

In the Matter of

U.S. ARMY TANK-AUTOMOTIVE AND
ARMAMENTS COMMAND

and

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, AFL-CIO, LOCAL 1658

Case No. 21 FSIP 003

ARBITRATOR'S OPINION AND DECISION

This case arises from a request for assistance, filed by the Department of the Army, Tank-Automotive and Armaments Command (Agency or TACOM), under the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. § 7119. It concerns a negotiations dispute between the Agency and the American Federation of Government Employees, Local 1658 (Union), over a successor collective bargaining agreement (CBA).

The current 2010-Collective Bargaining Agreement (CBA) expired in 2013. The terms of the existing CBA roll over until the parties reach agreement on a new CBA. The Union opened negotiations in December 2016. The parties met periodically throughout 2017 and in 2018. Negotiations were completed in July 2019. The parties failed to reach agreement on seventeen (17) articles. The parties requested the services of the Federal Mediation and Conciliation Service (FMCS). FMCS mediation was conducted in July 2019. The parties were released from mediation. At the conclusion of mediation, fifteen (15) articles remained in dispute. The parties were delayed in addressing this contract negotiations because the parties were involved in a duly-filed petition for review of the bargaining unit composition with the FLRA Chicago Regional Office. The parties sought clarification of the bargaining unit that would be impacted by this new CBA. That matter was resolved in February 2020. After receiving clarification on the composition of the bargaining unit that will be covered by this successor

CBA, the Agency filed the request for assistance with the Federal Service Impasses Panel (Panel) on October 9, 2020.

After an investigation of the request for assistance, on December 20, 2020, the Panel directed the parties to Mediation-Arbitration with the undersigned, to commence on January 5, 2021 via video conference. On December 22, 2020, the Union sent an email to the Agency, offering to sign in agreement over the Agency's final offers for the remaining fifteen (15) articles. On January 4, 2021, the Agency filed a request for the Panel to retain jurisdiction and issue a final decision and order to resolve this dispute. In accordance with the Panel order, on January 5, 2021, a Mediation-Arbitration proceeding was convened via video conference. Mediation proved unsuccessful in resolving the Agency's request or the remaining fifteen (15) articles and, therefore, the Union was offered an opportunity to respond in writing to the Agency's request for the Panel to retain jurisdiction. Additionally, the parties were directed to submit a statement of position on each of the fifteen (15) outstanding articles. Both parties were timely with their submissions.

I now am required to resolve the dispute over the remaining fifteen (15) outstanding articles by issuing a final and binding award (i.e., Opinion and Decision). In reaching my decision, I have considered the entire record in this case, including the parties' positions regarding the Agency's request to retain jurisdiction, the parties' final offers submitted prior to and on January 4, 2021, documentary evidence, and summary post-hearing statements of position filed by each party on January 12, 2021.

BACKGROUND

The Detroit Arsenal is located in Detroit Arsenal, Michigan (formerly Warren, Michigan) and is situated just north of the City of Detroit on 178 acres, in 67 buildings. It is home to several tenant defense organizations, with approximately 7,500 civilian/contract workers and 250 military personnel on post. The largest tenant located at the Detroit Arsenal is the U.S. Army Tank-Automotive and Armaments Command-Warren or TACOM Warren (Agency). It is a major subordinate command of the U.S. Army Materiel Command (AMC) and its offices at the Detroit Arsenal serve as its headquarters. Its mission is to develop, acquire, field, and sustain soldier and ground systems for

America's warfighters and in doing so unites all of the organizations that focus on soldier and ground systems throughout the entire life cycle. TACOM provides the logistics support and sustainment. The Union, AFGE 1658, currently represents approximately 4,150 bargaining unit members.

DECISION ON THE AGENCY'S REQUEST TO ISSUE AN FINAL ORDER

On December 15, 2020, the Panel asserted jurisdiction and directed the parties to submit their dispute to a Mediation-Arbitration via video on January 5-6, 2021. On December 22, 2020, over the holiday period, the Union sent the Agency an email accepting and agreeing to sign the Agency's last offer on the remaining fifteen (15) articles. Instead of accepting the Union's offer, on January 4, 2021, the Agency submitted a request, asking the Panel to maintain jurisdiction over this matter in order to bring the negotiations of the CBA to finality. The Agency expressed concern that any tentative agreements reached by the parties outside of the Panel's jurisdiction will not bring closure to bargaining as these agreements are subject to Union ratification; the membership of the Union, through a vote, can disagree with the agreement reached, thus sending the parties back to the bargaining table. The Agency also expressed concerns regarding delay tactics used by the Union throughout bargaining (those concerns were refuted by the Union). The Union was provided an opportunity to respond to the request to issue a final order in writing, which they did on January 12, 2021. In its submission, the Union confirmed that the parties have reached bargaining impasse and, therefore, the outstanding articles are properly before the Panel.

Agreements reached by the parties during the negotiations are tentative because they are subject to Union ratification; the membership of the Union, through a vote, can disagree with the agreement reached, sending the parties back to the bargaining table. Under the Statute¹, the Panel may then take whatever final action is necessary to resolve the dispute, including the issuance of a decision. The decision is "final and binding" during the term of the parties' collective bargaining agreement unless the parties agree otherwise.

¹ 5 U.S.C. §7119 (c) (5) (C) - the final action of the Panel shall be binding on such parties during the term of the agreement.

The Statute is clear that the Panel has jurisdiction to resolve negotiation impasses properly before it.² If the parties do not arrive at a settlement after the Panel's assistance, the Panel may, in accordance with 5 U.S.C. § 7119(c)(5)(b)(3), "take whatever action is necessary and not inconsistent with this chapter to resolve the impasse."³ Here, the Panel asserted jurisdiction over the Agency's request for assistance with the impasse on December 15, 2020, and since then the parties have not entered into a settlement; there is no signed agreement between the parties as evidence that the parties resolved the impasse. The Union explained in its submission that a conditional offer to resolve the outstanding articles on December 22, 2020 was presented as a means to avoid FSIP jurisdiction (i.e., the Union was only willing to settle the matter outside of jurisdiction). However, since the Agency rejected the conditional offer, the offer is no longer available. The Union agrees that the parties are at impasse and, therefore, the remaining fifteen (15) articles are properly before the Panel for resolution.

Without a signed agreement, the impasse is not resolved and the Panel's jurisdiction continues. The Panel is statutorily tasked with taking the action needed to bring final resolution to the impasse. Accordingly, I have determined that the fifteen (15) outstanding articles remain at impasse and are properly

² 5 U.S.C. § 7119(a) states: "The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what matter it shall provide services and assistance." 5 C.F.R. § 2470.2(e) defines an impasse as follows: The term "impasse" means that point in the negotiation of conditions of employment at which the parties are unable to reach agreement, notwithstanding their efforts to do so by direct negotiations and by the use of mediation or other voluntary arrangements for settlement.

³ The Federal Service Labor-Management Relations Statute commits to the Panel broad authority to make swift decisions in order to end disputes when the negotiation process has failed. *Council of Prison Locals v. Brewer*, 735 F.2d 1497 (D.C. Cir. 1984). As federal employees have no legal right to strike, the Civil Service Reform Act, Title VII authorizes the Panel to complete the bargaining process, ensuring the duty to bargain has a practical effect. *Dep't of Def., Army-Air Force Exch. Serv. v. Fed. Labor Relations Auth.*, 659 F.2d 1140, 1146 (D.C. Cir. 1981).

before the Panel. As directed by the Panel, I order a resolution for each of the remaining fifteen (15) articles.

In its submission on January 12, 2021, the Union requested that FSIP conduct a thorough review of each parties Last Best and Final Offer (LBFO), including hold hearings; administer oaths, take testimony or deposition of any person under oath, and issue subpoenas as provided in 5 U.S.C. §7132; and take whatever action necessary and not inconsistent with 5 U.S.C. Chapter 71 to resolve the impasse. 5 U.S.C. §7119(5) (B). As discussed above, the Panel ordered the parties to engage in a Mediation-Arbitration. The parties were also instructed by the Panel that if settlement was not reach during the mediation portion of the proceeding, the Panel empowered the undersigned to take whatever action necessary to resolve the outstanding issues in the impasse. A mediation was held on January 5, 2021. Both parties were fully represented. At the conclusion of the mediation, having no settlement of the outstanding issues in the impasse, I instructed the parties to complete the record by providing written submissions, with argument and evidence in support of the position. Each party provided timely submissions.

I am now required to resolve the dispute over the remaining fifteen (15) outstanding articles by issuing a final and binding award. In reaching my decision, I have considered the entire record in this case, including the parties' positions regarding the Agency's request to retain jurisdiction, the parties' final offers submitted prior to and on January 4, 2021, documentary evidence, and summary post-hearing statements of position filed by each party on January 12, 2021. IAs due process has been afforded in this matter, I reject the Union's request to hold an additional hearing.

ARTICLES AT IMPASSE

The parties have submitted for resolution fifteen (15) articles:

- * Article 3 - Recognition and Unit Designation
- * Article 9 - Changes or Modifications to Agreement
- * Article 11 - Union Representation and Use of Official Time
- * Article 12 - Use of Official Facilities
- * Article 13 - Voluntary Dues Deductions
- * Article 20 - Leave and Absence
- * Article 24 - Travel
- * Article 25 - Work Environment Release

- * Article 29 - Performance Appraisal
- * Article 32 - Merit Promotion and Placement
- * Article 39 - Demonstration Projects
- * Article 40 - Disciplinary and Adverse Actions
- * Article 42 - Grievance Procedures
- * Article 43 - Binding Arbitration
- * Article 44 - Miscellaneous

OPINION

- Article 3 - Recognition and Unit Designation

The Agency and the Union filed joint petitions (i.e., CH-RP-19-0054 and CH-RP-19-0055) with the FLRA seeking to clarify and amend the certifications of exclusive representative under 5 U.S.C. Section 7111 (b) (2). On February 27, 2020, the FLRA, Chicago Region, issued its Decision and Order on the petitions. The Agency's description of "EMPLOYER", without explanation, fails to adopt one partial sentence from the Authority's order. The Union's Section A is an accurate reflection of the Authority's order and, therefore, I order that the language be adopted.

As for Section B, both parties reflect exclusions from the bargaining unit defined in §7112 of the Statute. However, the Agency's proposed language also includes exclusions from the 2010-CBA. The rationale offered by the Agency behind excluding temporary, term-limited, probationary, intern, and non-appropriated fund employees (positions that were excluded under the 2010-CBA) is because these groups of employees, by law, have minimal due process rights. In assessing the appropriateness of inclusion or exclusion from a bargaining unit, the FLRA weighs a number of factors, including: having a clear community of interest; promoting effective dealing with the agency; and promoting efficiency of operations. In determining the exclusions from this bargaining unit, the FLRA did not exclude these additional positions the Agency is now seeking to exclude from the bargaining unit. Without agreement otherwise, I order the parties to adopt language that reflects the certification as clarified by the FLRA in its Decision and Order. The Union's proposals accurately reflect that FLRA determination.

- Article 9 - Changes or Modifications to Agreement

The Agency has proposed language that would eliminate ALL existing Memoranda of Agreement or Understanding (MOA/MOU) in existence prior to this new CBA once the new negotiated labor-management agreement is signed. The Agency argued that every article of the 2010-CBA, along with every existing MOA/MOU, was open to full discussion during the negotiation process. Additionally, the 2010-CBA expressly recognized that existing MOAs will expire upon its termination. (2010-CBA, Article 9 at Section D⁴). The Union argues that the summary cancellation of ALL MOU/MOAs would cause the working conditions of thousands of BUEs to change overnight; impractical, contrary to public policy and de-stabilizing for the unit.

The parties were free to negotiate the terms of their MOU/MOAs, including the termination date. Where agreement on the termination date was not clearly reached by the parties, I order that the 2010-CBA, Article 9, Section D terms will apply - the termination would be the execution of the new CBA. However, where the parties had reached agreement on the termination of an MOU/MOA, I order that those terms will continue, unless they conflict with the terms of the new CBA.

During negotiations, the Union offered a proposal, dated June 19, 2019. (The parties reached impasse over the Union's Proposal dated June 19, 2019). Much of the language in its proposal was addressed by mutual agreement reached by the parties in Article 8 (re: procedures for Midterm negotiations). The Union submitted revised proposals⁵ to the Panel on January 4, 2021⁶, the day before the scheduled Mediation-Arbitration, and weeks after the Panel asserted jurisdiction over this dispute. Those revised proposals included provisions that have not been negotiated or mediated between the parties. The U.S. Court of Appeals for the D.C. Circuit has held, for the Panel to have jurisdiction, "*there must first be an impasse.*" Patent Office Professional Ass'n v. Federal Labor Relations Auth., 26 F.3d 1148, 1153 (D.C. Cir. 1994) (POPA). The parties are not at impasse over, and the Panel did not assert jurisdiction over, the Unions' revised proposals. Therefore, I will not address the Union's revised proposals offered after the

⁴ SECTION D: Changes or modifications to this AGREEMENT will be documented in Memorandum of Agreements (MOAs), signed by the appropriate EMPLOYER and UNION representatives. MOAs will become part of this AGREEMENT and will remain in effect until renegotiated or this AGREEMENT is terminated.

⁵ Articles 9, 11, 12, 13, 20, 25, 29, 39, 40, 42, and 43.

⁶ The Union submitted a revised Article 13 proposal on January 12, 2021.

Panel asserted jurisdiction. Instead, I will consider the Union's proposal offered prior to the Panel asserting jurisdiction over this dispute.

- Article 11 - Official Time

Under Section A, the Agency proposed language recognizing the right of Federal employees to represent the UNION and perform other non-agency business while in paid duty status. The Union's language adds that official time can be used for representation of the Union or its bargaining unit employees. The Union's proposal includes a list of situations where official time would be applicable. The Agency's list of situations is found in their Section B. I will address the appropriate situations below. I order that the language will reflect that official time is appropriate to represent the bargaining unit or to represent the Union. The parties will adopt a modification of the Agency Section A, reflecting that change.

Under Section B - Statutory Official Time, the Agency's proposed language provides a separate section to recognize official time authorization under the Statute (Sections 7131 (a) and (c)), as opposed to negotiated official time under Section 7131(d): official time in the negotiation of a collective bargaining agreement, at impasse proceedings or during any phase of proceeding before the Authority. The Union's proposal (Section A) treats statutory official time and negotiated official time the same. I order the parties to adopt the Agency's Section B, which delineates statutory official time under Section 7131 (a) and (c) from time granted pursuant to Section 7131(d) (which will be addressed under Section C)).

The Agency's Section C and the Union's Section A proposals address negotiated official time under 7131(d). The Agency limits those negotiated circumstances to: grievances pursued through the Negotiated Grievance Procedure, matters and complaints pertaining to more than substantial impacts to conditions of employment, as defined by Chapter 71, disciplinary and adverse actions under Article 40, and arbitrations under Article 43. Regarding the changes in conditions of employment, the FLRA case law continues to evolve. I order the parties to adopt language that adheres to FLRA case law.

The Union's proposal (Section A) provides for statutory Official Time and for additional situations not provided by the Statute: grievances and arbitrations, matters pertaining to

conditions of employment (not just changes to condition of employment), disciplinary and adverse actions, meetings with BU employees, mediation, and labor management meetings. The parties agree to provide official time for grievances, arbitrations, matters pertaining to conditions of employment (as modified above), and discipline and adverse actions. I order the parties to adopt those provisions as modified. As for meetings with BU employees, if the Union is provided an opportunity to attend those meetings pursuant to a statutory right (e.g., Formal Meeting under 5 USC 7114), the Union will be provided an opportunity to attend those meetings on official time. Regarding providing official time for labor management relations meetings, neither party addressed if or when such meetings would occur. I will not order the parties to adopt language to address such meetings. If the parties develop such meetings, the parties to discussion how those meetings will operate, including the provision of official time.

The current BUE membership stands at 4,150 people. Under Section D - Roster and Allotment of Stewards, both parties based its apportionment of stewards on Art 11, Sec G in the 2010-CBA. Under the 2010-CBA, the Union would be entitled to appoint up to fourteen (14) union stewards. The Agency proposes to modify that entitlement to 9 stewards (apportioned up or down based upon the BU size). The Union has proposed to apportion 13 stewards, subject to additional negotiations as needed for multiple shifts. The Agency also proposed limiting steward appointments to no more than one steward or area VP from a directorate; the Union agreed to a similar restriction in the 2010-CBA. The Agency expressed concern over having multiple representatives within one organization (i.e. branch or its equivalent) on official time. The Union provided no discussion or objections regarding this restriction. I order the parties to adopt the Agency's proposal, with modification, for this section. The 2010-CBA (Article 9, Section G) does not reference "Area Vice Presidents" and the Agency does not provide an explanation for adding that language. Therefore, I will not order its adoption. The 2010-CBA references an area restrict as "any branch or its equivalent", the Agency's proposal expands beyond that restriction without explanation. Therefore, I will not order that expansion.

Under the 2010-CBA, elected officers had no limit to their official time use. The parties agreed that appointed stewards would be allowed up to 35% of official duty time for representational activities. Under Section E: Individual caps to Section 7131(d) Official Time, the Agency proposed to limit the

use of official time at 25% of official duty time for representational activities (7119 (d) - activity). Once the 25% of official duty time limitations are met, the Union representatives would be allowed to request reasonable amounts of annual leave or leave without pay to represent employees during regular duty hours. The Agency also limited the maximum amount of official time for all Union representatives at a rate of up to one hour per bargaining unit employee each fiscal year (about 4150 hours).

In addition to relying on Executive Order 13837, Sec 4(a)(ii)(1)⁷, the Agency based its limiting proposal upon the Union's actual official time usage for the period of 2012-2020⁸. The Union has used far less than the 4100 hours that would be available under this proposal. The Union argued that the Executive Order is illegal. That same argument was made before the FLRA in the recent decision - *Patent Office Professional Association and Patent and Trademark Office*, 71 FLRA No. 232. The FLRA determined that the assertion that the Executive Order 13837 is illegal because it conflicts with the Statute is incorrect. The FLRA explained that the E.O was issued pursuant to the President's statutory authority to regulate the Executive Branch, therefore, it is accorded the force and effect of law. The Union presented no other argument as to why it cannot sustain the 25% limitation. I order the parties to adopt this individual cap of 25% for each individual and an official time bank of 1 hour per bargaining unit employee.

The Union agrees with nearly all of the Agency's proposed requirements of Section F in requesting and obtaining advance written authorization before using official time. The parties are in disagreement over Section F (7), which states a BUE who uses official time without advance written agency authorization to do so will be considered absent without leave (AWOL). The Union offered no justification for its proposal. The Agency

⁷ Executive Order 13837, Sec 4(a)(ii)(1), states BUEs shall spend at least three-quarters of their paid time, measured each fiscal year, performing agency business or attending necessary training (as required by their agency), in order to ensure that they develop and maintain the skills necessary to perform their agency duties efficiently and effectively.

⁸ Total hours is comprised on : Term Negotiations, Midterm Negotiations, General LM Relations
2012 - 84hrs; 2013 - 129hrs; 2014 - 120 hrs; 2015 - 348 hrs;
2016 - 1695 hrs; 2017 - 1828 hrs; 2018 - 4366 hrs; 2019 - 2281; 2020 - 779.

argues that when an employee is absent and has not requested leave and obtained approval to cover the absence, that qualifies as AWOL. I order the parties to adopt the Agency's proposal with modification; eliminating reference to taxpayer funded union time (TFUT).

Under Section G - Internal Union Business, the Agency proposed language to make it clear that union officials cannot be in duty status when conducting organizing activities, membership building activities, or internal union business. Consistent with §7131(b), the Union official must be in a non-duty status when performing such functions. Where the parties disagree is where the Agency proposes that a new hire orientation is an example of a solicitation of membership function. Orientations meet the definition of a formal meeting under § 7114 (a)(2)⁹ and, therefore, Union's have a right to be represented at those meetings. While in duty status, Union representatives must safeguard from conducting any organizing or membership building activities. I order the parties to adopt the Agency's proposal with modification; eliminating the reference to new hire orientations or in-processing.

- Article 12 - Use of Official Facilities

The Agency proposes to provide the Union with an email account as described in the signed Article 14, Section C; however, no other Agency-owned facilities, equipment or resources are offered to the Union at no cost or at a discounted rate. The Agency argues that free or discounted use of government property or other Agency resources is not generally available to non-Agency businesses or tenants. The Agency also argues that the proposal ensures that taxpayer funded resources are utilized in an effective and efficient manner. Under the Agency's Section B, the Agency proposes to consider any Union requests to lease Agency-owned facilities, equipment or resources. Decisions on leasing of facilities, equipment or resources to the Union would be contingent on space and resource availability. However, under Section C, the Agency has proposed any decision made by the Agency regarding whether or not to

⁹ Section 7114(a)(2) of the Statute provides:
An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at -
(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.

lease to the Union will be excluded under the negotiated grievance procedure and arbitration. I will address that proposal under Article 42.

The Union's Article 12 reflects the resources and support that was provided under the 2010-CBA. The Union argues that the 2010-CBA does not impose any additional requirements of the Agency. Additionally, the Union argues that the Agency provides free office space, phone and internet services, and conference room use, among other things to non-federal entities (e.g., contractors).

The Agency relies on Executive Order 13837, which states that unions cannot use such space or services unless the Agency makes it available at reduced rates or free for non-Agency business. The Union argues that this is exactly what occurs at the facility. Contractor employees use the Agency space to perform functions for the government, as well as to perform other internal business functions.

The Union's proposal also adds Section M to the end of the Article. The Union's proposed Section M provides that if Executive Orders 13836, 13837, or 13839 are repealed, overturned, or nullified by another Executive Order, act of Congress, or a court, the Agency and the Union will reopen and renegotiate this Article. I will not order this language. The parties are free to mutually agree to reopen any provision of the CBA as they see fit.

The Agency relies on the Executive Order to support its proposal to limit the Union's support. The Executive Orders provide that the Union may seek and be provided space if it is generally available for non-agency business. I order that the Agency will consider, and, if available, provide the Union space as provided for non-governmental entities in its discretion.

- Article 13 - Voluntary Dues Deductions

The parties have agreed with most of the provisions in this article. The most significant disputes involve the interpretation of the FLRA's dues termination regulations. In 2020, the FLRA announced changes regarding voluntary dues withholding, interpreting the law to now provide that Federal employees who are paying dues to stop those payments at any time after a year has passed, rather than being restricted to an

annual window to terminate dues withholding¹⁰. The Union does not dispute that the Agency must follow these regulations and the FLRA interpretations. However, the Union does disagree with the FLRA's rule interpretations, believing they are contrary to the Statute. Therefore, the Union proposed a new section at the end of the Article which reads that if the Authority's February 2020 Final Rule regarding the process in which BUEs revoke their written assignments for the payment of Union Dues should be repealed, overturned, or nullified by another Authority ruling, an Executive Order, an act of Congress, or a court, the Agency and the Union will renegotiate the article. I will not order the adoption of this language. The parties are free to mutually agree to reopen this article as they see fit. I order the adoption of most of the agreed upon provisions along with the adoption of language to follow the regulations and the FLRA precedent regarding due withholding matters.

- Article 20 - Leave and Absence

The parties have reached agreement on a number of subparts. The agreed upon language entitles employees to accrue and use leave in accordance with all current applicable laws, regulations and rules. That coverage language ensures that all leave options are available to employees, therefore, it is unnecessary to cite and include in subsections the text from various applicable leave regulations as the Union has proposed (e.g., §630.401). I order the parties to adopt the agreed upon language, with modification.

- Article 24 - Travel

The disagreement in this article involves the rules that will apply for travel. The Agency has proposed that all travel

¹⁰ In July, the FLRA published a Final Rule to govern the process for federal employees to revoke written assignments for the payment of union dues under 5 U.S.C. § 7115(a). The new rule will appear as § 2429.19 of the Authority's Regulations and will apply to all written assignments that are authorized on or after the Final Rule's effective date. The new rule states that "after the expiration of the one-year period during which an assignment may not be revoked under 5 U.S.C. § 7115(a), an employee may initiate the revocation of a previously authorized assignment at any time that the employee chooses." The employing agency must process the employee's dues-revocation made after the first year "as soon as administratively feasible."

be governed by the provisions of the DoD issued Joint Travel Regulations (JTR). The JTR's authority is derived from U.S.C. Title 5 statutes, General Service Administration's (GSA) Federal Travel Regulation (FTR), and the Department of State's Standardized Regulations. The Agency's proposed language recognizes the JTR's authority over all travel either within the contiguous U.S. ("CONUS") or outside the contiguous U.S. ("OCONUS"), as well as routine or rotational deployments. The Agency claims that it has no authority to deviate from the provisions of the JTR.

The Union argues that the parties are free to negotiate local procedures on top of the JTR, as long as they do not contradict with the JTR or any other law, rule, or regulation. It is clear that the Agency is unwillingness to create local rules during this contract negotiations to supplement the JTR. Where a condition arrives that is not addressed by the JTR, the Agency may be obligated to bargain with the Union. I order the parties to adopt provisions that recognize the authority of the JTR over travel.

- Article 25 - Work Environment Release

The Agency's preference is to eliminate Article 25 in its entirety because the topics are covered and addressed in other articles (e.g., signed Article 15-Health and Safety and Article 20--Leave and Absence). Nevertheless, the parties agree to Section A of the Agency's proposal, which states that the Employer agrees to follow all laws, rules, and regulations. In its Section B, the Agency proposes that when work environment conditions prevent BUEs from safely performing at the approved work location, the Agency will abide by the weather and safety leave provisions of Article 20.

The Union's proposed Article 25 is significantly more comprehensive. It provides both parties specific instructions, charts, and graphs derived from OSHA and NOAA to assist in the determination of a work site's safety.

In their submissions, the parties did not discuss the applicability of all of the Union's charts, graphs and specific instructions to the work environment. Without that understanding, I cannot be certain that all of the details offered by the Union's proposal are accurate or even applicable. I order the parties to adopt the Agency's proposal, reflecting a commitment to follow the law and the terms of the CBA.

- Article 29 - Performance Appraisal

The parties are in agreement over much of the provisions. The agreed upon language recognizes that the performance management system will be administered consistent with all applicable laws, regulations and rules. The Union offers some procedural certainty (e.g., Section E - Agency's obligation to let an employee know that they may request the Union's guidance and counseling; a 60-120-day notice to demonstrate acceptable performance). While the notice of Union support may be helpful for some, the Agency is unwilling to take on that commitment; the Union can inform the bargaining unit of the Union's services. As for the opportunity to improve period, the Agency is obligated under 5 U.S.C. Chapter 43 or 5 U.S.C. Chapter 75 to ensure that the period is reasonable, given the circumstances, or risk third party challenge on any adverse actions they may attempt to take. Each circumstance will drive the reasonable time frame. I order the parties to adopt the agreed upon language, with modification.

- Article 32 - Merit Promotion and Placement

Most of the language in this article has been accepted by the parties. The Union has proposed adding a sentence that ensures that merit principles are applied fairly and equitably. The parties agree that the promotion and placement decisions will be made consistent with law. The parties also disagree over the means in which an employee can raise any questions or concerns they may have about a non-referral. Providing one central location is useful. I order the parties to adopt the agreed upon language, with a few modifications.

- Article 39 - Demonstration Projects

The parties are in agreement with Section A. The parties disagree, under Section B, over the negotiations that is required with participation in a Demonstration Project. While both parties acknowledge that negotiation requirements are triggered with participation in a demonstration project, the Union's proposed ground rules for bargaining the parties participation in a Demonstration project can be addressed on a case by case basis. I order the parties to adopt the agreed upon language, with modification to reflect any bargaining obligations.

- Article 40 - Disciplinary and Adverse Actions

The parties are in agreement over many sections of this article. I order the parties to adopt agreed upon language. The parties disagree over the timelines for the proposal and reply, and effective dates of Suspensions of 14 days or less (i.e., disciplinary action). While 5 USC § 7503 does not specify any minimum time for the advanced notice period for suspension for 14 days or less, the implementing regulation requires that the employee "must be given a **reasonable time**, but not less than 24 hours, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer." 5 CFR § 752.203(c). The Agency proposes a five (5) calendar day response period. That is 4 days longer than the minimum recommended by the regulations. The Union did not refute the reasonableness of a 5-day notice period, but proposes a longer response period of at least fourteen (14) days. I order language adopting a reasonable time period, which will normally be five (5) calendar days.

For responding to adverse actions (i.e., suspension from duty for more than fourteen (14) days, a reduction in grade, a reduction in pay, a furlough of thirty (30) days or less, or removal from federal service), the Agency proposes a seven (7) day response period and the Union proposes a fifteen (15) day response period. Pursuant to statute and regulation, an employee against whom an adverse action is proposed is entitled to a reasonable time, but not less than 7 days, to review the material relied on to support its proposed action, to prepare an answer orally and in writing, and to secure affidavits. See 5 USC § 7513(b)(2); 5 CFR § 752.404(c)(1). The Agency proposed the statutory minimum. The Union did not refute the reasonableness of a seven (7) day timeframe. I order language adopting the statutory minimum of seven (7) days.

- Article 42 - Grievance Procedures

The crux of the parties' disagreement in this Article centers on the Agency's proposed exclusions from the grievance procedure. The Agency proposes to exclude 39 matters from the negotiated grievance procedure (NGP). The parties have only reached agreement on 5 of those exclusions.

The Agency's primary rationale to support its proposed exclusions is that the exclusions are consistent with EO 13839 and the Statute. EO 13839 requires agencies to "endeavor to exclude from the application of any [NGP]" a number of matters.

The Panel has consistently recognized the significance of the Federal court case, *AFGE v FLRA*, 712 F.2d 640 (D.C. Cir. 1983), setting forth the precedent concerning grievance exclusions. In that case, the court stated that a proponent of a grievance exclusion must "establish convincingly" in a "particular setting" that its position is the "more reasonable one."¹¹

The Panel has also stated that EO 13839 demonstrates important public policy that must be taken into consideration when resolving these types of disputes. Balancing the two, the Panel has stated that a party seeking to exclude a topic from the NGP has the burden of convincingly demonstrating that an exclusion is reasonable under the "particular circumstances" of the dispute before the Panel.¹²

Here, the Agency seeks to exclude grievances involving a number of matters. In support of the proposed exclusions, the Agency simply makes broad, sweeping assertions about the efficiency of the NGP version other external system (e.g., MSPB) or broad concerns about third party review of management actions and decisions. The Agency did not provide any compelling specific examples to support its broader concerns. The Agency failed to establish that in these particular circumstances or setting, their proposal to exclude the numerous matters from the NGP is more reasonable. I order the parties to adopt the 5 exclusions that are agreeable to the parties.

The parties also disagree over changes to the grievance steps. Neither party offered support to the proposed changes. I order the parties to maintain the status quo procedures from the 2010-CBA.

- Article 43 - Binding Arbitration

The parties have had a comprehensive procedure in their CBA since at least the 2010-CBA. Since 2016, the parties have had 5 arbitrations invoked; a significantly small number of cases for a BU of over 4000 BUEs. Nevertheless, the parties have a number of significant disagreements in this article.

The Agency offers proposals that would allow only matters/issues raised during the NGP to be raised at arbitration. The Agency argues that they seek that provision

¹¹ *AFGE*, 712 F.2d 640 (D.C. Cir. 1983).

¹² See e.g., *U.S. Dep't of Def., Dep't of the Air Force, Fairchild Air Force Base*, 19 FSIP 070 at 10-11 (2020).

because it aligns with a general rule that issues cannot be raised for the first time on appeal. This is also known as "trial by ambush". Discovery (or in this case, the grievance procedure) enables the parties to know before the hearing begins what grievances or complaint may be addressed. The process is less likely to be fair and efficient where one side doesn't learn of the other side's concerns until the hearing, when there's no time to prepare to address the concerns. I order the parties to adopt language that avoids trial by ambush.

In order to minimize frivolous arbitrations, foster improved relationships between the parties, and encourage the parties to resolve grievances at the lowest possible level, the Agency has proposed that the referring party, the party that moves a matter to arbitration, will be responsible for the entire cost of the arbitration. The Agency relies on the Panel's consistent determination in other cases that each party should be responsible for their own litigation costs. However, the Agency's reliance on those FSIP cases is misplaced. The Panel has not gone as far as to determine that the Agency, regardless of whether they are the prevailing party or not, should bear no cost in arbitration. That is simply a bridge too far for this arbitrator. In support of incentivizing both parties to resolve matters at the lowest possible level, I order each side bear their own expenses.

- Article 44 - Miscellaneous

There is only one difference between the parties in Article 44. The last sentence of the Agency's Article 44 LBO prohibits the filing of a grievance regarding financial liability disputes involving Bargaining Unit Employees and the Agency when a Government Vehicle (GOV) under the control of the Employee is damaged. Actions and decisions related to government property accountability and financial liability are governed by Army Regulation (AR) 735-5, Property Accountability Policies (dated December 9, 2016). An employee who is recommended for financial liability assessment due to damage to a GOV is given the opportunity to rebut the recommendation and finding of liability before that determination is final. That process includes the right to be represented and the right to elevate that determination to Defense Finance and Accounting Service (DFAS). The Agency argues that the process provided to the BUE is sufficient due process. The Union argues that the pre-decisional process is not due process and, full due process should not be denied.

There are actions taken against an employee, where the employee has an opportunity to provide evidence and information for consideration before a final decision or action is taken, yet the employee is still entitled to challenge that decision or action before a third party. Disciplinary Actions and Adverse Actions are examples. While the employee is provided the opportunity to respond to the proposed charges, the employee is afforded additional due process to bring the matter to a third party outside of the Employer. As discussed under Article 42 above, I will not order this exclusion.

DECISION

Having carefully considered the arguments and evidence presented in this case, I conclude that the parties shall adopt the attached language to resolve the impasse on the remaining fifteen (15) articles in the negotiations of the successor Collective Bargaining Agreement.



Mark Carter
FSIP Chairman
Arbitrator

January 17, 2021
Charleston, WV

Attached - Ordered Language

ARTICLE 3 - RECOGNITION AND UNIT DESIGNATION**SECTION A:**

(1) The term EMPLOYER, as used in this AGREEMENT, is the U.S. Army Tank-automotive and Armaments Command (TACOM); the Combat Capabilities Development Command; the Ground Vehicle Systems Center (CCDC GVSC); the Program Executive Office, Combat Support and Combat Service Support (PEO CS&CSS); the Program Executive Office, Ground Combat Systems (PEO GCS); the Army Contracting Command - Detroit Arsenal (ACCDTA); the U.S. Army Garrison - Detroit Arsenal (USAG-DTA); the Network Enterprise Center - Detroit Arsenal (NEC); the U.S. Army Occupational Health Clinic - Warren; the U.S. Army Aviation and Missile Command - Test, Measurement, and Diagnostic Equipment - Detroit Arsenal (TMDE); and the Logistics Readiness Center - Detroit (LRC), with permanent duty stations at or away from the Detroit Arsenal, Michigan.

(2) The term UNION, as used in this AGREEMENT, is Local 1658, American Federation of Government Employees (AFGE), AFL-CIO.

SECTION B: All professional and non-professional Bargaining Unit EMPLOYEES assigned to an EMPLOYER listed in Section A are covered by this AGREEMENT. EMPLOYEES excluded from the Bargaining Unit are defined in 5 USC 7112 and they include: supervisors; management officials; confidential employees; and

those excluded by all current applicable laws, regulations and rules.

ARTICLE 9 - CHANGES OR MODIFICATIONS TO AGREEMENT

SECTION A: All written agreements between the UNION and the EMPLOYER and or individual organizations (e.g., Memoranda of Agreement (MOAs), Memoranda of Understanding (MOUs), etc.) in existence prior to the effective date of this Agreement are null and void, unless by its own termination terms, it continues.

SECTION B: Negotiated agreements (e.g., modifications to this Agreement, MOAs, MOUs, etc.) must be signed by each of the EMPLOYER's designated signatories and the UNION President or their designee. Once signed, a negotiated agreement must be sent to the DoD Defense Civilian Personnel Advisory Service (DCPAS) for Agency Head Review prior to implementation of the document embodying the agreed terms. This process must be coordinated through the EMPLOYER's Command Labor Advisor in the Detroit Arsenal CPAC. Once approved by DCPAS, a negotiated agreement becomes part of this AGREEMENT.

ARTICLE 11 - OFFICIAL TIME

SECTION A: The UNION and BU EMPLOYEES are employed to perform agency business. However, Federal law also permits Federal employees to represent BU EMPLOYEES, represent the UNION, and perform other non-agency business while in a paid duty status.

SECTION B: STATUTORY OFFICIAL TIME. In accordance with 5 USC § 7131 () and (c), BU EMPLOYEES representing labor organizations, during the time the BU EMPLOYEE otherwise would be in a duty status, shall be authorized official time to engage in the following activities:

(1) Negotiation of a collective bargaining agreement;

(2) Attendance at impasse proceeding; and

(3) Participation for, or on behalf of the UNION in any phase of proceedings before the Federal Labor Relations Authority (FLRA).

The number of BU EMPLOYEES for whom official time shall be authorized shall be consistent with 5 USC § 7131.

SECTION C: NEGOTIATED OFFICIAL TIME. UNION representatives shall be granted official time for the following activities and in accordance with the limitations proscribed in Section E, below:

(1) Grievances pursued through the Negotiated Grievance

Procedure (Art. 42);

(2) Matters and complaints pertaining to changes to conditions of employment, as defined by Chapter 71 and interpreting FLRA caselaw;

(3) Disciplinary and adverse actions (Art. 40); and

(4) Arbitrations (Art. 43)

(5) Formal Meetings under 5 USC 7114.

On mutual agreement, the parties may supplement this provision with additional circumstances where official time may be granted.

SECTION D: ROSTER AND ALLOTMENT

The UNION will provide the EMPLOYER an accurate roster of all *Elected* Officers and Stewards. The roster will list the representatives by title and telephone numbers. Excluding Elected Officers, the UNION will be authorized to appoint Stewards as follows:

Less than 2,000 BU EMPLOYEES: 4 Stewards

2,001 to 2,500 BU EMPLOYEES: 5 Stewards

2,501 to 3,000 BU EMPLOYEES: 6 Stewards

3,001 to 3,500 BU EMPLOYEES: 7 Stewards

3,501 to 4,000 BU EMPLOYEES: 8 Stewards

4,001 to 4,500 BU EMPLOYEES:	9 Stewards
4,501 to 5,000 BU EMPLOYEES:	10 Stewards
5,001 to 5,500 BU EMPLOYEES:	11 Stewards
5,500 to 6,000 BU EMPLOYEES:	12 Stewards
6,001 to 6,500 BU EMPLOYEES:	13 Stewards
6,501 to 7,000 BU EMPLOYEES:	14 Stewards
7,001 or more BU EMPLOYEES:	15 Stewards

No more than one (1) Steward will be appointed from any one branch or its equivalent.

SECTION E: INDIVIDUAL CAP OF 7131 (d)- OFFICIAL TIME

To facilitate the representation identified in Section C, above, when requested, a reasonable amount of official time, during the time the employee otherwise would be in a duty status, shall be granted to BU EMPLOYEES who have been elected or appointed to represent the UNION for purposes identified in this Article. The UNION representatives are limited to 25% of official duty time per fiscal year for representational activities under Section C. Once the 25% of official duty time limitations are met, the UNION representative may request reasonable amounts of annual leave or leave without pay to represent employees during regular duty hours. The Union may

only be granted official time at a rate of up to one hour per bargaining unit employee each fiscal year for the purposes identified in this section.

SECTION F: REQUESTING UNION TIME

(1) BU EMPLOYEES must request and obtain advance written authorization before using official time, except where obtaining prior approval is impractical. BU EMPLOYEES must submit requests for official time prior to leaving their immediate work site; such requests will be made by providing as much advance notification to the approving supervisor as possible as outlined in Section * of this Article.

(2) The UNION and BU EMPLOYEES shall comply with all EMPLOYER procedures governing the authorization of official time. All requests identified in Sections B and C, above, shall, at a minimum, meet the following criteria:

- a. Be in writing and submitted to the requesting employee's immediate supervisor;
- b. Include the estimated amount of official time needed;
- c. Provide the date and time when the official time will be used, where the representational function will occur, and the reason for which the official time, providing sufficient detail to identify the tasks the requesting party will undertake;

d. Inform the supervisor of the anticipated duration of absence, and if practicable, contact information where the UNION officer/steward can be reached; and

e. Specify the amount of time used, to date, by the requestor during the month in which the official time will be used.

(3) For continuous or ongoing requests, the UNION representative and/or BU EMPLOYEE must submit written requests for authorization renewals no less than once per pay period.

(4) UNION representatives and/or BU EMPLOYEES must submit separate advance written requests for authorization for use of official time in excess of previously authorized monthly percentages or for purposes for which such time was not previously authorized.

(5) If the supervisor does not approve the request, the BU EMPLOYEE will be informed of the reason(s); if the denial is due to workload, the BU EMPLOYEE will be permitted to proceed at the earliest mutually acceptable time.

(6) Elected or appointed UNION representatives will document use of official time in the Automated Time, Attendance, and Production System (ATAAPS) on the date the official time is used or as soon as possible thereafter. Such records will list the date, beginning and ending times of representation and will

identify the nature of representational activity by the appropriate time-keeping code.

(7) Any BU EMPLOYEE who uses official time either without advance written agency authorization (unless an exception applies) or for purposes not specifically authorized by the agency, shall be considered absent without leave and subject to appropriate administrative action.

SECTION G: INTERNAL UNION BUSINESS

Activities concerned with organizing efforts and the internal business of the UNION may be conducted only while the BU employees involved are in a non-duty status. Such activities include, but are not limited to, the solicitation of membership, elections of labor organization officials, lobbying Congress, collection of dues or other assessments, circulation of authorization cards or petitions, solicitation of signatures on dues withholding authorizations, campaigning for UNION office, and distribution of literature.

ARTICLE 12 - USE OF OFFICIAL FACILITIES

SECTION A: The EMPLOYER will provide the UNION with one authorized email account for the purposes described in Article 14, Section C, subject to the UNION'S compliance with the EMPLOYER'S internal security practices and procedures.

SECTION B: If the UNION wishes access to the EMPLOYER-owned facilities, equipment, or resources, it must provide the EMPLOYER with written notice of its request. If the resource is available to other non-federal entities, the EMPLOYER will consider the request and, if available, will provide the requested support.

ARTICLE 13 - VOLUNTARY DUES DEDUCTION**SECTION A: DEDUCTION OF UNION DUES**

Dues withholding from EMPLOYEES shall be administered in accordance with 5 U.S.C. Chapter 71, "The Federal Service Labor-Management Relations Statute" and the Authorities regulatory interpretation.

SECTION B: UNION REQUIREMENTS

(1) Make available the standard allotment forms (Standard Form 1187) to employees desiring Union membership;

(2) Inform the EMPLOYER of the amount of Union dues;

(3) Deliver completed SF 1187 allotment forms to the Labor-Management Employee Relations Office in the CPAC;

(4) Inform BU EMPLOYEES of the program for allotments for payment of Union dues, its voluntary nature, and the uses and availability of the required forms;

(5) Promptly notify Labor-Management Employee Relations Office in the CPAC when a UNION member for any reason ceases to be a member in good standing;

(6) Inform UNON MEMBERS of the conditions governing revocation of allotments; and

(7) Cooperate with the EMPLOYER in resolving any claims and disputes, to include repayment of erroneously collected

dues, which will be processed in accordance with all current applicable laws, regulations, rules.

SECTION C: EMPLOYER REQUIREMENTS

- (1) The EMPLOYER shall submit the completed SF 1187 to the appropriate financial office for processing;
- (2) The EMPLOYER will remit to the UNION all UNION dues withheld on a biweekly basis. The EMPLOYER will also provide a biweekly report itemizing UNION dues withheld.
- (3) The EMPLOYER shall submit the completed SF 1188 to the appropriate financial office for processing; and
- (4) Promptly notify the UNION of the revocation of an allotment for UNION dues by ineligible employee.

SECTION D: ELIGIBLE EMPLOYEE REQUIREMENTS

(1) Initiate voluntary allotments at any time to become effective at the start of the first pay period beginning after the completed SF 1187 has been received by the Labor-Management Employee Relations Office in the CPAC.

SECTION E: BU EMPLOYEE REVOCATION OF DUES

BU EMPLOYEES may not revoke their dues withholding authorization within the first year of such an authorization. Once this requirement is satisfied, a BU EMPLOYEE may revoke

their dues authorization in accordance with the dues withholding regulations.

SECTION F: TERMINATION OF AUTOMATIC DUES DEDUCTION DUE TO INELIGIBILITY

Notwithstanding the requirements of Section E above, BU EMPLOYEES are no longer eligible for automatic dues deduction when:

- (1) UNION loses its exclusive recognition;
- (2) BU EMPLOYEE is separated from duty for any reason;
- (3) BU EMPLOYEE is suspended or expelled from the UNION;
- (4) BU EMPLOYEE is assigned to a position excluded from the UNION's exclusive recognition; and
- (5) BU EMPLOYEE is ordered into active duty military status.

SECTION G: CHANGE IN UNION DUES

If the amount of the regular dues is changed, the UNION will certify such change in writing to the Labor-Management Employee Relations Office in the CPAC. The Labor-Management Employee Relations Office will relay the information to the appropriate financial office, which will withhold the newly certified amount of the dues beginning with the first complete pay period after receipt of the certification by the AGENCY.

SECTION H: UNION dues will not include such things as initiation fees, special assessments, back dues (e.g. accumulated dues not collected while the BU EMPLOYEE is in an unpaid status), fines or other similar items.

SECTION I: A full payroll deduction will be made for each pay period. When a BU EMPLOYEE is in a pay status for only part of the pay period, the order of deductions will follow all current applicable laws, regulations and rules. Should the amount of salary be insufficient to cover the withholding, the BU EMPLOYEE will be treated as if in a non-pay status.

ARTICLE 20 - LEAVE AND ABSENCE

SECTION A: The EMPLOYER and the UNION agree that BU EMPLOYEES are entitled to accrue and use leave in accordance with all current applicable laws, regulations and rules.

(1) BU EMPLOYEES have the responsibility to request leave. BU EMPLOYEES must receive supervisory approval before taking leave and cannot assume leave advance for approval of anticipated leave.

(a) SCHEDULED LEAVE. BU EMPLOYEES will submit a written request in advance for approval of anticipated leave.

(b) UNSCHEDULED LEAVE. When leave cannot be anticipated or scheduled in advance, BU EMPLOYEES shall contact their leave approving official to request leave. If the leave approving official is not available, the acting, second- or third-line supervisor or supervisors' designee must be contacted for approval/disapproval as soon as possible.

(2) The EMPLOYER has the responsibility to approve or disapprove leave. Consideration for leave approval may include individual workload, whether other available employees can perform the work and the criticality of the work to the EMPLOYER's mission. The leave request shall be approved or

disapproved on a timely basis. If leave is disapproved, upon request, BU EMPLOYEES will be informed of the reason(s).

(3) All leave shall be charged in multiples of 15 minutes. BU EMPLOYEES shall not be required to perform any duties for the EMPLOYER while in an authorized leave status.

SECTION B: ANNUAL LEAVE

(1) TENTATIVE ANNUAL LEAVE SCHEDULE. Each leave year, BU EMPLOYEES will provide to the EMPLOYER a tentative annual leave schedule, not later than 15 February. The EMPLOYER shall resolve conflicts resulting from BU EMPLOYEES' tentative leave schedules.

(2) USE OR LOSE. Use or lose annual leave may be restored in accordance with all current applicable laws, regulations and rules. The EMPLOYER agrees to annually publicize the use or lose policy no later than 1 October.

SECTION C: SICK LEAVE

(1) In accordance with all current applicable laws, regulations, and rules, BU EMPLOYEES must be granted accrued sick leave for the following examination or treatment;

(a) When the BU EMPLOYEE receives medical, dental, or optical examination or treatment;

(b) When the BU EMPLOYEE is incapacitated for the

performance of his or duties by physical or mental illness, injury, pregnancy, or childbirth;

(c) When the BU EMPLOYEE provides care for a family member (1) who is incapacitated by a medical or mental condition or attend to a family member receiving medical, dental, or optical examination or treatment; (2) who has a serious health condition; or (3) who would jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease.

(d) Make arrangements necessitated by the death of a family member or attends the funeral of a family member.

(e) Would jeopardize the health of others by their presence on the job because of exposure to a communicable disease.

(f) For purposes relating to their adoption of a child.

(2) LIMITATIONS ON USE OF SICK LEAVE: In accordance with all current applicable laws, regulations, and rules, the following limitations on use of sick leave apply:

(a) During any leave year, up to 104 hours may be granted to a BU EMPLOYEE who is providing care for a family member as described in Section C(1)(c)(1) and (3) and Section C(1)(d).

(b) During any leave year, up to 480 hours of sick leave

may be used to care for a family member with a serious health condition. However, if some of the 104 hours available for bereavement or other care of family members have been used, those hours must be deducted from the allowable 480 sick leave only when the need for sick leave is supported by administratively acceptable evidence. The EMPLOYER may consider a BU EMPLOYEE'S self-certification as to the reason for his or her absence as administratively acceptable evidence, regardless of the duration of the absence. The EMPLOYER may also require a medical certificate or other administratively acceptable evidence as to the reason for an absence in excess of 3 workdays, or for a lesser period when the EMPLOYER determines it is necessary.

(4) PRIVACY. If a BU EMPLOYEE submits medical documentation, the EMPLOYER shall safeguard it in accordance with all current applicable laws, regulations, and rules.

SECTION D: DISABLED VETERAN LEAVE (DVL)

(1) In accordance with all current laws, regulations, and rules, a BU EMPLOYEE hired on or after November 5, 2016, who is a veteran with a service-connected disability rating of 30% or more from the Veterans Benefits Administration (VBA) of the Department of Veterans Affairs is entitled to up to 104 hours

of disabled veteran leave for the purposes of undergoing medical treatment for such disability.

(2) DVL is a one-time benefit provided to an eligible BU EMPLOYEE. The eligible BU EMPLOYEE will have a single, continuous 12-month eligibility period, beginning on the first day of employment in which to use the leave or forfeit it with no opportunity to carry over the leave into subsequent years. A BU EMPLOYEE may not receive a lump-sum payment for any unused or forfeited leave under any circumstance.

SECTION E: LEAVE WITHOUT PAY (LWOP)

(1) LWOP is a temporary unpaid, authorized absence from duty for a specific period of time and shall be administered in accordance with all current applicable laws, regulations and rules.

(2) In accordance with all current applicable laws, regulations and rules, BU EMPLOYEES are entitled to LWOP in the following situations:

- Disabled veterans undergoing medical treatment for a service-connected disability;
- Reserve or National Guard Members for military duty; and
- BU EMPLOYEES exercising rights under the Family Medical Leave Act (FMLA).

(3) BU EMPLOYEES should be aware that LWOP affects their entitlement or eligibility for certain Federal benefits.

(4) BU EMPLOYEES granted LWOP must report for duty upon expiration of the LWOP.

(5) UNION representatives under Article 11, SECTION E.

SECTION F: ABSENCES AND OTHER LEAVE

(1) BLOOD DONATION. The EMPLOYER may excuse BU EMPLOYEES from work without charge to leave or loss of pay to voluntarily donate blood unless workload does not permit or the EMPLOYER believes that a BU EMPLOYEE is abusing blood donation privileges. The EMPLOYER may grant an excused absence for the time necessary to donate blood, recuperate following the donation, and reasonable travel time to and from the donation site. The maximum allowable excused absence is four (4) hours. Such excused absence can be used only on the day that blood is actually donated and only directly in conjunction with the donation. If an unusual need for recuperation occurs, the EMPLOYER may authorize up to an additional four (4) hours. BU EMPLOYEES who attempt to but do not actually donate blood are not entitled to any excused absence except for the actual time spent going to the donation site and returning back to the work site, normally not more than one (1) hour.

(2) WEATHER AND SAFETY LEAVE.

(a) In accordance with all current applicable laws (§6329(c) of the Administrative Leave Act of 2016, regulations (5 CFR §§ 630.1601-1607), and rules, the EMPLOYER may grant weather and safety leave when weather or other safety-related conditions prevent BU EMPLOYEES from safely traveling to, or safely performing work at, an approved location. Weather and safety leave may be granted to BU EMPLOYEES only if they are prevented from safely traveling to or performing work at an approved location due to: (1) an act of God (i.e, which means an act of nature, including hurricanes, tornadoes, floods, wildfires, earthquakes, landslides, snowstorms, and avalanches); (2) a terrorist attack; or (3) another condition that prevents a BU EMPLOYEE from safely traveling to or safely performing work at an approved location.

(b) Telework employees. BU EMPLOYEES who are participating in a telework program and are able to safely travel to and work at an approved telework site may not be granted weather and safety leave. If a BU EMPLOYEE is prevented from safely working at the approved telework site due to circumstances described in paragraph (a), applicable to the telework site, the EMPLOYER may provide weather and safety leave to the BU EMPLOYEE.

(c) Emergency employees. The EMPLOYER may designate emergency employees who are critical to agency operations and for whom

weather and safety leave may not be applicable.

(d) BU EMPLOYEES may be granted weather and safety leave only for hours within the tour of duty established for purposes of charging annual and sick leave when absent.

(3) MILITARY FUNERAL LEAVE. In accordance with all current applicable laws, regulations and rules.

(a) BU EMPLOYEES may request and will be granted up to three (3) days of excused absence for the death of a BU EMPLOYEE'S immediate relative who dies as a result of a wound, disease or injury incurred while serving as a member of the Armed Forces in a combat zone. Justification must be provided if the three (3) days are not consecutive.

(b) BU EMPLOYEES who are veterans may request and may be granted up to four (4) hours of excused absence to participate as a pall bearer, member of a funeral honors detail or an honor guard in funerals for active duty military members whose remains are returned from overseas for final burial in the United States.

(4) VOTING. The EMPLOYER may grant BU EMPLOYEES a limited amount of administrative leave to vote in Federal, State, county or municipal elections, as long as said leave does not seriously interfere with agency operations. When the voting polls are not open at least three (3) hours either before or

after a BU employee's tour of duty, he/she may request and be granted up to one (1) hour of excused absence to vote within a 3-hour window before or after the BU EMPLOYEE'S tour of duty. BU EMPLOYEES who are in a leave status for any portion of Election Day are not eligible for administrative leave to vote.

(5) COURT LEAVE. In accordance with all current applicable laws, regulations, and rules, BU EMPLOYEES are entitled to court leave for jury duty when said jury duty requires the BU EMPLOYEE to be absent from duty (including time spent waiting to be called or selected and related travel time). Such court leave shall be limited to the time necessary. A BU EMPLOYEE summoned for jury duty shall promptly notify their supervisor to request and receive approval prior to going on court leave. The request will include a copy of the order, summons or subpoena indicating the type of duty to be performed and the expected dates and hours of absence. Upon return to duty, BU EMPLOYEES must provide certification of court attendance to the leave approving official. Any pay received from the court for jury duty shall be tendered to the EMPLOYER; however, BU EMPLOYEES may keep any expense money received for mileage, parking or required overnight stay to the extent consistent with law.

(6) MILITARY LEAVE. In accordance with all current applicable laws, regulations, and rules, a covered BU EMPLOYEE may be

entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces.

SECTION G: VOLUNTARY LEAVE TRANSFER PROGRAM. In accordance with all current applicable laws, regulations, and rules, the parties will support the Voluntary Leave Transfer Program (VLTP). Under the VLTP, a covered employee may donate annual leave directly to another employee who has a personal or family medical emergency and who has exhausted his or her available paid leave. Any unused donated leave must be returned to the leave donor(s) when the medical emergency ends. Any BU EMPLOYEE desiring to participate in the VLTP shall contact the EMPLOYER'S VLTP Coordinator in the servicing CPAC.

SECTION H: FAMILY MEDICAL LEAVE ACT (FMLA). In accordance with all current applicable laws, regulations, and rules, the EMPLOYER, the UNION, and all BU EMPLOYEES agree to comply with the terms and requirements of the FMLA.

(1) A BU EMPLOYEE may contact their first line supervisor for assistance with invoking and processing a BU EMPLOYEE'S request for FMLA.

(2) Upon request by a BU EMPLOYEE, the EMPLOYER will inform the BU EMPLOYEE of entitlements and responsibilities under the FMLA.

SECTION I: RELIGIOUS OBSERVANCES

(1) To the extent that modifications in work schedules do not interfere with the efficient accomplishment of the EMPLOYER'S mission, BU EMPLOYEES may request to work overtime and earn compensatory time for the purpose of taking time off without charge to leave when a BU EMPLOYEE requests such time off for religious observances when the BU EMPLOYEE'S personal religious beliefs require the abstention from work.

(2) The BU EMPLOYEE should work the compensatory time prior to the occasion requiring their absence from duty. When compensatory time is advanced to a BU EMPLOYEE for these purposes, the BU EMPLOYEE must repay the advanced compensatory time off by working the appropriate amount of compensatory work within a reasonable period; if it is not repaid within 90 days, AWOL will be charged for the remaining time owed unless the BU EMPLOYEE requests to be charged annual leave or leave without pay (LWOP).

SECTION J: ABSENCE WITHOUT APPROVED LEAVE (AWOL). AWOL is an unpaid absence from duty which is not authorized or approved. AWOL can become the basis for possible disciplinary or adverse action.

ARTICLE 24 TRAVEL

The EMPLOYER and the UNION agree that travel will be governed by the provisions of the Joint Travel Regulation (JTR), in conjunction with all current applicable laws, regulations, and rules.

ARTICLE 25 - WORK ENVIRONMENT RELEASE

SECTION A: The EMPLOYER agrees to follow all current applicable laws, regulations, and rules for work environment release.

SECTION B: If the work environment presents an unsafe or unhealthful working condition, the EMPLOYER will follow the weather and safety provisions of Article 20, Section F(2).

ARTICLE 29 - PERFORMANCE APPRAISAL

SECTION A: The EMPLOYER and the UNION agree that the Federal workforce should be used efficiently and effectively; BU EMPLOYEES should be recognized for good performance, retained based on adequacy of their performance; inadequate performance should be corrected; and BU Employees who cannot or will not improve performance to meet required standards will be subject to administrative action.

SECTION B: MULTIPLE PERFORMANCE SYSTEMS. Performance appraisal systems in effect for BU EMPLOYEES will be administered based on their position of assignment and in accordance with all current applicable laws, regulations and rules.

SECTION C: PERFORMANCE PLAN. Performance objectives will be developed in accordance with the guidelines for each individual performance appraisal system.

SECTION D: PERFORMANCE MANAGEMENT. The EMPLOYER and the UNION agree that Supervisors and BU EMPLOYEES should engage in two-way performance feedback throughout the appraisal cycle in accordance with the BU EMPLOYEES' performance appraisal system. Acceptable methods of performance feedback include, but are not limited to:

- (a) verbal feedback sessions;
- (b) one-on-one meetings;
- (c) electronic communications;
- (d) impromptu recognition;
- (e) and/or acknowledgement of performance

SECTION E: LESS THAN ACCEPTABLE PERFORMANCE

(1) In accordance with all current applicable laws, regulations, and rules, the EMPLOYER will provide the following to a BU EMPLOYEE who is failing to perform or contribute at an acceptable level:

- (a) formal notice (e.g., Performance Improvement Plan (PIP) or Contribution Improvement Plan (CIP)); and

(b) a reasonable opportunity to demonstrate acceptable performance.

(2) If the BU EMPLOYEE fails to improve to the acceptable level as required by the PIP/CIP, the EMPLOYER or its designated representative reserves the management right to initiate adverse action.

(3) If the BU EMPLOYEE improves to the acceptable level by the conclusion of the improvement period, the EMPLOYER or its designated representative will notify the BU EMPLOYEE in writing that he/she has achieved an acceptable level of performance.

SECTION F: PERFORMANCE EVALUATION. At the end of a rating period, the EMPLOYER, in accordance with all current applicable laws, regulations, rules, and the BU EMPLOYEE'S performance appraisal system, will provide written assessment of the BU EMPLOYEE'S performance or contributions during the rating period. The BU EMPLOYEE's performance will be assessed based upon the substance of their contribution(s).

SECTION G: DENIAL OF WITHIN-GRADE-INCREASES (WIGI). BU EMPLOYEES who are eligible for WIGI under a performance appraisal system shall have the right to dispute the denial of the WIGI under the negotiated grievance procedure in accordance with Article 42.

SECTION H: RATINGS. The EMPLOYER shall not impose forced distribution (i.e., quotas) of ratings (e.g., only 10% may receive a Level 5 rating). Ratings will not be manipulated to give undue advantage to any BU Employee.

SECTION I: UNION OFFICIALS. Performance ratings of the officers and stewards of the UNION shall be based solely on the performance of mission related activity.

ARTICLE 32 - MERIT PROMOTION

SECTION A: When the EMPLOYER uses merit promotion procedures, merit promotion will be conducted and selections will be made in accordance with current applicable laws, regulations, and rules and will be based on merit principles. Merit promotion is one method available to the EMPLOYER to fill BU positions. In accordance with current applicable laws, regulations, and rules, other hiring methods in lieu of merit promotion may be used at management's discretion.

SECTION B: BU EMPLOYEES are responsible to search for and identify those vacancies for which they seek to be considered.

BU EMPLOYEES must apply for positions via and in accordance with the EMPLOYER'S automated system. BU EMPLOYEES are responsible for ensuring their resumes and supplemental data are current and properly submitted.

SECTION C: BU EMPLOYEES are responsible for accessing the EMPLOYER'S automated system to determine the status of their resume(s), self-nomination(s), referral(s), and selection(s).

SECTION D: BU EMPLOYEES who have questions or who want clarification regarding the reason(s) they were not referred or reason(s) why they were not selected will submit their request through the EMPLOYER'S automated system.

ARTICLE 39 - PERSONNEL DEMONSTRATION PROJECTS

SECTION A: The EMPLOYER may bargain and implement personnel demonstration projects (e.g., acquisition, laboratory) in accordance with all current applicable laws, regulations, and rules.

ARTICLE 40 - DISCIPLINARY AND ADVERSE ACTIONS

SECTION A: Merit system principles call for holding all Federal BU EMPLOYEES accountable for their conduct and performance. The EMPLOYER and UNION mutually agree that it may be necessary at times for the EMPLOYER to address a BU EMPLOYEE'S behavior, conduct, performance, or other conditions which could result in a disciplinary and/or adverse action. Disciplinary and adverse actions will be effectuated in accordance with all applicable laws, regulations and rules.

SECTION B: DISCIPLINARY ACTIONS. A disciplinary action is defined as a written reprimand or a suspension for fourteen (14) calendar days or less.

(1) REPRIMAND. A reprimand is a written notification dealing with specific infraction(s) which is placed in the BU EMPLOYEE'S electronic official personnel folder (eOPF) for a maximum period of three (3) years. Written reprimands may be removed at any time by the issuing supervisor. If the reprimand is removed early, the affected BU EMPLOYEE will be notified.

(2) SUSPENSIONS OF 14 DAYS OR LESS. A BU EMPLOYEE against whom a suspension of fourteen (14) days or less is proposed will be given a reasonable amount of time, normally five (5) calendar days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the BU EMPLOYEE'S response(s). If the fifth day falls on a weekend or Federal holiday, the BU EMPLOYEE'S response must be submitted no later than the next business day. If the BU EMPLOYEE chooses to submit a response to the proposed action within the prescribed timeframes, such response will be considered prior to a final decision being issued. If no response is given, the final decision will be issued after the prescribed time allowed for such reply.

SECTION C: ADVERSE ACTIONS. An adverse action is defined as a suspension from duty for more than fourteen (14) days, a reduction in grade, a reduction in pay, a furlough of thirty (30) days or less, or removal from federal service. Unless an

exception exists in law, regulation, or rule, a BU EMPLOYEE against whom an adverse action is proposed is entitled to the following:

(1) At least thirty (30) calendar days' advance written notice, and

(2) Seven (7) calendar days to answer orally and in writing and to furnish affidavits and other documentary evidence in support of BU EMPLOYEE'S response(s). If the seventh day falls on a weekend or Federal holiday, the BU EMPLOYEE'S response must be submitted no later than the next business day.

SECTION D: A BU EMPLOYEE against whom a suspension or adverse action is proposed will be informed of the BU EMPLOYEE'S right to review the material which is relied on to support the reasons for the proposed action. If requested in writing, all the material relied on to support the proposed action will be made available to the BU EMPLOYEE. If requested, a BU EMPLOYEE will be afforded a reasonable amount of duty time, not more than three (3) hours to prepare a response to the proposed action; BU EMPLOYEES must request and receive approval from their first line supervisor before duty time is authorized for such purpose. If a BU EMPLOYEE seeks to spend additional time during their duty hours to prepare a response to a proposed action, the BU EMPLOYEE must first request and receive approval before duty time is authorized for such purpose.

SECTION E: WRITTEN DECISION. If the BU EMPLOYEE chooses to submit a response to a proposed suspension or adverse action within the prescribed timeframes, such response(s) will be considered prior to a final decision being issued. If no response is given, the final decision will be issued after the time allowed for such reply. A written decision will be provided to the BU EMPLOYEE on or before the effective date of the action. The decision must specify the reason(s) for the decision and advise the BU EMPLOYEE of applicable appeal rights.

SECTION F: The EMPLOYER may effectuate a letter of reprimand in lieu of a suspension from duty as any step(s) in the progressive discipline process, if followed. For example, if the EMPLOYER issues a letter of reprimand as the first step in the

progressive discipline process, the EMPLOYER may, but is not required to, issue a second letter of reprimand in lieu of a suspension as the second step in the progressive discipline process.

ARTICLE 42 - GRIEVANCE PROCEDURE

SECTION A: The EMPLOYER and the UNION recognize that disputes may occasionally arise concerning the terms and conditions of this AGREEMENT and such disputes shall be resolved through this grievance procedure. Grievances are concerns, problems or complaints (i.e., working conditions, adverse actions, work relationships, application of personnel policies, etc.) filed by the UNION and/or by a BU EMPLOYEE.

SECTION B: BU EMPLOYEES are encouraged to resolve problems at the lowest possible level and to use informal discussions to resolve problems without the grievance procedure. Prior to initiating a grievance, a BU EMPLOYEE is encouraged to discuss the matter with their immediate supervisor.

SECTION C: BU EMPLOYEES have the right to file a formal grievance. When filing a formal grievance, BU EMPLOYEES may represent themselves or request the UNION to act as their exclusive representative; however, BU EMPLOYEES cannot be represented by individuals of their own choosing, to include attorneys.

SECTION E: The following are excluded from coverage under the negotiated grievance procedure:

- (1) Any claimed violation relating to prohibited political activities;
- (2) Retirement, life insurance or health insurance;
- (3) Any examination, certification or appointment;
- (4) The classification of any position which does not result in the reduction in grade/band or pay of a BU employee;
- (5) Non-selection for promotion from a group of properly ranked and certified candidates;

SECTION F: Except as stated below, these negotiated grievance procedures are the exclusive procedures for resolving grievances.

- (1) A grievance addressing a complaint of a discriminatory prohibited personnel practice may be filed in accordance with the negotiated grievance procedure or through the EMPLOYER's EEO regulatory procedure as addressed in Article 41, but not both. Once a grievance is filed officially, it cannot be withdrawn for the purpose of refileing under the other procedure. A BU employee who selects the negotiated grievance procedure to address a prohibited personnel practice which is otherwise appealable to the Merit Systems Protection Board (MSPB) and involves a claim of discrimination retains the right to request the MSPB or the Equal Employment Opportunity Commission (EEOC) to review the final grievance decision.
- (2) For grievances concerning performance and/or conduct a BU employee may file the grievance with the MSPB or these negotiated grievance procedures, but not both. Once an action is filed, it cannot be withdrawn for the purpose of refileing under the other procedure.

SECTION G: When an issue of grievability is raised, written notification of the grievability issue will be forwarded to the EMPLOYER's Command Labor Advisor for a determination. If raised, but not resolved to the satisfaction of the UNION and/or EMPLOYER, either party may refer the issue of grievability to arbitration.

SECTION H:

- (1) Grievances must be submitted in writing and, in order to minimize confusion and to help expedite resolution, the grievance should, but is not required to include the following:
 - (a) The matter and/or issue being grieved;
 - (b) Whether a meeting is requested;
 - (c) The specific provision(s) of law, regulation, or this Agreement which has been allegedly misinterpreted, misapplied, or violated;
 - (d) A statement explaining how the EMPLOYER allegedly violated the provision(s) cited in Section H(1)(d);

(e) The specific relief sought; and

(f) The name of the UNION representative representing the grievant(s), if known.

(2) Nothing in these procedures will preclude either party from attempting to informally resolve any grievance at any time; however, informal attempts to resolve a grievance do not extend the time limits to file a grievance.

(3) Time limits as stated in these procedures may be extended by the written mutual consent of the concerned parties.

SECTION I: GRIEVANCE PROCEDURE.

(1) STEP 1

A BU EMPLOYEE and/or the UNION will file a formal grievance to the BU EMPLOYEE'S immediate supervisor within seven (7) calendar days after the grievant either knew or should have known of the specific matter and/or issue being grieved. A meeting may be held, if requested, to attempt to resolve the grievance. The EMPLOYER will render a written decision within fifteen (15) calendar days of the filing of the grievance.

(2) STEP 2

Any grievance unresolved at STEP 1 may be submitted to STEP 2, not later than fifteen (15) calendar days after the date of the STEP 1 decision.

A STEP 2 grievance must be submitted to the next higher-level supervisor. A meeting may be held, if requested, to attempt to resolve the grievance. The EMPLOYER will render a written decision within fifteen (15) calendar days of the meeting or the matter being elevated, if no meeting is requested.

(3) STEP 3

Any grievance unresolved at STEP 2 may be submitted to STEP 3, not later than fifteen (15) calendar days after the date of the STEP 2 decision. A STEP 3 grievance must be submitted to the next higher-level supervisor. A meeting may be held, if requested, to attempt to resolve the grievance. The EMPLOYER will render a written decision within fifteen (15) calendar days

of the meeting, if request or the matter being elevated, if no meeting is requested.

SECTION J: Not all steps may be applicable in all situations. The parties may mutually agree in writing to waive one or more steps to expedite grievance processing as the situation may warrant.

ARTICLE 43 -BINDING ARBITRATION

SECTION A: If a grievance processed under the negotiated grievance procedures was not resolved between the parties, the EMPLOYER or the UNION may refer the grievance to binding arbitration. The party who refers the grievance to arbitration is the referring party. When referring a grievance for arbitration, the referring party must submit a written request to the opposing party (i.e., the EMPLOYER'S Command Labor Advisor and/or the UNION President) within thirty-five (35) calendar days of receipt of the STEP 3 grievance decision.

SECTION B: Within seven (7) days of the matter being referred to arbitration, the parties may mutually agree to request the Federal Mediation and Conciliation Service (FMCS) to provide a list of five (5) arbitrators. Within seven (7) calendar days after the receipt of the list, the referring party must initiate a meeting with the opposing party to mutually select an arbitrator. If an arbitrator is not mutually selected from the list, then the EMPLOYER and the UNION will each strike one arbitrator's name from the list of the list. The remaining person shall be selected as the arbitrator.

SECTION C: The parties may provide the arbitrator with a joint submission of the issue(s) to be decided. If the parties fail to agree on a joint submission of the issue(s) to be decided by the arbitrator, each shall submit a separate submission; the arbitrator shall determine the issue(s) to be heard. Only matters and/or issues properly raised during the negotiated grievance procedure may be raised during arbitration.

SECTION D: The arbitrator does not have authority to add to, subtract from, alter, amend any provision of this AGREEMENT, or impose on either the EMPLOYER or the UNION any limitation or obligation not consistent with the terms of this AGREEMENT and applicable case law.

SECTION E: The arbitrator's decision(s) will be governed by all current applicable laws, regulations, and rules.

SECTION F: Each party will be responsible for its own costs and expenses. The arbitrator's fee shall be borne equally.

SECTION G: The arbitration hearing will be held on the EMPLOYER's premises during regular business hours, at no cost to the UNION.

SECTION J: When an issue of arbitrability and/or grievability is raised, the parties may request an expedited decision and may submit a written statement and evidence in support of its position. The arbitrator may make a determination based on the written record without the necessity of a full hearing on the merits. If an arbitrator determines that the matter is arbitrable and/or grievable, after any exceptions and/or requests for reconsideration are processed, the referring party may request arbitration on the merits in accordance with procedures prescribed in this Article.

SECTION L: The arbitrator's decision shall be binding on both parties. However, either party may file exceptions to the decision in accordance with all current applicable laws, regulations, and rules.

ARTICLE 44 - MISCELLANEOUSSECTION A: Parking

(1) The EMPLOYER shall provide disabled parking at the Detroit Arsenal in accordance with all current applicable laws, regulations, and rules.

(2) BU EMPLOYEES who possess and display a valid temporary or permanent disabled parking permit are authorized to park in spaces marked by blue stripes and "Handicapped Parking" signage on a first-come/first-serve basis. Disability parking placards must be displayed on the rearview mirror on vehicles which do not have a handicapped license plate.

(3) The EMPLOYER shall notify the UNION in writing within one (1) to three (3) business days if the availability of disabled parking will be effected by short notice emergency repairs and/or maintenance.

(4) The EMPLOYER shall provide advance written notice to the UNION if a command sponsored special event disrupts the availability of disabled parking in a specific parking location. Advance written notice will be provided as soon as the EMPLOYER becomes aware of the command sponsored event.

Alternative parking areas will be identified and designated as temporary disabled parking during the special event.

SECTION B: Dress Code

BU EMPLOYEES will be appropriately attired while in a duty status. The EMPLOYER has the right to issue dress code policies addressing presentable and appropriate attire within each individual office.

SECTION C: Damage to Employer Vehicles

The EMPLOYER will only hold BU EMPLOYEES financially liable for damage to EMPLOYER vehicles pursuant to a financial liability investigation of property loss finding and all current applicable laws, regulations or rules.