personnel Policy/Staffing

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Labor Relations Specialist

Linda Martinez
Program Manager
National Taxpayer Advocate

Ken McDaniels
Supvy Internal Revenue Agent

Linh Nguyen
Economist, SHR

Tom O'Brien
Labor Relations Specialist

Chryle Sadorus
Personnel Staffing Specialist

Mary Slagle
Associate Director, Policy SHR

Sue Stockman
Supvy Tax Specialist, Seattle

Malcolm Gettman
Chapter 92 President, San Diego

Roland Gordon
Chapter 6 President, New Orleans

Frank Heffler
Chapter 47 President, Manhattan

Jim Littlejohn
Chapter 46 President, Dallas

Andy Lovett
Chapter 60 President, Newark

Sharon Martin
Chapter 68 President
Andover Service Center

Eileen Moore
Chapter 67 President
Ogden Service Center

Calvin Pollard
Chapter 65 President
National Office

Greg Rogozinski
Chapter 34 President, Pittsburgh

John Rozos
Chapter 7 President, Augusta

Jeff Seibert
Chapter 73 President
Covington Service Center

Jan Smith
Chapter 72 President
Austin Service Center

Phylis Vidler
Chapter 24 President, Detroit

Cathy Ziegler
Chapter 239 President, Sacramento

Ron Foltz
Chapter 3 President, Omaha

Exhibit 5-1

Employee Notification Regarding Union Representation

Pursuant to 5 USC 7114(a)(2)(B) you have the right to be represented during the interview about to take place by a person designated by the exclusively recognized labor organization for the unit in which you work, if you reasonably believe that the results of this interview may result in disciplinary action against you and you request representation.

I acknowledge receipt of the aforementioned notification of my right to representation.

Signature of employee	Date

Form **8111** (Rev. 10-99) Catalog Number 60331E http://publish.no.irs.gov Department of the Treasury - **Internal Revenue Service**

Exhibit 5-2

Form 5228 (April 1974) Department of the Treasury Internal Revenue Service	Waiver of Right to Remain Silent and of Right to Advice of Counsel

Statement of Rights

Before we ask you any questions, it is my duty to advise you of your rights.

You have a right to remain silent.

Anything you say can be used against you in court, or other proceedings.

You have the right to consult an attorney before making any statement or answering any question, and you may have him present with you during the questioning.

You may have an attorney appointed by the U.S. Magistrate or the court to represent you if you cannot afford or otherwise obtain one.

If you decide to answer questions now with or without a lawyer, you still have the right to stop the questioning at any time, or to stop the questioning for the purpose of consulting a lawyer.

However--

You may waive the right to advice of counsel and your right to remain silent, and you may answer questions or make a statement without consulting a lawyer if you so desire.

- -

Waiver

I have had the above statements of my rights read and explained to me and fully understanding these rights I waive them freely and voluntarily, without threat or intimidation and without any promise of reward or immunity. I was taken into custody at _____ (time), on _____ _____ (date), and have signed this document at _____ (time), on _____ (date).

_____
(Name)

Witnesses:

_____
(Name)

_____
(Name)

Statements of Rights and Obligations

Before **we** ask you any questions, it is my obligation to inform you of the following:

"You are here to be asked questions pertaining to your employment with the Internal Revenue Service and the duties that you perform for the IRS. You have the option to remain silent, although you may be subject to removal from your employment by the Service if you fail to answer material and relevant questions relating to the performance of your duties as an employee. You are further advised that the answers you may give to the questions propounded to you at this interview, or any information or evidence which is gained by reason of your answers, may not be used against you in a criminal proceeding except that you may be subject to a criminal prosecution for any false answer that you may give."

Receipt By Employee

I have been given the above statement of rights and obligations at the beginning of the interview held on _____ .

Signature of employee	Date

Form **8112** (Rev. 10-99) Catalog Number 60332P http://publish.no.irs.gov Department of the Treasury - **Internal Revenue Service**

Exhibit 5-4

Employee Notification Regarding Third Party Interviews

You are not currently the subject of this investigation. However, you may be held responsible for any false statements you make or for any violation of the IRS Rules of Conduct that you admit. Therefore, if at any time during the interview you reasonably believe that you may be subjected to discipline as a result of your statements, you may request representation by the National Treasury Employees Union. If such a request is denied by the Employer, and if that denial is later found, by an arbitrator or the Federal Labor Relations Authority, to have been improper, any statements you made after requesting Union representation may not be used against you in any disciplinary action or proceeding.

I acknowledge receipt of the aforementioned notification of my rights.

Signature	Date

Form **9142** (6-89) Cat. No. 10748X Department of the Treasury — Internal Revenue Service

*U.S. Government Printing Office: 1989-242-483/04198

Exhibit 5-5

STATEMENT OF BASIC EMPLOYEE RIGHTS

Based on contractual agreements between the National Treasury Employees Union (NTEU) and the Internal Revenue Service (IRS), all IRS bargaining unit employees have the following rights:

- To be treated with courtesy and tact
- To expect appropriate assistance from managers to do their job
- To work in a safe and healthy working environment
- To have job expectations explained to them
- To receive assistance in planning self-development
- To develop ideas or suggestions to improve work methods
- To be free to seek redress of grievances through the negotiated grievance procedure
- To receive cash awards for exceeding standards under the awards program negotiated by NTEU and IRS

Exhibit 5-6

Waiver of Right to Remain Silent and of Right to Advice of Counsel (Non-Custody)

Statement of Rights

Before we ask you any questions, it is my duty to advise you of your rights.

You have a right to remain silent if your answers may tend to incriminate you.

Anything you say can be used against you in any future criminal proceedings or agency disciplinary/adverse action proceeding, or both.

You have the right to consult an attorney before making any statement or answering any question, and you may have him/her present with you during the questioning.

Although you would normally be expected to answer questions regarding your official duties in this instance you are not required to do so. Your refusal to answer on the grounds that the answers may tend to incriminate you will not subject you to disciplinary action by the Internal Revenue Service.

If you decide to answer questions now with or without a lawyer, you still have the right to stop the questioning at any time, or to stop the questioning for the purpose of consulting a lawyer.

However–

You may waive the right to advice of counsel and your right to remain silent, and you may answer questions or make a statement without consulting a lawyer if you so desire.

Waiver

I have had the above statements of my rights read and explained to me and fully understanding these rights I waive them freely and voluntarily, without threat or intimidation and without any promise of reward or immunity.

I, _____, have signed this document at _____ (time),

on _____ (date).

_____
(Employee signature)

Witnesses

_____ _____
(Name) (Name)

_____ _____
(Signature) (Signature)

Form 12036 (4-1998) Cat. No. 25738V Department of the Treasury-Internal Revenue Service

Exhibit 6-1(front)

OUTSIDE EMPLOYMENT OR BUSINESS ACTIVITY REQUEST

Section 1 -- To be completed by employee

1. Employee Name (Last, first, middle)		2. Social Security Number	3. Position Title Grade
4. Office Symbol	5. Post of Duty	6. Region	7. Work Schedule ☐Full ☐Time ☐P/T ☐Int. ☐Temp ☐Seasonal ☐Other _____

8. Are you now engaged in any outside employment? ☐Yes ☐No (If yes, explain. Attach additional sheet if necessary)

9. Prospective Employer's Name and Address	10. Type of Business	11. Proposed Work Schedule (Days/Hours
	12.Proposed Start and Ending Date:	

13. Describe the Outside Employment or Business Activity (Use Additional Sheets if Necessary)

14. I hereby certify that the statements made in this Section are complete and correct to the best of my knowledge. I further understand that if my outside employment or business activity request is approved I must: (a) reapply for written permission if the nature of this employment or business changes, (b) reapply for written permission upon movement or transfer to another IRS office under a different approving official, (c) reapply for written permission upon movement or transfer to a different position, and (d) provide written notification to my supervisor and the Personnel Office when my approved employment or business activity is terminated.

15. Employee Signature	Date

Section 2 -- Recommendations of Supervisory Officials

A. Receipt of Initial Request: Date:	B. Receipt of a fully Completed Request: Date:	C. Deadline for Approval/Disapproval Date:

D. In considering this request for outside employment or business activity, I have reviewed CFR Chapter XXI part 2101, other applicable statutes and regulations, and applicable IRS and Counsel issuances. My recommendation is made in accordance with those provisions.

Supervisor: ☐ **Approval** ☐ **Disapproval**

(Signature and Title) **(Date)**

Reviewer: ☐ **Approval** ☐ **Disapproval**

(Signature and Title) **(Date)**

Recommending Official: ☐ **Approval** ☐ **Disapproval**

(Signature and Title) **(Date)**

Section 3 -- Approval or Disapproval

Denials of outside employment or business activity must include a statement of the reasons for disapproval. Review the factors contained in section 2(D) above and attach a complete statement setting forth the rationale for disapproval.

Approving Official: ☐ **Approval** ☐ **Disapproval**

(Signature and Title) **(Date)**

Form **7995** (Rev. 10-93) Cat. No. 43844 Department of the Treasury -- Internal Revenue Service

Exhibit 6-1(back)

Copies: Official Personnel Folder, Employee, Supervisor, Master Reference File

Privacy Act Statement
Form 7995

GENERAL

This statement is provided pursuant to Public Law 93-569 (Privacy Act of 1974) December 31, 1974, for individuals requesting authorization for outside employment and business activities.

AUTHORITY

The Authority to solicit this information is derived from Executive Order 11222, Sections 602, 701, and 702.

PURPOSES AND USES

The information you furnish on this form will be used by your supervisory officials to consider your request. The information will be used on a "need to know" basis by Internal Revenue Service officials and when appropriate, may be furnished to other routine users are listed on page 45239 of the Federal Register, Vol. 41, No. 200, Thursday, October 14, 1976. The information contained on this form is part of TR/IRS 36.003, General Personnel Records.

EFFECTS OF NONDISCLOSURE

Providing the requested information is voluntary, however, failure to furnish the information required may result in the disapproval of your request.

INSTRUCTIONS FOR COMPLETION

Section 1 - Completed by Employee

Each item in this section must be completed accurately, failure to do so may result in delay of disapproval of the request. If information regarding any item(s) is either: not appropriate, is not known, or does not apply to this subject request, the appropriate entry must be made and accompanied by the explanation.

Section 2 - Completed by Immediate Supervisor, Reviewers and the Recommending Official.

Management must make a final decision on this request to engage in outside employment or business activity as soon a s possible, but not later than ten (10) workdays from receipt of the fully completed request.

Upon initial receipt of a request, the immediate supervisor must complete item 2A. At the same time, the request should be reviewed for completeness with particular attention given to Section 1, Item 13, which should describe in detail the requested activity. If additional information is necessary the request should be returned to the employee and the employee advised in writing, if necessary, of the additional information required.

Upon receipt of a fully completed request, Item 2B, should be completed and the deadline for approval/disapproval, Item 2C, computed (in workdays) and noted. Any reasons which result in a delay of the process should be documented.

The immediate supervisor and all subsequent reviewers should carefully consider item 2D, complete the appropriate blocks, provide his or her recommendation and attach any remarks, comments or concerns.

Section 3 - Completed by the Approving Official

Management must make a final decision on this request to engage in outside employment or business activity as soon as possible, but not later than ten (10) workdays from receipt of the fully completed request.

Following receipt of a fully completed request careful review of all information contained on the request should take place. A complete statement setting forth the rationale for any disapproval must accompany the request when returned to the requesting employee.

Exhibit 9-1 *(front)*

Employee Time Report

(See Instructions on reverse)

1. Assigned Organization Code

2. Social Security Number

3. First and Second Initial and Last Name

4. Week ending Saturday *(mmddyy)*

5. Supvr. phone no.

6. Page ___ of ___

Section Number	Detailed Organization Code (a)	Function Code (b)	Program Code (c)	* Time Code (d)	Day of Week (e) Sunday Hrs	Sunday 10th	Monday Hrs	Monday 10th	Tuesday Hrs	Tuesday 10th	Wednesday Hrs	Wednesday 10th	Thursday Hrs	Thursday 10th	Friday Hrs	Friday 10th	Saturday Hrs	Saturday 10th	Total (f) Hrs	Total (f) 10th	Section Number	Total Volume (g)	Period Code (h)
02																					02		
03																					03		
04																					04		
05																					05		
06																					06		
07																					07		
08																					08		
09																					09		
10																					10		
11																					11		
12																					12		
13																					13		
14																					14		
15																					15		
16																					16		
17																					17		
18																					18		
19																					19		
20																					20		
		Total Hours ►																					

***Time Codes**

Regular Hours

1. Regular
3. Night Differential
5. Sunday Differential
6. Sunday Night Differential

Other Hours

2. Overtime
4. Compensatory Overtime
7. Legal Holiday Worked
8. Night Overtime Differential
9. Credit Hours (worked under Alternate work Schedule)

Form **3081** (Rev. 4-97) Catalog Number 22103U Department of the Treasury — Internal Revenue Service

Exhibit 9-1 Instructions *(back)*, Union Officials official time entries on Form 3081

The following exhibit is a summary and is for use by Union officials in completing Form 3081 for official time entries and bank time entries including related travel time to and from the activity and related communications as explained in Article 9. More detailed info: http://manager.web.irs.gov/officialtime. This exhibit replaces Enclosure 2 of the September 28, 2001, Letter of Understanding on the Use and Recordation of Bank, Official and Partnering Time as NTEU Representatives.

Function Code (column (b)) 990, Program code (column (c)) 58310

Official Time for activities authorized by the collective bargaining agreement. (Numbers before the text refer to subsections of Article 9, Section 2 of the National Agreement)

- 2D1 – Meetings with the Employer concerning personnel policies, practices or other general conditions of employment, or any other matter covered by 5 USC 7114(a)(2)(A).
- 2D3 – Meetings with the Employer for the purpose of presenting replies to proposed termination of probationers.
- 2D7 – Meetings with the Employer for the purpose of presenting an employee's request for review and/or request for reconsideration (grievance) of that employee's performance appraisal, as set forth in Article 12.
- 2D9 – Tax audits of unit employees that are conditions of employment when the employees request representation.
- 2D10 – Grievance meetings and arbitration hearings in accordance with the applicable articles of this Agreement.
- 2D11 – Meetings of committees on which Union representatives are authorized membership pursuant to the Agreement.
- 2D15 – To the extent permitted by law, participation in Union-sponsored training designed primarily to further the interest of the government by bettering the labor-management relationship, where the agenda has been reviewed in advance by the Employer, and the amount of time has been approved**.** In the event the parties are unable to agree upon a reasonable amount of time for a specific training event, the Union may use bank time and address the dispute through the streamline grievance and arbitration procedures of the National Agreement.
- 2D17 – To attend OSHA field council meetings.

Function Code (column (b)) 990, Program code (column (c)) 58330

Official Time for statutory or regulatory appeals. Numbers before the text refers to subsections in Article 9, Section 2, of the National Agreement.

- 2D2 - Meetings to discuss or present unfair labor practice charges or unit clarification petitions.

Exhibit 9-1 Instructions*(cont.)*, Union Officials official time entries on Form 3081

- 2D4 – Oral replies to notices of proposed disciplinary, adverse or unacceptable performance actions.
- 2D5 – Meetings to present appeals in connection with statutory or regulatory appeal procedures in which the Union is designated as the representative. (For example, appeals to the Merit Systems Protection Board (MSPB) and any other statutory or regulatory appeal matters not processed through the grievance procedure.)
- 2D6 – Meetings with the Employer for the purpose of presenting reconsideration replies in connection with the denial of within-grade increases.
- 2D8 – Examinations of employees in the unit by a representative of the Employer in connection with an investigation if:
    a. The employee reasonably believes that the examination may result in disciplinary action against the employee; and
    b. The employee requests representation.
- 2D13 – To participate in an Authority (FLRA) investigation or preparation for a hearing as a representative of the Union.
- 2D16 – To participate in other third party proceedings, to the extent authorized by governing law, regulation, and/or this Agreement.

Function code (column (b)) 990, Program code (column (c)) 58340

Official Time for activities required by the Federal Labor Management Relations Statute. Numbers before the text refer to subsections in Article 9, Section 2 of the National Agreement.

- 2B – Participating for or on behalf of the Union in any phase of proceedings before the Federal Labor Relations Authority (FLRA).
- SD12 – Negotiations with the Employer, including attendance at impasse proceedings. (Includes term, mid-term, local, national, Employer-initiated and Union-initiated.)

Function Code (column (b)) 990, Program code (column (c)) 58350

- 2D14 – Activities authorized under the Service-wide partnering Agreement, including meetings of various partnering councils and related activities at the national, divisional, and/or local level; such as, but not limited to:

- Business process improvement teams
- Cross-unit committees
- Task forces
- Partnering Council meetings
- Managers meetings

Exhibit 9-1 Instructions*(cont.)*, Union Officials official time entries on Form 3081

Function Code (column (b)) 990, Program code (column (c)) 58360

Statutory Complaints of discrimination – Official time, including time to travel to and from, meetings with the Employer for processing complaints of discrimination, including informal, formal and settlement discussions. Also includes time for meetings to present appeals in connection with the regulatory and/or statutory EEO appeals procedures in which the Union is designated as the representative. Also includes time for preparation for meetings and appeals and time to meet with employees to prepare for informal and formal complaints, settlement discussions and appeals. This code is not to be used for grievances containing allegations of discrimination.

Function Code (column (b)) 990, Program code (column (c)) 58800

Bank Time for activities authorized by the collective bargaining agreement. (Numbers before the text refer to subsections of Article 9, Section 2 of the National Agreement)

- 2G1 – To confer with employees with respect to any matters for which remedial relief may be sought.
- 2G2 – To prepare grievances.
- 2G3 – To prepare witnesses in any proceeding for which official time is approved.
- 2G4 – To review documents that are not available during non-duty hours.
- 2G5 – To prepare a reply to a notice of proposed disciplinary, adverse, or unacceptable performance action.
- 2G6 – To prepare for arbitration
- 2G7 – To prepare a reconsideration statement in connection with the denial of within-grade increase.
- 2G8 - To meet with national staff representatives of the Union in connection with a grievance, arbitration or ULP charge.
- 2G9 – To travel to and from meetings and other activities for which the steward receives bank time.
- 2G10 – To prepare for local and National Labor Management Relations Committee meetings as well as negotiations conducted pursuant to Article 47.
- 2G11 – To prepare and maintain records and reports required of the Union by 5 USC 7120(c).
- 2G12 – Meeting with an employee to prepare a request for review and/or reconsideration (grievance) of that employee's performance appraisal, as set forth in Article 12.
- 2G13 – Coordinating labor-management meetings and other representational activities authorized by the Article, where otherwise warranted by a chapter's level of activity, as provided by the Parties' local Official Time Plan.

Exhibit 9-1 Instructions*(cont.)*, Union Officials official time entries on F 3081

The following two (2) codes are for use by bargaining unit employees who are not Union officials/stewards, but who are otherwise designated to represent the Union.

Function Code (column (b)) 990, Program code (column (c)) 58410

Official time, including time to travel to and from, to participate in:

- Committee Meetings, including Safety Advisory Committee, Diversity and Equal Employment Opportunity Committee, local and National Labor Management Relations Committee.
- Other committees established as a result of nationally or locally negotiated agreements, other than partnering agreements.
- Mid-Term Negotiations (includes local, national, Employer-initiated and Union – initiated).

Function Code (column (b)) 990, Program code (column (c)) 58420

Official time, including time to travel to and from, to participate in collaborative efforts such as, but not limited to:

- Business process improvement teams
- Cross-unit committees
- Task forces
- Other partnering committees

Exhibit 10-1 ***(page1)***

DUES INFORMATION CODES

Information Codes Listed on the NTEU Biweekly Dues Withholding File (Electronic or Magnetic Media) generated by the National Finance Center

Code	Description/Explanation
B	Buyout (Separation)
D	Continuing
	Explanation: Code D - Dues Withholding is continuing to be withheld.
E	Insufficient Pay
	Explanation: Code E - No Union dues were deducted because the employee either did not receive any pay, or there were insufficient funds remaining for Union dues after higher precedence deductions were taken.
F	New Allotment
	Explanation: Code F - New Allotment represents the first pay period that a new allotment is effective. If there are insufficient funds for dues withholding during the first pay period, Code F will be used as the Information Code for that pay period, and Information Code E will not be used in these instances.
G	Revocation
	Explanation: Code G - Code G will appear on the Electronic Files or Magnetic Media only during the pay period in which dues withholding is revoked (terminated), and represents allotments that have been permanently terminated.
H	Separation (Other than Retirement)
	Explanation: Code H - Separation (Other than Retirement) identifies all employees separated during the pay period, except for those who retire.

Exhibit 10-1 *(page 2)*

Code	Description/Explanation
I	Pay Adjustments (Plus Amounts Only) Explanation: Code I - Pay Adjustment (Plus Amounts Only) is used only for adjustments that are being PAID to the Union.
J	Movement Out of Recognition Area. Explanation: Code J - Movement Out of Recognition Area identifies employees who are permanently transferred or reassigned to a non-bargaining unit position.
K	Seasonal Employee, or On-Call Employee, to Non-Duty Status (Pay Period that Seasonal or On-Call Employee is placed in Non-Duty Status. Explanation: Code K - Seasonal employees, or On-Call employees, Work Schedule Codes G, H, J, Q, R, or T, who are placed in a Non-Duty status will be identified by Information Code K in the pay period the action occurs. (Thereafter they will be identified by Information Code N until the pay period they return to duty.)
L	Temporary Promotion/Temporary Reassignment to Non-Bargaining Unit Position Explanation: Code L - Employees being Temporarily Promoted or Temporarily Reassigned to Non-Bargaining Unit positions will be identified by Code L until they return to their Bargaining Unit positions.
M	Reactivate Union Dues Withholding after Temporary Promotion/Temporary Reassignment is Completed Explanation: Code M - Employees who have returned to their Bargaining Unit positions upon completion of Temporary Promotions or Temporary Reassignments to Non-Bargaining Unit positions will be identified by Information Code M during the pay period they return.
N	Non-Duty Status (Seasonal or On-Call Employee continues to be in Non-Duty Status) Explanation: Code N - Seasonal employees, or On-Call employees, Work Schedule

Exhibit 10-1 *(page 3)*

Code	Description/Explanation

Codes G, H, J, Q, R, or T, who continue to be in a Non-Duty status for more than one pay period will be identified by Information Code N until the pay period they return to duty. (During the first pay period they are in Non-Duty Status, they will be identified by Information Code K.)

R Retirement

Explanation:
Code R - Used to identify employees who retire during the pay period the retirement is effective.

S Inter-Chapter Transfer (Transfer Out of Chapter)

Explanation:
Code S - Inter-Chapter Transfer (Transfer Out of Chapter) is used to identify dues withholding that is terminated for the "Old Chapter" when an employee changes Union Chapters. Employees transferring out will be listed on the Chapter they are leaving as an "S" in the last pay period for which dues are withheld in Chapter they are leaving.

T Inter-Chapter Transfer (Transfer In to Chapter)

Explanation:
Code T - Inter-Chapter Transfer (Transfer In to Chapter) is used to identify dues withholding that is commenced for the "New Chapter" when an employee changes Union Chapters. Employees transferring into a new Chapter will be listed on the Chapter they are transferring to as a "T" in the first pay period for which dues are withheld in that Chapter.

X Deceased

Y Reduction In Force (Involuntary Separation)

Z Pay Adjustments (Minus Amounts Only)

Explanation:
Code Z - Pay Adjustment (Minus Amounts Only) is used to identify amounts which have been paid to employees for reimbursements for over withholding of Union dues, and charged to Agency funds. These amounts will appear solely to notify the Union of the over withholding. No deductions will be taken from Union dues withholding for pay adjustments.

In addition to the above Information Codes, format positions 43-45 will indicate employee's Work-Schedule Code (F, G, H, I, J, P, Q, R, S, or T); whether the

employee is serving under a Career Conditional Appointment (Type-Appointment - Code 2), the numeral 2 will appear in this column - otherwise this column will be left blank; and the next position will contain a one-character abbreviation for Permanent, Temporary, Term and Taper (P, T, E or A).

Biweekly Dues Withholding Record Layout

Position	Description
1-9	Social Security Number
10-12	Chapter Number
13-22	First and Middle Name
23-37	Last Name
38-42	Dues Amount
43	Work Schedule - (F, G, H, I, J, P, Q, R, S, or T will be used to determine whether the employee is Seasonal, Intermittent, Full Time, or Part Time).
44	Type-Appointment-Code 2 - If the employee is serving under a Career Conditional Appointment the numeral 2 will appear - otherwise this column will be blank.
45	Type Employment: P - Permanent, T - Temporary, E - Term, A - Taper.
46	Reason Code
47-80	Filler

In conjunction with implementation of NORD IV and NCA IV agreements, the following data elements were added at positions that were determined by the National Finance Center: Geographic Locality of each employee that is used to determine the appropriate locality pay; employee's base pay, grade, and step; Pay Plan (GS, WG, etc.). Upon implementation of the percentage dues system, the following data elements were included in positions determined by the National Finance Center: national dues withheld, local dues withheld, and the total dues withheld.

Biweekly Dues Withholding Record Layout - Trailer Record

Position	Description
1-12	Filler
13-34	Filler
35-42	Dues Amount
43-80	Filler

Exhibit 12-1

PERFORMANCE APPRAISAL DUE DATES
SSN'S ALIGNED TO QUARTERLY PERIODS

Annual ratings will be issued on a quarterly basis as indicated below for those employees who were due evaluations during the prior calendar quarter based on last digit of the employee's Social Security Number (SSN).

Last Digit of SSN	Annual Rating Period Ending Date	Performance Appraisal Due Date
0	September 30	October 31
1	October 31	January 31
2	November 30	January 31
3	December 31	January 31
4	January 31	April 30
5	February 28	April 30
6	March 31	April 30
7	April 30	July 31
8	May 31	July 31
9	June 30	July 31

Exhibit 13-1 *(front)*

APPLICATION FOR PROMOTION/REASSIGNMENT

Name *(Last, First, Middle)*	Social Security Number	Vacancy Announcement Number	Closing Date	Check Appropriate Box For Consideration *(See Instructions)*
				☐ One-Time ☐ Continuous ☐ Management Careers Program

A—PRESENT POSITION		B—POSITION FOR WHICH YOU WISH TO BE CONSIDERED *(List only one kind of position and one grade)*	
1. Title, Series and Grade	2. Office Phone	8. Title	9. Series and Grade
3. Employing Office, Address, and Symbols		10. Desired Location *(Place "X" to indicate only one organization)*	
		☐ National Office	
		☐ Regional Office	*Specify which Region, District, or Service Center—*
		☐ District Office	
		☐ Service Center	
		☐ Detroit Computing Center	
		☐ Martinsburg Computing Center	
4. Supervisor's Name	5. Office Phone	11. Desired Post of Duty *(See Instructions)*	12. Desired Division and Branch

MANAGEMENT CAREERS APPLICANTS—DO NOT COMPLETE BLOCKS 6 AND 7

6. Specify training you have had appropriate to position applied for *(Additional space on reverse side if needed.)*

7. Incentive Awards Received and Date *(Additional space on reverse side if needed.)*

Employees Signature	Date	Supervisor's Initials	Date

Form 4538 (Rev. 6-91) *(See Reverse Side for Privacy Act Statement)* Department of the Treasury - Internal Revenue Service
Cat. No. 23095P

Name

Office Symbols

Office Room No. | Office Phone

Announcement No.

Date of Application

INSTRUCTIONS—This form is for use by employees to request consideration for any vacant position. Complete all items on this side of form.

Separate cards are required if you wish to request consideration for more than one kind of position and grade, more than one organization, or more than one post of duty.

Submit this form through your supervisor to the Personnel Office servicing the organization where you work now (or in the National Office to your Administrative Officer). If you are qualified, your Personnel Office will request a current performance appraisal from your supervisor and a SF-171 (if needed) from you. If you are applying for a specific announced vacancy, the evaluation will be requested immediately. If you are applying for continuous consideration (including automatic area of consideration actions), your evaluation(s) will be requested when the vacancy(ies) occur.

Type of Consideration (Check appropriate box)

☐ **Vacancy Announcement** All applicants must be qualified by closing date or a date specified on the announcement. Your application will receive consideration only for the specific vacancy indicated.

☐ **Continuous Basis** All applicants must be qualified at the time of filing. Your application will be kept on active file until Dec. 31st. You will be considered for vacancies as they occur.

☐ **Management Careers Program**

Exhibit 13-1 *(back)*

Do Not Write in Space Below - Personnel Office Use Only

Applicable Standard	Last Promotion Date	Indicate Written Test Series, If Required	Date Test Taken	Test Results

☐ Meets Basic Eligibility Requirements Now ☐ Does Not Meet Eligibility Requirements	Reason:	Date Notified	Personnel Specialist Office Phone

Additional space for training and awards received. *(Please use corresponding number on reverse side.)*

PRIVACY ACT STATEMENT

GENERAL

This form is not contained within a system of records, however, as the form is soliciting personal information, a statement is included. This statement is provided for individuals applying for reassignment or promotion under the Internal Revenue Service promotion plan.

AUTHORITY

The authority to collect this information, including the SSN, is derived from one or more of the following: 5 U.S.C. 3301 and 3302; Executive Orders 10577 and 9397.

PURPOSES AND USES

The information you supply on this form as well as other information will be used to determine your qualifications for the position you are applying for. The SSN will be used to ensure proper identification. The information will be used by officials with IRS who have a "need to know." Disclosure may also be made to the Office of Personnel Management (OPM) under the requirements of the Federal Personnel Manual (FPM).

EFFECTS OF NONDISCLOSURE

Your providing the requested information is voluntary, however, your failure to do so may result in your application not being processed.

*U.S. Government Printing Office: 1994 — 379-037/19120

ELIGIBILITY NOTIFICATION
Application for Promotion/Reassignment

Title of Position Applied For

Series | Grade

Location

(Personnel Office Use Only)

☐ You are eligible for announced vacancy

☐ You are eligible for continuous consideration. Your application will remain in effect through December 31, _____, and then be destroyed. You must reapply to be considered after Dec. 31st.

You are not eligible because of:

☐ Time-in-grade requirement

☐ Experience

☐ Other

☐ Please retain this application and resubmit it on—

_____

Name of Personnel Specialist

Office Phone | Date

Form 4538 (Rev. 6-91)

Exhibit 15-1

APPLICATION FOR HARDSHIP REASSIGNMENT/RELOCATION REQUEST
Pursuant to an agreement between IRS and NTEU

Note: Only complete applications will be forwarded by the supervisor.
Attach Form 4536 to this request.

Name_____ Daytime Telephone No._____

Mailing Address_____
Street City State Zip Code
Current Position_____
Classification and Organizational Title_____Series____Grade__
Post of Duty_____Supervisor's Name_____

Description of Hardship (Please attach documentation justifying request (e.g., medical doctor's letter, etc.)

IRS Post(s) of Duty requested and justification for each post-of-duty specified.:

If I am currently above the journey level of my position, and a hardship relocation is authorized, I understand that I will be placed in the position at the journey level at my own expense. If applicable, highest previous rate will be applied in setting my salary; pay retention is not applicable.

Note: When applying for future merit promotion announcements, employees are encouraged to annotate their Form 4536, Application for Reassignment/Promotion (block 6): "Previously held grade __. Hardship change-to-lower grade effective _____.

It is **my** responsibility to notify the "gaining" office of any change in my hardship situation.

Employee's Signature_____Date_____

Request must be submitted to the immediate supervisor for review.

Supervisor_____Date_____

Notice to "gaining" office of pending hardship request Date_____

2nd Level_____ Date_____
3rd Level_____ Date_____
4th Level_____ Date_____

Meets criteria for a hardship relocation. Yes _____ No _____

Reason for negative determination:

Received in Personnel Date _____
Personnel Contact/Phone No. _____
Date Request forwarded to designated office _____
Designated Office_____
Date request received in Personnel _____

Signature of Authorizing Official _____ Date_____

Approved Disapproved

Finance Office:
Hardship Relocation Requires Intraplan Fund Transfer Approved by_____

Exhibit 16-1

Computation of Direct Time

(A) For Revenue Officers and other employees who do case-graded work, but who do not report their time by case, direct time equals weighted inventory, which is calculated as in the following example for a GS-11 Revenue Officer with 100 cases in the inventory:

# of cases	Grade of cases	Weight	Hours	Div by Total Hrs.	% of Time
10	12	2.0	20	150	13
80	11	1.5	120	150	80
10	9	1.0	10	150	7
100			150		

In this example the Revenue Officer has performed 13 percent higher graded work and would not qualify for a retroactive temporary promotion.

(B) Revenue Officers who have been converted to the Entity System and who report time under that System will calculate direct time as described in © below for Revenue Agents. For any time prior to conversion, Revenue Officers will calculate direct time as in (A) above.

(C) For Revenue Agents and other employees who do case-graded work, and who report their time by case, direct time is the hours reported on each case. Therefore, a GS-11 Revenue Agent must total the hours charged to all cases by grade and determine whether the hours charged to GS-12 and above cases constitute 25% or more of the total direct time worked over the qualifying period of time.

(D) For other employees who do not do case-graded work or who do not report time in any way that is grade-based or grade-determinative, direct time is all total time in the qualifying period of time minus:

(1) sick, annual and other leave,
(2) holidays,
(3) time spent in training as either student or instructor,
(4) collateral duty time, such as time spent on union duties, and
(5) time spent on other activities not directly related to the productive work of the employee.

Exhibit 16-2 *(front)*

Supervisory/Managerial Duties

Employees who perform supervisory/managerial duties will receive a temporary promotion for the time spent performing those duties if :

(a) the supervisory/managerial position is at a higher grade than the employee.
(b) the employee performs the duties for one full pay period or more.
(c) the employee is eligible for promotion.

809/810 Time

The 809 and 810 time (which are time-reporting categories in the Collection Entity Program) will be considered to constitute the same percentage of higher graded duties as applicable to direct time during the corresponding time frame. For example, if in a six month period an individual's direct time consists of 30% higher graded duties, the 809 and 810 time for that six month period will be assumed to consist of 30% higher graded duties. The employee will be credited for higher graded 809/810 time at the same ratio as other direct time when calculating eligibility for higher graded pay.

Mass Grievances

The parties agree that mass grievances are legitimate grievances that must be addressed by IRS. However, such grievances cannot be adequately addressed and/or settled prior to disclosure of all relevant information by the Union. NTEU National Office will advise local chapters to provide any and all specific information that they have related to these cases.

Large Case/Actuarial Duties/CAP/Grand Jury/Trial & Appeals Assistance

If the Service can demonstrate, through the existing work record, that an individual was assigned duties commensurate to his or her grade level when working the above referenced types of cases (e.g. one employee worked solely lower graded issues while another employee worked higher graded issues), then those duties shall not be considered higher graded duties. If, however, the Service cannot demonstrate, through the existing work record, that an individual was assigned duties commensurate to his or her grade when working the above referenced types of cases, then those duties will be considered to be at the grade level designation of the case as a whole, and the time spent on the case by the individual shall be considered higher graded duty for the duration of the time spent on the case.

Exhibit 16-2 *(back)*

Minimum Direct

The criteria for cases in which individuals have worked a drastically small amount of direct time over a [six] month period (of which over 25% of the direct time was spent on higher graded duties), while the rest of the duties constituted indirect time, is as follows: If the employee spent less than 25% of his or her total time on direct time over a 12 month period, then the higher graded duties will be compensated on a pay period basis will be applied. For example, in a 6 month period, an employee may have worked only 10 hours of direct time, 6 of which were spent on higher graded work. This employee spent less than 25% of the total time on direct time in this six month period. Therefore, the employee will be compensated on a pay period basis. Assuming all 10 hours are in the same pay period, this employee will receive a temporary promotion for one pay period.

Highest Previous Rate

An employee who has received a temporary promotion for two contiguous full six month periods (i.e. 365 days) shall be deemed to have fulfilled all requirements related to and shall be granted highest previous rate for as long as IRM 0531.56 is in effect. If, at some time in the future, IRM 0531.56 is no longer in effect, the Service will grant highest previous rate for qualifying periods of retroactive temporary promotion which ended prior to the cancellation date of IRM 0531.56, regardless of when the retroactive temporary promotion is actually effected. If the termination date of the retroactive promotion is after the cancellation date of IRM 0531.56, the Service will not grant highest previous rate even if the length of the retroactive temporary promotion would be otherwise qualifying.

Exhibit 20-1

I, _____, have recently been selected/opted for a voluntary change to lower grade to the position of, _____, which will be effective on _____. I have decided to elect OPTION _____.

OPTION A: I elect to have grade retention, followed by a pay retention if applicable. What this means is that for the two years following the date of my voluntary change to lower grade, I will have my former, higher grade used for purposes of pay administration, retirement and life insurance, and eligibility for training and promotion. During the two year period, I will receive the same comparability and within grade increases I would have received at my higher grade. I will also be enrolled in the Priority Placement Program, and referred for all vacancies at my former grade, and within my commuting area, for which I qualify. If I am offered a position at my former grade, and I decline that position, my eligibility for grade and pay retention will terminate, and my salary will be set at the step in the new grade which meets, or most nearly exceeds, my current salary. At the end of the two years of grade retention, if my salary can be accommodated within the pay range of the new grade, it will be set at the step which meets, or most nearly exceeds, my salary at the time. In the event my salary at the time cannot be accommodated within the new pay range, I will be provided with pay retention. Pay retention is limited to 150 percent of the step 10 of the new grade, or my salary at the time, whichever is less, and during the time I am on pay retention, I will receive 50 percent of all comparability increases based on the step 10 rate of pay for my grade. Pay retention terminates once my salary can be accommodated within the pay range of my new grade, or if I am promoted.

OPTION B: Since my salary can be accommodated within the pay range of my new position, I would like my salary set using the highest previous rate. What this means is that my salary will be set at the step in the new grade which meets, or most closely exceeds, my current salary. For all purposes, I will be considered as being at the new grade. I will receive regular within grade increases and cost of living increases based on my new grade, and I will not be enrolled in the Priority Placement Program. I understand if I elect this option I am waiving grade retention.

OPTION C: Since my salary cannot be accommodated within the pay range of my new position, I would like my salary set using pay retention. What this means is that I will retain my current salary, or 150 percent of the step 10 of my new grade, whichever is less, and during the time I am on pay retention I will receive 50 percent of all comparability increases based on the 10th step of my new grade. I will not receive within grade increases while I am on pay retention, nor will I be enrolled in the Priority Placement Program. I understand that pay retention will cease when my salary can be accommodated within the pay range of my new grade, or if I am promoted. I also understand that if I elect this option, I am waiving grade retention.

_____

Employee's Signature and Date

Exhibit 21-1

RETIREMENT CRITERIA

Employees can retire when his/her age and years of Federal Service match one of the retirement combinations shown below.

Retiring under the Civil Service Retirement System (CSRS)

At least age 55 with 30 years of service or more;
At least age 60 with 20 years of service or more;
At least age 62 with 5 years of service or more.

Retiring under the Federal Employees Retirement System (FERS)

At least 30 years of service and your Minimum Retirement Age (MRA);
At least 20 years of service and 60 years old;
At least 10 years of service and your Minimum Retirement Age (MRA); (optional, with reduced benefits)
At least 5 years of service and 62 years old.

Minimum Retirement Age

If you were born...	Your MRA is...
Before 1948	55
In 1948	55 and 2 months
In 1949	55 and 4 months
In 1950	55 and 6 months
In 1951	55 and 8 months
In 1952	55 and 10 months
In 1953 - 1964	56
In 1965	56 and 2 months
In 1966	56 and 4 months
In 1967	56 and 6 months
In 1968	56 and 8 months
In 1969	56 and 10 months
In 1970 and after	57

Exhibit 28-1

NATIONAL TREASURY EMPLOYEES UNION

Chapter_____

The employee's exclusive representative for all eligible employees is Chapter _____ of the National Treasury Employees Union (commonly known as "NTEU"). So that your chapter may provide maximum services and opportunities to employees, NTEU invites you to furnish the following information on this pre-addressed post card.

Name: _____
Last First Middle Initial

Address: _____
Number Street

_____
City State Zip code

Work Phone:_____ Home Phone:_____
SSN:_____ Division:_____

I am interested in learning more about the following Union activities and/or working in one of these areas:

_____ Steward
_____ P.R.
_____ Legislative
_____ Membership Recruiting
_____ Membership Services
_____ Social

I would like information of the following programs:

_____ Health Insurance
_____ In-Hospital
_____ Credit Card
_____ Life Insurance
_____ Attorney Referral
_____ Retiree Membership
_____ Auto
_____ Vision
_____ Long Term Disability
_____ IRA and Supplemental Retirement
_____ Accidental Death and Dismemberment

Exhibit 32-1

NOTICE OF AWOL CHARGE(S)

Name: _____

Date: _____

This is to notify you that AWOL is being charged for the following date(s) and for the following reason(s):

Date of AWOL charge(s): _____

Reason for AWOL charge(s):

- ☐ Tardiness (specify times)
- ☐ Failure to provide appropriate notice of your absence, as prescribed in Article 34, Section 2
- ☐ Other

Supervisor's Name: _____

Date: _____

A copy of this notice will be placed in your **Drop file**. At your election, you may share a copy of this notice with your NTEU representative.

Exhibit 33-1

FEDERAL EMPLOYEE ENTITLEMENTS
under the
FAMILY AND MEDICAL LEAVE ACT OF 1993
(effective August 5, 1993)

ENTITLEMENT

Sections 6381 through 6387 of title 57 United States Code, as added by Title II of the Family and Medical Leave Act 1993 (FMLA) (Public Law 103-3, February 5, 1993), provides covered Federal employees with entitlement to 12 workweeks of unpaid leave during any 12-month period for the following purposes:

-the birth of a son or daughter of the employee and the care of such son or daughter;
-the placement of a son or daughter with the employee for adoption or foster care;
-the care of spouse, son, daughter, or parent of the employee who has a serious health condition; or
-serious health condition of the employee that makes the employee unable to perform the essential functions of his or her positions.

Under certain conditions, FMLA leave may be taken intermittently, or the employee may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave. An employee may elect to substitute annual leave and/or sick leave, consistent with current laws and regulations, for any unpaid leave under the FMLA. FMLA leave is in addition to other paid time off available to an employee.

JOB BENEFITS AND PROTECTION

-Upon return from FMLA leave, an employee must be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment."
-An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee may pay the employee share of the premiums on a current basis or pay upon return to work.

ADVANCE NOTICE AND MEDICAL CERTIFICATION

-The employee must provide notice of his or her intent to take family and medical leave not less than 30 days before leave is to begin or as soon as is practicable.
-An agency may request medical certification for FMLA leave taken to care for an employee's spouse, son, daughter, or parent who has a serious health condition or for the serious health condition of the employee.

This is a brief summary of your entitlements and responsibilities under the FMLA. Contact your agency personnel office for additional information.

Office of Compensation Administration
U.S. Office of Personnel Management **December 1996**

Exhibit 34-1

Family Leave Programs

	Family & Medical Leave (FMLA)	Sick Leave for General Family Care	Sick Leave for Adoption	Bone Marrow or Organ Donor Leave
Description	Permits employees to use: > 12 workweeks of unpaid leave (LWOP) during any 12-month period to take care of specified family and medical needs. > These 12 workweeks do not include holidays & non-work days.	Permits full- time* employees to use: > 40 hours of sick leave per leave year for family care and bereavement purposes; and > an additional 64 hours if the employee maintains a sick leave balance of at least 80 hours, **AND** > up to 480 hours (12 weeks) of sick leave each year to care for a family member with a serious health condition. (* Part- time employees are eligible for a pro-rated amount of leave.)	Permits the use of sick leave for purposes related to the: > adoption of a child; and > foster care of a child.	Permits employees to use: > 7 days of paid leave (excused absence) per year to serve as a bone marrow donor. > up to 30 days of paid leave (excused leave) to serve as an organ donor.
Who Is Eligible?	Any employee covered by the Federal leave system, who has completed 12 months of Federal service. Excluded are temporary employees with appointments of less than 13 months and intermittent employees.	All Federal employees subject to the Federal leave system.	All Federal employees subject to the Federal leave system.	All Federal employees subject to the Federal leave system.
Reason For Use	Enables employees to use **unpaid** leave for: (1) the birth of a child and care of the newborn; (2) the placement of a child with the employee for adoption or foster care; (3) the care for a spouse, child, or parent with a serious health condition; (4) a serious condition of the employee that makes him/ her unable to perform the essential duties of his/ her position. **Expanded Family/Medical Leave** An employee may be granted up to 24 hours of LWOP each year for: **School and Early Childhood Educational Activities:** (a) parent-teacher conferences or meetings with child- care providers; (b) new school or child- care facility interviews; or (c) volunteer activities supporting the child's educational advancement. **Routine Family Medical Purposes** allowing parents to accompany children to routine medical, dental or optical appointments.	Enables employees to: (1) Provide care for a family member who is incapacitated as a result of: > physical and/ or mental illness; > injury; > pregnancy and/ or childbirth; > medical, dental, or optical examinations or treatment. (2) To arrange for or attend the funeral of a family member. **OR** (3) To care for a family member who has a serious health condition.	Enables employees to use sick leave for: (1) appointments with adoption agencies, social workers, and attorneys; (2) court proceedings; (3) required travel; and (4) other activities necessary to permit the adoption to proceed, including any periods during which an adoptive parent is ordered or required by the adoption agency, physician, or a court, to be absent from work to care for the adopted child.	Enables employees to use leave for the purpose of serving as a bone- marrow or organ donor in addition to their sick and leave.
		Page 1		

Exhibit 34-1

	Family & Medical Leave (FMLA)	Sick Leave for General Family Care	Sick Leave for Adoption	Bone Marrow or Organ Donor Leave
Definitions	**Family Member:** **Spouse:** an individual who is a husband or wife pursuant to a marriage that is a legal union between one man and one woman, including common law marriage between one man and one woman in States where it is recognized. **Son/ Daughter:** a biological, adopted or foster child; a step child; a legal ward; or a child of a person standing in loco parentis that is under 18 years of age or 18 years or older and incapable of self- care because of mental or physical disability. **Parent:** the biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. **Serious Health Condition:** An illness, injury, childbirth, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or other residential medical care facility or continuing treatment.	**Family Member:** > Spouse and parents, thereof; > Children (including adopted children) and their spouses; > Parents; > Brother(s) and sister(s), and their spouses; and > Any individual related by blood or affinity whose close association with the employee is equivalent of a family relationship. **Serious Health Condition:** An illness, injury, childbirth, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or other residential medical care facility or continuing treatment.		
Requirements	(1) Must be invoked by the employee; (2) Advance notice of at least 30 days before the leave period or as soon as practical; and (3) Submission of a Medical Certificate from treating physician within 15 days of supervisor's request for documentation.	(1) Advance notice that is as soon as practical; and (2) Medical Certification from treating physician (at the request of supervisor)	(1) Advance notice that is as soon as practical; and (2) Adoption/ Foster care documents (at the request of supervisor).	(1) Advance notice that is as soon as practical; and (2) Medical Certificate, if requested by supervisor.
Features And Limitations	> May not be denied if request meets the criteria of the Program; > Applies to male and female employees; > Is in addition to other paid leave; > May be taken intermittently or under a schedule reduced by the number of hours of FMLA leave; > Employees may substitute annual and/ or sick leave for any unpaid leave; > Must submit medical certificate within 15 calendar days of supervisor's request. If not received within 30 days, may be charged AWOL or other type of paid leave.	> Requests which meet the criteria for leave may not be denied; > May be used in conjunction with other leave programs, i. e., FMLA, and voluntary leave transfer program; > Employees are entitled to a total of 12 weeks of sick leave each year for all family care purposes. If an employee has used any portion of the 104 sick leave hours (13 days), that amount **must be subtracted** from the 12-week entitlement.	> May not be used for "bonding" unless it is a requirement of the adoption. > Is in addition to an employee's entitlement under FMLA. > Additional time requested by an employee not related to the adoption but to care for the adopted child in the first year after placement may be granted and charged to annual leave, compensatory time, credit hours, or LWOP.	> Is in addition to annual or sick leave.
		Page 2		

Exhibit 34-1

	Family & Medical Leave (FMLA)	Sick Leave for General Family Care	Sick Leave for Adoption	Bone Marrow or Organ Donor Leave
Features And Limitations (continued)	> Employees may not retroactively invoke entitlement to FMLA unless s/ he can prove that s/he was physically or mentally incapable of invoking his/ her entitlement during the entire period the employee was out from work, and that a personal representative was also unable to contact the agency and invoke the employee's entitlement to FMLA during the entire period the employee was absent from work. Employees who meet this criterion must invoke their entitlement within 2 workdays after returning. > Upon return, employees are entitled to same or equivalent position and benefits, pay, status, and other conditions of employment; > If on LWOP, entitled to maintain health benefits as long as the employee has made arrangements to pay the employees' share of costs on a current basis or upon return to pay and duty status; and > May be used in conjunction with other leave programs, i. e., voluntary leave transfer program.	> If an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, s/he cannot use additional time under the sick leave regulations.	> If the mother or father invokes FMLA (LWOP up to the maximum amount allowable), or an election to substitute available leave, the request must not be denied. > Annual leave, compensatory time, credit hours or LWOP may also be authorized for the purpose of providing foster care. >If the foster parent invokes FMLA within one year of the placement (up to the maximum amount allowable), or an election to substitute available paid leave, it must not be denied.	
Procedures for Applying	Apply to immediate supervisor no less than 30 days before leave is to begin or as soon as practical.	Apply to immediate supervisor.	Apply to immediate supervisor.	Apply to immediate supervisor.
Who Approves?	Immediate supervisor.	Immediate supervisor.	Immediate supervisor.	Immediate supervisor.
		Page 3		

Exhibit 40-1 *(page 1)*

ADVERSE PERSONNEL ACTION AND APPEAL GUIDANCE

Actions Against Excepted Service Employees:

Terminations During Trial Period. Excepted service employees (including Schedule A handicapped appointees and attorneys, Cooperative Education Program appointees, and Veterans Readjustment Appointees (VRA)) serve a one year trial period (IRM 0300.1414). There is no right to the procedures contained in 5 CFR 315 or to appeal terminations to MSPB, except for VRAs (FPM 307 Subch. 1-7c). We recommend, however, that such employees who are being terminated and do not wish to resign receive at least a written notification containing the reasons for the termination. (Co-op employees must be informed in writing of the reason(s) for termination with a copy of the notification provided to the school administrators (FPM 308 Subch. 2-IIe(l).) In addition, bargaining unit employees serving a trial period are covered by NORD/NC collective bargaining agreements (Article 37) dealing with probationary employees and are entitled to any rights contained therein.

Suspensions of 14 Days or Less. Suspensions of 14 days or less may be taken against excepted service employees. However, other than employees in Schedule B positions who have competitive status, excepted service employees are not covered by IRM or CFR procedures for disciplinary suspensions. It is recommended that suspensions not be taken against employees who have not completed a trial period. Bargaining unit employees are entitled to the provisions in Article 38, including grievance/arbitration rights, after completion of their trial period. It is recommended that non-bargaining unit, excepted service employees receive a right to reply and notification of the specific reasons for a suspension of 14 days or less. However, no specific procedures are required. A suspended employee without grievance/arbitration rights would be entitled to file an agency grievance.

Adverse Actions. Employees in the excepted service who have completed a one year trial period have the same rights as competitive service employees in adverse actions if they have competitive status under Schedule B or were in the competitive service at the time their position was first listed under Schedule A, B or C. Other excepted service employees who are preference eligible have the same rights as competitive service employees if they have completed one year of current continuous employment, in the same or similar positions. Other excepted service employees who are non-preference eligible have the same rights as competitive service employees if they have completed two years of current continuous employment in the same or similar position, with the exception of those serving under an initial appointment pending conversion to the competitive service. Otherwise, bargaining unit employees are entitled to the provisions in Article 39, but would not have the right to appeal to MSPB or to

arbitration. GS-905 attorneys are covered by IRM 0752 procedures in adverse actions. It is recommended that non-bargaining unit employees without rights under the IRM or CFR receive a right to reply and notification of the specific reasons for an action. However, no specific procedures are required. In the absence of grievance/arbitration rights, an affected employee would be entitled to file an agency grievance.

Unacceptable Performance Actions. All excepted service employees have procedural rights in unacceptable performance actions under IRM and CFR 432 if at the time of the action they have completed one year of current continuous employment in the same or similar positions. However, only those employees who are preference eligible, or who have completed two years of current continuous service in the same or similar position (other than under an appointment pending conversion to the competitive service) have the right to appeal to MSPB and, if bargaining unit members, to arbitration. Bargaining unit, excepted service employees who do not meet the one year in same or similar position standard, but who have completed a trial period, would be entitled to the procedures contained in Article 40, but would not have the right to appeal to MSPB or to arbitration. For non-bargaining unit excepted service employees who do not meet the one year in same or similar position standard, it is recommended that a right to reply and notification of the specific reasons for an action be provided. In the absence of MSPB or grievance/arbitration rights, an affected employee would be entitled to file an agency grievance.

Coverage for other categories of employees in adverse personnel actions:

Employee	Coverage
TAPERS & Status Quo employees (non career or career-conditional appointees in competitive service; including former Schedule B PAC employees who became status quo employees on July 1, 1990)	These employees do not serve a probationary or trial period. To be covered by IRM/CFR 432 or 752, an employee must have completed one year of current continuous employment in the same or similar positions under other than a temporary appointment limited to one year or less. Coverage of bargaining under Articles 38, 39 and 40 is assumed if they meet 432 or 752 coverage standards. For employees who do not meet the one year in same or similar position requirement, it is recommended that employees receive a right to reply and notification of the specific reasons for an action. However, no specific procedures are required. An affected employee would be entitled to file an agency grievance in other than a removal.

Term	Employees with term appointments serve a one year trial period and are entitled to the procedures in 5 CFR 315 on terminations during that period (5 CFR 316.304). If bargaining unit members, they would also receive Article 37 rights. After completion of the trial period, term employees are covered by appropriate IRM/CFR 432 and 752 procedures, including MSPB appeal rights and arbitration rights for bargaining unit employees. Term employees are entitled to no procedural rights or appeals upon expiration of appointment.
Temporary	Preference eligible temporary employees in the excepted service who complete one year of current continuous service in the same or similar positions have 752 rights. Otherwise, employees with temporary appointments have no procedural or appeal rights, although it is recommended that employees receive written notice in terminations other than for expiration of appointment or lack of work or funds.

Denials of Within Grade Increases

All employees who are eligible for within grade increases are entitled to appropriate reconsideration and appeal procedures when management seeks to deny such increases. Bargaining unit employees may appeal to arbitration. Non-bargaining unit employees may appeal to the MSPB.

Documentation of actions on employees without appeal rights:

Background documents on discharges for conduct or performance reasons for employees without substantive appeal rights should be kept for two years in a separate subject file. For such employees, no agency reasons for or comments regarding the action may be placed on or in official personnel records. (FPM Supplement 296-33 Subchapter 31-4(d)(1).)

Recommended authority annotations (SF 50):

Where FPM Supplement 296-33 requires an agency regulatory authority for any adverse personnel action (i.e., for actions not covered by 5 USC 43, 5 USC 75, 5 CFR 315, etc.) cite 5 USC 302 and Comm. Del. Order 81. (For additional information see FPM Supplement 296-33 Subchapter 31-3(b).)

Exhibit 40-1 *(page 4)*

Discrimination Complaints (29 CFR 1614):

All employees are entitled to file discrimination complaints under Part 1614 of the EEOC regulations. This appeal right is generally only stated in letters in which other appeal rights are stated.

Adaptation of Suggested Letters in IRM 315, 432 and 752:

Actions proposed against bargaining unit employees not covered by procedures in the Code of Federal Regulations can reference applicable collective bargaining agreement article in the proposal notice, e.g., "This is a notice of proposed adverse action issued in accordance with Article 39 of the National Agreement between IRS and NTEU," or simply say, "This is a notice of proposed _____."

Actions taken against employees without procedural rights should simply notify the employee of the action being taken and the reason, with enough detail to make the reason for the action clear to the employee.

Decision letters involving employees without any appeal rights should of course omit them (although stating that an employee has MSPB rights when rights are not present does not act to confer them on the employee). Such letters should be read carefully to make certain that appeal rights are correctly presented.

While MSPB and grievance/arbitration rights must be stated in connection with decision letters in matters appealable to the Board, there is no requirement that grievance rights be stated otherwise. However, it is recommended that such rights be stated. It is recommended that probationary or trial period termination contractual rights, which are not appeal rights, not be included in letters.

Exhibit 47-1

ARTICLE 47 – MID – TERM BARGAINING

EMPLOYER-INITIATED CHANGES

LOCATION OF CHANGE	DIVISION IMPACT	LEVEL OF BARGAINING	NOTICE SERVED BY	SERVE NOTICE ON
Multi-POD, w/in 1 SCR	1 Division	Local	HR Director	Local NTEU
Multi-PODs, w/in 1 SCR	Multi-Division	Local	SCR	Local NTEU
Multi-PODs, multi SCRs	1 Division	Service-wide	WRD	Natl NTEU
Multi-PODs, multi SCRs	Multi-Division	Service-wide	WRD	Natl NTEU

UNION-INITIATED CHANGES

LOCATION OF CHANGE	DIVISION IMPACT	LEVEL OF BARGAINING	NOTICE SERVED BY	SERVE NOTICE ON
Multi-POD, w/in 1 SCR	**1 Division**	**Local**	**Chapter Pres.**	**HR Director**
Multi-PODs, w/in 1 SCR	Multi-Division	Local	Chapter Pres.	SCR
Multi-PODs, multi SCRs	1 Division	Service-wide	Natl NTEU	WRD
Multi-PODs, multi SCRs	Multi-Division	Service-wide	Natl NTEU	WRD

Exhibit 50-1 (front)

Internal Revenue Service
Flexiplace Work Agreement

The following constitutes an agreement between:

Name of Employee_____ Position/Series/Grade_____,

And Supervisor_____ Office/Symbols_____

on the terms and conditions of the Flexiplace Program. The Supervisor and the employee agree as follows:

A. Flexiplace Work Option: _____Occupational _____Situational/Hourly

B. Flexiplace Work Location: _____Work-at-Home ____Other Location (explain)

C. Voluntary Participation:

Employee voluntarily agrees to work at the IRS approved alternative workplace indicated below and follow all applicable policies and procedures. Employee recognizes the Flexiplace Agreement is an alternative work site arrangement approved by his/her supervisor to accomplish the employee's daily work task and/or special assignment.

Employee's Alternate Workplace Address:

_____
Street

_____
City/State/Zip

_____
Building (if applicable)

_____
Phone Number

_____
Employee's IRS e-mail Address

_____
Employee's IRS Pager Number/Cell

D. Work Schedule and Tour of Duty
Supervisor and employee agree the employee's official tour of duty will be:_____a.m./p.m. to_____a.m./p.m.

Circle applicable day(s): M-T-W-T-F

Comments (if necessary)_____

_____

E. Time and Attendance
Supervisor agrees to make sure the employee's timekeeper has a copy of the employee's work schedule. The employee and the supervisor must certify the time and attendance worked.

Exhibit 50-1 (back)

F. Leave/Credit/Compensatory Hours

Employee agrees to follow established office procedures for requesting and obtaining approval of leave. Employee agrees to work only credit or compensatory hours only when pre-approved by supervisor in accordance with established office procedures.

G. Official Duties/Work Assignments

Employee agrees to perform only official duties during their authorized work hours while at the alternative work site, and to establish/maintain communications arrangements (or links) that ensure availability to interface with his/her supervisor or official duty station. Employee agrees to complete all assigned work according to procedures mutually agreed to by the employee and supervisor in accordance with the guidelines and standards detailed in the employee's performance plan.

H. Equipment/Work Area/Security

In the event the IRS provides information technology (IT) equipment for the alternate work place, the employee agrees to protect that equipment and to comply with all policies regarding use of official equipment. The employee agrees to provide a work area that is adequate for the performance of official duties.

I. Alternate Workplace Cost/Liability

The employee understands that the IRS is not responsible for covering operating cost associated with the use of his/her home as an alternate work site and will not be liable for damage to the employee's real or personal property, while the employee is working at the work site. Injury compensation claims will be covered consistent with applicable laws, rules and regulations.

J. Flexiplace Site Visits

Managers may visit an employee's alternative work site in accordance with Article 50, Section 4D of the National Agreement.

K. Disclosure/Standards of Conduct

The employee agrees to protect IRS records from unauthorized disclosure or damage and will comply with the requirements of 5 U.S.C. 552a. the "Privacy Act" of 1974. The employee agrees to be bound by the IRS standards of conduct while at the alternate work site.

L. Performance

The employee agrees to maintain the level of performance required under the Flexiplace Program.

M. Cancellation

The supervisor agrees to let the employee resume a regular schedule at the official duty station after request to the supervisor to terminate the arrangement. The employee understands IRS may cancel the Work at Home arrangement pursuant to Article 50, Section 1A.

_____ _____

Employee Signature & Date Supervisor Signature & Date

Authority - 5 U.S.C. 301. Purpose and Routine Uses - This Agreement is required by Article 50, subsection 1D of this Agreement. The primary use of this information is to specify the terms of the Flexiplace Program and constitutes an agreement between the voluntarily participating employee and his/her manager who will retain the agreement. The information in this agreement may be used in administrative or judicial proceedings affecting employees' personnel rights. This agreement may also be provided to the Department of Justice for the purpose of litigating any civil, administrative, or judicial proceeding or criminal prosecution where the United States, the IRS or its employees are parties. The complete listing of possible recipients of this agreement may be found under the heading "Routine Uses" in the Federal Register notice of the system of records in which it will be kept: Treasury/IRS General Personnel/Payroll Records: 36.003 (60 FR 56804-56805). Effects of Non Disclosure - Furnishing this information is voluntary, but failure to do so will result in disapproval of the employee's Flexiplace Program participation. Falsification may be grounds for disciplinary and/or adverse action.

Appendix I

During the course of negotiations, the parties created and agreed to the following Memorandums of Understanding.

SETTLEMENT AGREEMENT

The National Treasury Employees Union (NTEU or the Union) and the Internal Revenue Service (IRS) enter into this settlement agreement to resolve the national grievance filed by NTEU against IRS on February 22, 1999.

IRS acknowledges that, since January 19, 1999, it has required NTEU-represented employees, under threat of disciplinary action, to participate in investigatory interviews by investigators with the Office of the Treasury Inspector General for Tax Administration (TIGTA), when the employees reasonably believed that the interview could result in disciplinary action by IRS. IRS further acknowledges that it required employee participation in the interviews even when it was aware that the TIGTA investigators, acting as its representatives, were denying employees their right to union representation and other rights set forth in Article 5, Section 4, of NORD V and NC V.

To remedy these breaches, IRS agrees as follows:

1. IRS recognizes that TIGTA investigators were denying IRS employees their statutory right to union representation in certain jurisdictions in interviews conducted between January 19, 1999, and June 17, 1999. For criminal matters, those jurisdictions were all states and territories except Pennsylvania, New Jersey, Delaware and the Virgin Islands; for non-criminal matters, those jurisdictions were all states and territories except New York, Connecticut, Vermont, Georgia, Alabama, Florida, Pennsylvania, New Jersey, Delaware and the Virgin Islands. With respect to current and former employees interviewed by TIGTA investigators in these jurisdictions during this period, IRS agrees that:
   (a) upon request by the interviewed employee made within 60 days of receipt of the notice in Paragraph 7, IRS will expunge any information about that interview from its records concerning that employee, and will not rely on any information obtained from that interview in any manner so as to adversely affect that employee; and
   (b) before proposing or finalizing any disciplinary action against an employee following the signing of this Agreement, IRS will take affirmative steps to verify that none of the information relied upon was obtained from an interview conducted of that employee by TIGTA investigators during this period in the affected jurisdictions. If IRS determines that any information was obtained from the interviewed employee and if that information adversely affects the interviewed employee, IRS will expunge that information from its records and consider the proposed disciplinary action without reliance on it.
2. In any instance in which an employee requests TIGTA to redo an interview that occurred between January 19, 1999, and June 17, l999, pursuant to Attachment A (Settlement Agreement signed by the Department of Treasury, TIGTA, and NTEU), IRS agrees to reconsider any disciplinary action proposed or finalized relating to that employee. In reconsidering disciplinary action, IRS will not refer to or rely on any information obtained in the initial interview of that employee. If, after reconsideration, IRS concludes that disciplinary action was unwarranted or that a modification of the penalty is warranted, IRS will make the employee whole for any losses suffered, to the extent consistent with the decision on reconsideration.
3. Investigatory Interview Procedures adopted by TIGTA are attached hereto as Attachment B. IRS agrees that when a TIGTA investigator contacts a manager, pursuant to Paragraph 2 of Attachment B, the manager will inform the employee of the information provided to the manager under that Paragraph. In addition, the manager will:
   (a) inform the employee that if the employee reasonably believes that the interview may result in disciplinary action, the employee is entitled to representation during the interview by a person designated by the Union;
   (b) inform the employee that the interview will be scheduled to allow the employee an opportunity to seek the counsel of a Union representative, provided that such counseling shall not unduly delay the interview;
   (c) provide the employee with an IRS Form 8111 if the employee is the subject of the conduct interview and give the employee a copy of the executed form.

4. In lieu of the Notice described in Article 5, Section 4(I) of NORD V and NC V (or successor agreements), IRS will issue a notice to all employees on a semi-annual basis that states, in part, the following:

   (a) employees have the right to be represented by the Union in an examination in connection with an investigation by IRS, TIGTA, or other representative of IRS, if:

      (1) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

      (2) the employee requests such representation; and

   (b) employees may exercise this right if the above conditions are met whether the employee is the subject of the investigation or is a third party witness. The IRS fully supports the aforementioned right.

5. IRS agrees to take the following actions with respect to any bargaining unit employee who was, is, or will be interviewed by TIGTA investigators:

   (a) upon request by an employee alleging that he or she was not provided with the rights set forth in Attachment B in any interview conducted by TIGTA on or after January 19, 1999, IRS will request that TIGTA investigators re-do the interview. If TIGTA declines that request, IRS may re-do the interview. The employee must request a re-interview within 60 days of receipt of the notice in Paragraph 7 or 30 days after the TIGTA interview, whichever is later.

   (b) if an employee is denied a re-interview by TIGTA and then by the IRS, that employee may file a grievance for any alleged failure by TIGTA, as IRS' representative, to accord him or her the rights enumerated in Attachment B, notwithstanding anything in Paragraph 9. That grievance will be processed under the procedures set forth in the NORD V or NC V collective bargaining agreements (or their successors). IRS will be required to provide any remedy available by law, regulation, or this Agreement.

   (c) in each case in which TIGTA, IRS, or an arbitrator determines that an employee is entitled to a re-interview pursuant to Paragraph 5(a) or 5(b), IRS will ensure that nothing is retained in the employee's personnel records as a result of the initial interview that could adversely affect that employee. IRS agrees to expunge any such information from its records.

   (d) in each case in which TIGTA, IRS, or an arbitrator determines that an employee is entitled to a re-interview pursuant to Paragraph 5(a) or 5(b), IRS agrees to reconsider any disciplinary action proposed or finalized, without reference to or reliance upon information obtained in the initial interview. If, after reconsideration, IRS concludes that disciplinary action was unwarranted or that a modification of the penalty is warranted, IRS will make the employee whole for any losses suffered, to the extent consistent with the decision on reconsideration.

   (e) notwithstanding anything in Paragraph 5(b) or Paragraph 9, and regardless of whether a re-interview is requested or conducted, employee allegations that the TIGTA investigator did not comply with Paragraph 17 of Attachment B, may be raised under the grievance-arbitration procedures of the NORD V or NC V collective bargaining agreements (or their successors) or in statutory appeals in connection with any disciplinary action related to the interview. To the extent of its authority, IRS will provide the appropriate remedies under law or agreement.

6. Employees will be afforded whatever grievance and appeal rights are due under the NORD V or NC V collective bargaining agreements (or their successors), law, or regulation to challenge whatever disciplinary action is taken against them on reconsideration under Paragraphs 2 and 5 of this Agreement

7. IRS and NTEU will jointly draft a notice to be sent by IRS by mail to the home addresses of all individuals (current and former employees) who were in an NTEU bargaining unit at IRS between January 19, 1999, and the signing of this Agreement. This notice will inform these individuals of the settlement of this grievance and the terms of this Agreement, including the right to expungement set forth in Paragraph 1 and the opportunity for another interview under the circumstances set forth in Paragraph 5(a), above. This notice will be distributed upon the signing of this Agreement. Thereafter, on a semi-annual basis, a modified version of this jointly drafted notice, focusing on the opportunity for another interview under Paragraph 5(a), will be distributed to current employees in conjunction with the notice described in Paragraph 4.

8. IRS agrees to periodic meetings with NTEU, at the national level, to address matters related to TIGTA investigations. These meetings will occur regularly, no less than two times a year. NTEU and IRS agree to request attendance at these meetings by a representative of TIGTA.

9. Nothing contained in this Agreement constitutes an admission or acknowledgment by the IRS that TIGTA is the representative of IRS other than as set forth by the U.S. Supreme Court in *National Aeronautics and Space Administration, et al. v. Federal Labor Relations Authority*, 527 U.S. 229 (1999), regarding 5 U.S.C. 7114(a)(2)(B).

10.

(a) either party to this Agreement may, on the limited basis described in this Section, reopen this Agreement in the event that TIGTA, formally and on a national basis, changes the Investigatory Interview Procedures contained in Attachment B ("the Attachment B Procedures"). If TIGTA makes such a change, either party may reopen the Agreement by giving written notice to the other party within 30 calendar days of the effective date of TIGTA's changed Attachment B Procedures. Negotiations under this Section will be limited to negotiations over provisions in Attachment B that are directly affected by the change. To this end, the parties may negotiate over whether the Attachment B Procedure will be amended to conform to the changed TIGTA procedure as well as whether other Attachment B Procedures that are directly affected by the changed TIGTA procedure should be modified. For example, if TIGTA changes Paragraph 5 of the Attachment B Procedures, either party may propose to change Paragraph 5 as well as any other Attachment B procedure directly affected by the change; however, the parties would not be required to negotiate over Attachment B Procedures not directly affected by the change to Paragraph 5.

(b) the parties agree that the objective of this Section is to allow the parties to negotiate over the effect of TIGTA's change on the Attachment B Procedures and that the parties are precluded during this limited reopener from proposing to renegotiate over Attachment B provisions not directly affected by TIGTA's change or any other provision of this Agreement. Nothing contained herein shall affect either party's right to propose changes to this Agreement during term negotiations.

(c) negotiations under this Section will be conducted pursuant to the following procedure:

(1) the party reopening the Agreement shall provide the other party with written proposals, subject to the provisions set forth above, within 14 calendar days of the notice described in Section 10(a) above. The other party shall have 14 calendar days to respond in writing with any proposals or response it wishes to present ("Responsive Period").

(2) the parties shall commence bargaining within 14 calendar days after the conclusion of the Responsive Period.

(3) in the event that the parties are unable to reach an agreement within 14 calendar days of commencing their bargaining, or if either party declares an impasse during such bargaining, the parties agree to jointly contact by telephone a mediator/arbitrator who the parties will jointly select for this process to advise him/her of the impasse/dispute ("the Initial Telephone Contact").

(4) the parties will submit their final proposals or statements of position and any supporting documentation to the mediator/arbitrator within six (6) workdays of the Initial Telephone Contact.

(5) the mediator/arbitrator shall determine the appropriate resolution process, including, but not limited to last best offer (issue by issue), amendment and/or modification of final offers, arbitration, etc.

(6) within ten (10) work days after submission of the parties' final proposals, the mediator/arbitrator will contact the parties via conference call(s) to discuss the offers or positions. If resolution is not obtained during that discussion and the mediator/arbitrator chooses not to conduct a face to face meeting and/or hearing, then the mediator/arbitrator will issue a final written recommendation to the parties.

(7) if the mediator/arbitrator conducts a face to face meeting and/or hearing, the mediator/arbitrator shall conduct such face to face meeting or hearing within the same ten (10) work day

period set forth in Section 10(c)(6) above. In such an event, the mediator/arbitrator shall issue a final written recommendation within five (5) work days of the meeting or hearing.

(8) disputes with the mediator/arbitrator's recommendations will be resolved pursuant to 5 U.S.C. 7119 or other appropriate provisions of 5 U.S.C. 7101 et seq. The party that moves such remaining disputes to the statutory resolution process carries the burden of proof regarding the reasons the mediator/arbitrator's decision does not resolve the issue(s).

(9) if a dispute is moved to the statutory process, the party that has moved the dispute to the statutory process will pay the full fees and costs of the mediator/arbitrator who rendered the recommendation. Should neither party object to the recommendation or should both parties object to the recommendation, the costs of the mediator/arbitrator will be shared equally by the parties.

(d) In the event that bargaining is initiated pursuant to this Section, the status quo will be maintained until the conclusion of bargaining, up to and including the conclusion of impasse resolution procedures.

ATTACHMENT A

SETTLEMENT AGREEMENT

The National Treasury Employees Union (NTEU or the Union), the Treasury Inspector General for Tax Administration (TIGTA), and the U.S. Department of the Treasury (Treasury) enter into this Agreement in settlement of the unfair labor practice complaint (Case nos. WA-CA-90600 and WA-CA-90601) issued by the Federal Labor Relations Authority on October 29, 1999, and amended on December 17, 1999, based on unfair labor practice charges filed by NTEU on July 15, 1999.

A. Acknowledgment of the Statutory Right to Representation

NTEU, TIGTA, and Treasury agree that Internal Revenue Service (IRS) bargaining unit employees represented by NTEU have a right pursuant to 5 U.S.C. 7114 (a)(2)(B) to union representation in any examination of employees by a representative of TIGTA 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.

TIGTA acknowledges that between January 19, 1999, and June 17, 1999, it conducted investigatory interviews of IRS bargaining unit employees without according them their statutory right to union representation, except in jurisdictions where the courts of appeals had affirmed that statutory right. On June 17, 1999, the Supreme Court in NASA v. FLRA, 119 S. Ct. 1979 (1999) (NASA), resolved the conflict in the circuits by holding that employees represented by a union had a statutory right to union representation during investigatory interviews conducted by representatives of Inspectors General.

B. TIGTA's Actions to Remedy Statutory Violation

To remedy the statutory violation, TIGTA agrees as follows:

1. Upon employee request, TIGTA will redo interviews that occurred between January 19, 1999, and June 17, l999, except in the jurisdictions in which the statutory right to representation was recognized. In other words, TIGTA will, upon employee request, redo interviews conducted in criminal matters except in Pennsylvania, New Jersey, Delaware and the Virgin Islands, and it will re-do interviews conducted in non-criminal matters except in New York, Connecticut, Vermont, Georgia, Alabama, Florida, Pennsylvania, New Jersey, Delaware and the Virgin Islands.
2. TIGTA and NTEU will draft a notice, to be sent by TIGTA to the home addresses of all current and former employees of IRS who were in the bargaining unit between January 19 and June 17, 1999, informing them of the statutory violation and the remedial actions, including the opportunity to request another investigatory interview if they had previously been interviewed in a jurisdiction in which TIGTA did not recognize the right to representation.
3. TIGTA agrees, upon employee request for a re-interview, to expunge any record of an interview conducted between January 19, 1999, and June 17, 1999, in a jurisdiction in which TIGTA did not recognize the right to representation.

C. Treasury's Obligation

The Secretary of the Treasury agrees to take all steps within his statutory authority under 5 U.S.C. App. 3 and under the Internal Revenue Service Restructuring and Reform Act of 1998, to ensure that TIGTA complies, with statutory obligations pursuant to 5 U.S.C. 7114C(a)(2)(B).

TIGTA, Treasury and NTEU agree that the provisions set forth herein resolve the outstanding issues in Case Nos. WA-CA-90600 and WA-CA-90601.

ATTACHMENT B

SETTLEMENT AGREEMENT

TIGTA INVESTIGATORY INTERVIEW PROCEDURES 3/1/2000

1. Any bargaining unit employee who is the subject of an investigation, or who is being interviewed as a third party witness, and who reasonably believes that an interview with a TIGTA investigator may result in disciplinary action by IRS has the right, upon request, to representation by a person designated by the Union.
2. Absent concerns about an individual's personal safety or other specific investigative concerns, TIGTA investigators will contact an employee's manager to schedule an interview with an employee. At the time of the contact, the investigator will advise the employee's manager of the general subject of the interview, including whether the interview involves criminal or non-criminal matters, if known. The investigator will also generally advise the manager if the employee is the subject of an investigation or a third party witness.
3. If TIGTA investigators contact the employee directly to schedule the interview, the investigator will inform the employee of those matters in Paragraph 2, above, in addition to the following:
   (a) that if the employee reasonably believes that the interview may result in disciplinary action, the employee is entitled to representation during the interview by a person designated by the Union; and,
   (b) that the interview will be scheduled to allow the employee an opportunity to seek the counsel of a Union representative, provided that this does not unduly delay the interview.
4. If the employee is being interviewed as the subject of the investigation and fails to bring an executed IRS Form 8111 to the interview, the TIGTA investigator will give the employee a copy of the form to execute or instruct the employee to retrieve the original Form 8111. The employee will execute Form 8111 and provide the original form to the TIGTA investigator prior to the interview. The employee shall be given a copy of the executed Form 8111.
5. If the employee is being interviewed as a third party witness, the TIGTA investigator will provide the employee with IRS Form 9142 before beginning the interview. When an employee is provided Form 9142, the employee shall acknowledge receipt and be given a copy of the executed form.
6. If the interview is employee-initiated, there is no obligation to inform the employee of the right to Union representation before beginning the interview. If, however, at any time during the interview, the TIGTA investigator should reasonably believe that the information offered by the employee could result in discipline of the employee, the employee must then be advised of his or her right to Union representation.
7. If an employee appears for a scheduled interview without Union representation and reasonably believes, because the subject matter of the interview has changed, that disciplinary action may result, the employee may request a brief delay to secure Union representation.
8. If an employee is represented in an interview and the subject matter of the interview changes to matters over which the employee and the representative have not conferred, the employee or the representative may request a brief recess to confer on such issues.
9. When scheduling an interview with an employee who is the subject of an investigation, the TIGTA investigator will inform the employee of the general nature of the matter and whether it concerns criminal or administrative misconduct. In cases solely involving administrative misconduct, if the employee refuses to respond to questions, the employee shall be advised of the following:

   > Pursuant to 214.1 of IRM 0735.1, when directed to do so by TIGTA or other competent Treasury or Internal Revenue Service authority, employees must testify or respond to questions in matters of official interest. Employees must give such testimony, or respond to questions, under oath when required or requested to do so. Your failure to respond as required may result in severe discipline including removal.

10. At the outset of a custodial interview regarding possible criminal conduct of an employee who is the subject of the investigation, the TIGTA investigator shall give the employee a statement of *Miranda* rights contained on IRS Form 5228. If the employee waives his or her rights, the employee shall so indicate by signing the Form 5228, and shall be given a copy of the executed form.
11. When the subject of an investigation is being interviewed regarding possible criminal conduct and the interview is non-custodial, at the

beginning of the interview the TIGTA investigator shall give the employee a statement of rights contained in Form 5229. On or before May 2, 2000, Form 5229 will be replaced with Form 5230.

12. In an interview involving possible criminal conduct where prosecution has been declined by appropriate authority, at the beginning of the interview the TIGTA investigator shall give the employee a statement of the Kalkines warning. The warning shall contain the following language:

    > You are here to be asked questions pertaining to your employment with the Internal Revenue Service and the duties that you perform for IRS. You have the option to remain silent, although you may be subject to removal from your employment by the Service if you fail to answer material and relevant questions relating to the performance of your duties as an employee. You are further advised that the answers you may give to the questions propounded to you at this interview, or any information or evidence which is gained by reason of your answers, may not be used against you in a criminal proceeding except that you may be subject to a criminal prosecution for any false answer that you may give.
    >
    > When employees are given the Kalkines warning, they shall be given IRS Form 8112. Employees will acknowledge on IRS Form 8112 the receipt of the above warning. Employees shall be given a copy of the executed IRS Form 8112 for their own records.

13. When the person being interviewed is accompanied by a Union representative, the representative's role in both criminal and non-criminal cases includes, but is not limited to, the following rights:

    a. to clarify the questions;
    b. to clarify the answers;
    c. to assist the employee in providing favorable or extenuating facts;
    d. to suggest other employees who have knowledge of relevant facts; and,
    e. to advise the employee.

    A representative may not transform the interview into an adversarial contest.

14. Once it is determined that an investigation is not criminal in nature or once prosecution is declined, the Union and the employee may request a reasonable delay of the interview. The request shall not be unreasonably denied.

15. Either party may manually and/or mechanically record TIGTA interviews. The role of any person other than employees or their representatives in the recording of the interview shall be subject to applicable confidentiality provisions. The recording may not unreasonably delay the interview. An employee who chooses to record an interview must provide TIGTA personnel with advance notice of the decision to record sufficient to permit the TIGTA investigator to arrange for TIGTA to record the interview.

16. If TIGTA investigators have determined to use a Statement Analysis Questionnaire in an investigation, employees are entitled to utilize all applicable provisions of these procedures, if appropriate, that apply to the subjects of the investigations, including *Miranda and Kalkines*.

17. As prescribed by the Privacy Act (and only in non-criminal matters), TIGTA investigators shall endeavor to collect information, where practicable, directly from the subject individual if the information may result in adverse determinations about an individual's rights, benefits and privileges under federal programs.

18. In interviews regarding possible criminal conduct when the employee interviewed is represented by counsel, and when the TIGTA investigator is on reasonable notice of such representation, the employee's counsel shall have authority to represent the employee during the interview. TIGTA investigators on reasonable notice of such representation shall not initiate ex parte communication with the employee.

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