



HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

May 13, 2022

MEMORANDUM FOR ALL MANAGERS

FROM: Kevin Q. McIver **JC1HB**
IRS Human Capital Officer

Digitally signed by JC1HB
Date: 2022.05.13 09:15:46 -04'00'

SUBJECT: 2022 National Agreement Consolidated "Pass-Through" Provisions

The Human Capital Board approved the attached benefits ("pass-through" provisions), to managers and non-bargaining unit (NBU) employees.

- Part A - "pass-through" provisions from the 2022 National Agreement
- Part B - "pass-through" provisions from the 2016 National Agreement
- Part C - "pass-through" provisions from the 2012 National Agreement II
- Part D - "pass-through" provisions from the 2009 National Agreement II
- Part E - "pass-through" provisions from previous term contracts

Note: The "pass-through" provisions in Parts D and E continue as revised consistent with changes made to the 2022 National Agreement.

Employees with questions should speak to their managers.

Managers with questions should speak to their servicing Labor/Employee Relations Specialists.

Attachment

Consolidated “Pass Through” Provisions from National Agreements

March 2, 2022

Part A - 2022 National Agreement

Article 7 – Personnel Records, Section 4

Any non-disciplinary actions issued to employees such as letters or memoranda of counseling, records of discussion, emails, or any other issuance that could lead to discipline and is not part of an ongoing disciplinary or investigatory matter may not be relied on by the IRS after two (2) years of the issuance date and should be promptly purged from the employee’s file.

Article 11 - Facilities and Services, Section 20

Fulltime employees designated as frequent teleworkers or who are out of the office eighty (80) hours or more per month will be provided a lockable file cabinet (if not already provided) to be located at their POD, upon request.

Article 13 - Promotions/Other Competitive Actions, Section 1

NBU employees temporarily changing positions as a result of a non-competitive temporary promotion or detail will return to the working conditions of their permanently held position once the temporary assignment ends (e.g., resumption of AWS, Telework).

Article 13 - Promotions/Other Competitive Actions, Section 4

If vacancies in more than one POD are announced, employees may identify, in order of preference, up to six (6) PODs that they would accept if selected. If vacancies at more than six (6) PODs are announced, employees may also indicate their interest in other PODs listed.

Article 16 - Details and Non-Competitive Temporary Promotions, Section 1

Details of more than thirty (30) consecutive calendar days will be formally documented by the placement of documentation in the employee’s Official Personnel Folder (OPF).

Article 18 - Awards, Sections 1 and 2 - The IRS will distribute no less than two percent (2%) of total annual non-bargaining unit salary to awards. The minimum performance award will be \$500. The maximum performance award will be 10% of an employee’s salary or up to \$10,000, whichever is less, pursuant to 5 USC § 4505a and 5 CFR § 451.107(a).

Article 18 - Awards, Section 6 - Employees who were assigned to a bilingual position description for at least 60 days or who regularly (more than just occasionally) utilize their bilingual skills but are not assigned to a bilingual position description will receive a Bilingual Award of \$750.

Article 23 - Special Tours of Duty, Section 9 - Upon an employee's request, the Employer will, subject to workload requirements, establish a special tour of duty (e.g., a split shift) for educational purposes, including courses approved under the Tuition Assistance Program (TAP), in accordance with applicable laws, rules and regulations.

Article 23 - Hours of Work, Section 10 - A grant of advanced Religious Comp Time (RCT) will be repaid by the appropriate amount of compensatory overtime work, within 13 pay periods. If advanced RCT is not repaid within 13 pay periods, the time outstanding will be charged in the following order: annual leave, credit hours, compensatory time off in lieu of regular overtime, compensatory time off for travel, or time off awards. If a negative balance remains, the outstanding time will be converted to LWOP, resulting in a debt.

Article 27 - Health and Safety, Section 1 - When temporary conditions in a work area pose a threat to an employee's health or physical safety, the employee will be moved to a safe work location elsewhere in the employee's post-of- duty (POD) or to another IRS office within the commuting area until the work area no longer poses a threat to the employee's health or physical safety. If other facilities are not available, temporary Telework will be authorized if the employee's work may be accomplished at a Telework location. If an employee is unable to complete their tour of duty on account of the safety or hazardous condition, they will be granted weather and safety leave for the remainder of the day.

Article 27 - Health and Safety, Section 4

If COVID-19 booster shots are not provided at the Employer's POD, the Employer will grant administrative time to employees to receive any COVID-19 booster shots, if recommended by the CDC, including reasonable time to travel to and from the POD or site within the commuting area at which such shots are provided.

Article 27 - Health and Safety, Section 9

The Employer will continue to provide an Employee Assistance Program (EAP), and Employees will be offered four, one hour counseling sessions for each service utilized as necessary.

Article 29 - Travel, Section 3

Per diem entitlement is contingent upon an employee's assignment to a temporary duty outside the commuting area of the employee's official station or residence. To be considered outside these boundaries, the place of duty must be outside the boundaries of the employee's official station, more than fifty (50) miles from the employee's permanently assigned location (office) and more than fifty (50) miles from the employee's residence.

Article 29 – Travel, Section 16

The Employer will share one-half of all travel savings on airfare and lodging expenses 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.

Article 32 – Annual Leave, Section 1

The Employer has determined that annual leave will be granted in a manner which permits each Manager or non-bargaining unit employee to take consecutive days off up to two (2) consecutive weeks or more of annual leave each year. The Employer shall make every reasonable effort to grant employee requests for annual leave consistent with workload and staffing needs.

Managers or non-bargaining unit employees may request annual leave in 15-minute increments.

Article 33 - Family Leave, Section 1

According to the Federal Employee Paid Leave Act, employees may substitute up to twelve (12) weeks (480 hours) of paid parental leave for unpaid FMLA leave for the birth, adoption, or foster care placement of a child.

Article 33 - Family Leave, Section 6

In addition to any leave to which an employee may be entitled to under the FMLA and/or the Paid Parental Leave Act, employees may be granted an additional six (6) months of leave for parental reasons. The Employer will not ordinarily require the employee to return to duty earlier than nine (9) months after childbirth. The employee is not required to invoke entitlement to FMLA to request up to nine (9) months of parental leave. However, the employee must invoke entitlement to FMLA to receive leave under the FMLA including the substitution of paid parental leave. (Applies to both parents)

Article 34 – Sick Leave, Section 3

The Employer has determined that it will consider a manager's or non-bargaining unit employee's self-certification as to the reason for their absence as administratively acceptable evidence, and will not require a doctor's certificate, for absences of three (3) consecutive workdays or less, unless the employee is subject to a sick leave restriction letter, or the Employer has reasonable grounds to believe that the employee is improperly requesting or using sick leave. When required, a medical certificate shall be provided to the Employer no later than fifteen (15) days after the date the Employer requests it.

Article 34 - Sick Leave, Section 4

Sick leave restriction letters will be based on a manager's or non-bargaining unit employee's absences due to alleged illnesses. Sick leave restriction letters will not be based on a manager's or non-bargaining unit employee's use of approved annual leave (not including annual in lieu of sick leave) or leave approved under the Family Medical Leave Act. Managers and non-bargaining unit employees on sick leave restriction letters may request annual leave and Family Medical Leave under the applicable sections of the Internal Revenue Manual.

Managers and non-bargaining unit employees who are not subject to a sick leave restriction letter, will not be required to furnish a medical 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 a medical certificate regarding the chronic condition. The Employer may periodically require further medical certification to substantiate a manager's or non-bargaining unit employee's continued use of this provision.

Article 50 - Telework, Section 1

For all Telework arrangements, the Telework location must be within a 200-mile radius of the employee's assigned POD. Managers have discretion to approve exceptions of greater distances for up to two pay periods per calendar year.

Article 50 - Telework, Section 2

Where the employer has determined a wired connection is necessary for teleworking, cables of up to 100' feet will be provided, upon request.

Articles 50 –Telework, Section 2.F

A manager or non-bargaining unit employee who meets the Telework Program eligibility criteria, is assigned to one of the occupations listed in Exhibit 50-2 and has regular and recurring duties that may be performed at the approved Telework site for more than eighty (80) hours each month will normally be approved for Frequent Telework upon request.

Article 50 - Telework, Section 4

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 forty-eight (48) hours' notice to the employee.

Article 50 - Telework, Section 7

Where an employee's telework site is impacted by the same weather- or safety-related condition as the POD, and the condition prevents the employee from safely working, the employee may be granted weather and safety leave. If an employee's telework site is impacted by an emergency condition, and the condition prevents the employee from safely working, the employee may be granted weather and safety leave.

Article 50 - Telework, Section 7

In the event the office has a delayed opening, telework ready employees who were scheduled to report to the office may use unscheduled telework for their entire tour of duty or arrive at the delayed opening time to complete their tour of duty in the office.

Article 50 - Telework, Section 8

If requested and related to their job duties, employees participating in Recurring Telework will be provided with a lockable file cabinet.

Article 56 - Child Care Subsidy Program

A "Childcare Subsidy Program" will be maintained, subject to budgetary limitations. Fifteen million dollars (\$15,000,000) annually will fund this program, adjusted yearly to reflect changes in the consumer price index (CPI). This amount includes administrative costs and vendor's fees. The IRS will provide information regarding the Child Care Subsidy Program on an annual basis, including Application Forms and Child Care Subsidy Agreement Forms.

The following employees may apply for this program:

1. Any permanent or seasonal full time or part time employee.
2. One or more qualifying children.
3. Employees whose total annual family income is less than \$90,000.

Part B - 2016 National Agreement

Article 5 – Employee Rights, Section 19

If a manager or a non-bargaining unit employee's SSN is disclosed to an unauthorized, third (outside) party by the Employer or its agent, and the Employer determines through established procedures that the risk or likelihood of identity theft is high, then the Employer will offer the manager or non-bargaining unit employee identify theft protection for one (1) year.

Article 29 – Travel, Section 3

Managers and non-bargaining unit employees will be reimbursed for emergency personal telephone calls while in travel status. Managers and non-bargaining unit employees will be reimbursed for brief personal telephone calls (usually five to ten minutes) each day while they are in travel status.

Article 36 – Administrative, Weather and Safety and Other Leave, Section 2

Consistent with IRS policy for federal and state elections, if a manager or non-bargaining unit employee is unable to vote on the day of the election because of 1. activities related to IRS mission (such as travel) and cannot vote by absentee ballot; and 2. the early voting hours are the same as, or exceed, voting hours on the day of the election, such a manager or non-bargaining unit employee may be granted an amount of excused absence to vote or register which will permit him/her to report to work three hours after the polls open or leave work three hours before the polls close, whichever requires the lesser amount of time.

Article 36 - Administrative, Weather and Safety and Other Leave, Sections 7, 11,12, & 14 [Now: Article 36, Sections 7, 10, 11 & 13]

Expansions: Excused Absence for: managers and non-bargaining unit employees who return from active military duty in support of Overseas Contingency Operations; managers and non-bargaining unit employees who donate blood or blood derivatives; Benefits counseling sponsored or made available by the Federal Government; Bone Marrow or Organ Donations, including the time needed to travel and the time for testing

to determine compatibility. Court leave will be provided to be a juror or a witness when the Federal, State, or Local Government is a party to the proceeding.

Article 36 - Administrative, Weather and Safety and Other Leave, Section 15 [Now: Article 36, Section 14]

When an early departure time is announced and the manager or non-bargaining unit employee experiences circumstances warranting special consideration, consistent with workload and staffing needs, management may grant administrative leave from the time the manager or non-bargaining unit employee leaves work through the remainder of the TOD, provided that the manager or non-bargaining unit employee provides management with reasonably acceptable documentation.

Part C - 2012 National Agreement II

Article 23 – Hours of Work, Section 2 [Now: Article 23, Section 3]

The work schedules listed below may be made available to managers and non-bargaining unit employees at the election of the management. Also, management may develop eligibility and participation rules for Alternate Work Schedules (AWS) and the staggered work schedule based on the work of their organization or may elect to utilize the rules for administering AWS and the staggered work schedule found in Article 23 of the 2009 National Agreement II.

• **Alternate Work Schedules**

- Flexitour with Credit Hours flexible work schedule
- Gliding flexible work schedule
- Maxiflex flexible work schedule
- 5/4-9 compressed work schedule
- 4/10 compressed work schedule

• **Staggered Work Schedule**

A staggered work schedule may be made available to managers and non-bargaining unit employees.

If management elects to utilize Article 23 to administer alternate work schedules and the staggered work schedule, managers and non-bargaining unit employees working in a business unit covered in one of the exhibits to Article 23 may be limited by the manager in the work schedules available. A summary of the employees covered by each exhibit follows:

- **Exhibit 23-1** covers Campus and remote employees in SB/SE Campus Compliance, W&I Campus Compliance, W&I Joint Operations Center, Accounts Management, 3 Submission Processing and Correspondence Production Services and the National Distribution Center in Media and Publications.

- **Exhibit 23-2** covers non-campus public contact employees in W&I Field Assistance in Taxpayer Assistance Centers, SB/SE and Large Business & International Tax Compliance Officers (TCO) and TCO Support Staff.
- **Exhibit 23-3** covers employees in MITS/IT.
- **Exhibit 23-4** covers employees in TAS.

2009 National Agreement II

Article 27 – Health and Safety, Section 5 [Now: Article 27, Section 4]

Managers and non-bargaining unit employees may be granted, consistent with workload, administrative time to receive flu shots provided by the IRS, including reasonable time to travel to and from another POD in the commuting area if the flu shots are not offered at the manager's or non-bargaining unit employee's POD.

Article 30 - Training, Section 10 [Now: Article 27, Section 9]

If funding is provided by the IRS, managers and non-bargaining unit employees may participate in the Tuition Assistance Program (TAP).

Previous Term Agreements

Article 11 – Facilities and Services, Section 21 [Now: Article 11, Section 18]

Managers and non-bargaining unit employees at campuses, who currently do not have access, may be offered access to e-mail, Intranet, internet and any authorized applications on the employee's 5081 profile through the kiosk type structures and business centers provided for bargaining unit employees. Management may elect to follow the procedures in Article 11, Section 21, to administer access and usage.

Article 19 – Reduction in Force and Mitigation Strategies, Section 5

Directly impacted managers and non-bargaining unit employees will receive the following Reduction-in-Force (RIF) mitigation strategies: Reassignment Preference Notice, Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payments (VSIP), voluntary incentives using job swaps, outplacement services prior to Career Transition Assistance Program (CTAP) eligibility, relocation to "Follow Your Work," Voluntary Relocation Incentives (VRI) for managers and non-bargaining employees approved under "Follow Your Work," part-time and job sharing opportunities, CTAP and Interagency Career Transition Assistance Plan (ICTAP), grade and pay retention and Employee Assistance Program (EAP) services.

Article 21 - Retirement, Section 1

The IRS will provide a retirement planning program for managers and non-bargaining unit employees. Managers and non-bargaining unit employees, who are within six years of optional retirement eligibility, shall be notified by the IRS that they may attend one retirement planning program on administrative time.

Article 21 - Retirement, Section 4

For new managers and non-bargaining unit employees desiring financial information relating to the TSP or the Federal Retirement Thrift Investment Board (FRTIB) that administers the TSP, the IRS will provide educational materials and the link to the TSP website.

Article 23 – Hours of Work, Section 4 [Now: Article 23, Section 5]

With prior approval, managers and non-bargaining unit employees will be allowed to earn a maximum of three credit hours per regularly scheduled workday and up to ten credit hours on regular non-workdays. Subject to managerial approval and established time bands, credit hours may be earned at the beginning of the shift, the end of shift, or split between the beginning and end of the shift. In addition, and if approved, credit hours may be earned non-contiguously, (e. g., an employee may earn one at the end of the workday and two more later that day at a site approved by the supervisor).

Article 23 – Hours of Work, Section 4 [Now: Article 23, Section 5]

With prior approval, managers and non-bargaining unit employees may earn and use credit hours in 15-minute increments.

Article 23 – Hours of Work, Section 5 [Now: Article 23, Section 6]

Prior to the beginning of a pay period, a manager or non-bargaining unit employee, who is on a flexible or compressed work schedule, may request a change to his or her current AWS for the upcoming pay period. Only one such request may be approved every other pay period.

Article 23 – Hours of Work, Section 9 [Now: Article 23, Section 10]

A manager or non-bargaining unit 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.

Article 23 – Hours of Work, Section 9 [Now: Article 23, Section 10]

Managers and non-bargaining unit employees, with prior approval, may work compensatory overtime for religious purposes in 15-minute increments and may use the time in 15-minute increments. Such increments may also be accumulated in order for an employee to take compensatory time off in segments of one hour or more.

Article 27 – Health and Safety, Section 5 [Now: Article 27, Section 4]

The IRS will provide free flu shots annually and on a voluntary basis to managers and non-bargaining unit employees if determined necessary by a competent Federal authority and if the shots are available. If flu shots are limited due to a shortage of the vaccine, employees may be offered flu shots in risk priority order established by the Centers for Disease Control and Prevention (CDC).

Article 27 – Health and Safety, Section 5 [Now: Article 27, Section 4]

If not provided by the manager's or non-bargaining unit employee's personal health insurance, the following services will be provided if available to the IRS at minimal or no cost; physicals, blood pressure screening, EKGs, CPR training, Sickle Cell screening, cholesterol screening and cancer screening.

Article 27 – Health and Safety, Section 10 [Now: Article 27, Section 17]

The IRS will make smoking cessation information available to managers and non-bargaining unit employees in accordance with Section 4 of Executive Order 13058, "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace. "

Article 28 - Breaks, Section 1

Authorized breaks may be taken in five-minute increments by managers and non-bargaining unit employees who perform repetitive movements and shall not exceed the total time provided for each break.

Article 29 - Travel, Section 3

Managers and non-bargaining unit employees will be reimbursed for fees incurred when changing official travel arrangements due to the needs of the Service, or due to a significant personal emergency such as family, medical or a natural disaster.

Article 29 - Travel, Section 16

The IRS will grant managers and non-bargaining unit employees the full benefits of any discretion it has in connection with frequent flyer and similar travel-related benefits.

Article 30 - Training, Section 2

Each manager or non-bargaining unit employee will be entitled to establish a Career Learning Plan (CLP) with assistance and advice provided by their supervisor.

Article 30 - Training, Section 2

Managers and non-bargaining unit employees with an approved Career Learning Plan may be granted up to 16 hours of administrative time per calendar year for self-directed training or developmental activities related to the employee's current or prospective job duties.

Article 30 - Training, Section 5

Managers and non-bargaining unit employees will be reimbursed for those portions of Certified Public Accountant (CPA) or bar review courses that are job-related.

Article 30 - Training, Section 5

Managers and non-bargaining unit employees shall be reimbursed for all authorized expenses for out-service training if all conditions listed in Subsection 5B are met. Management may elect to add other conditions to the list in Subsection 5B.

Article 30 - Training, Section 5

Limited administrative time, as determined by the management, will be provided for managers and non-bargaining unit employees, who attend, at their own expense, out service training for career enhancement.

Article 30 - Training, Section 14 [Now: Article 30, Section 13]

If the IRS requires a manager or non-bargaining unit employee to be a member of a professional society or organization as a condition of continued employment, the IRS will reimburse the employee subject to the availability of funds.

Article 32 – Annual Leave, Section 1

Managers or non-bargaining unit employees may request annual leave in 15- minute increments.

Article 33 – Family Leave, Section 3 & Article 34 – Sick Leave, Section 7

A manager or non-bargaining unit employee will not be required to reveal any details about the nature of his or her medical condition to the IRS. When specific medical information involving a manager's or non-bargaining unit employee's medical condition, including such matters as a diagnosis or prognosis, is required as part of an employee's request for FMLA or sick leave, the employee may choose to provide that information to a medical professional designated by the IRS. However, Business Divisions, with job-related medical requirements, may alter this requirement by establishing an approved procedure that protects the privacy of the employee and that requires the employee to provide medical information directly to supervisors.

Article 34 – Sick Leave, Section 1

Managers or non-bargaining unit employees may request sick leave in 15-minute increments.

Article 35 – Leaves of Absence, Section 2

The IRS may allow a manager or non-bargaining unit employee to take leave without pay (LWOP) for up to one year after completion of five years of service with the IRS on their current appointment to engage in full-time job-related study, or to engage in any other activities, subject to the work requirements of the IRS.

Article 36 – Administrative, Weather and Safety, and Other Leave, Section 2

Consistent with IRS policy, when the voting polls for federal and state elections where candidates are running for office, are not open at least three hours either before or after a manager's or non-bargaining unit 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 hours after the polls open or leave work three hours before the polls close, whichever requires the lesser amount of time.

Article 36 – Administrative, Weather and Safety, and Other Leave, Section 3B[Now Article 36, Section 15]

If emergency conditions exist and prevent a manager or non-bargaining unit employee from arrival at work and the post-of-duty is not closed, the employee will be granted weather and Safety leave for absence from work for a part or all the employee's workday upon providing the IRS with reasonably acceptable documentation that the employee made reasonable efforts to reach work, but that emergency conditions prevented timely arrival.

Article 36 – Administrative, Weather and Safety, and Other Leave, Section 9 [Now Article 36, Section 8]

A manager or non-bargaining unit employee who donates blood is entitled to receive four hours of administrative leave immediately following the donation for recuperative purposes. Subject to supervisory approval, the recuperative time may be taken later in the day that the blood is donated rather than immediately following the donation. At the employee's option, he or she may take the recuperative time at home. 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.

Article 36 – Administrative, Weather and Safety, and Other Leave, Section 11[Now: Article 36, Section 9]

If all criteria are met, managers or non-bargaining unit employees rated Fully Successful or higher may be granted up to eight hours of administrative time per year to volunteer their time to public service organizations. Requests for administrative time for volunteer activities must be approved by the level of management designated by each Business Division in accordance with guidance issued by the Human Capital Office.

Article 36 – Administrative, Weather and Safety, and Other Leave Section 12[Now: Article 36, Section 10]

Workload permitting, a manager or non-bargaining unit employee may receive up to four hours of administrative time per calendar year for the following purposes if related to Government employment: a health benefits fair, reviewing health benefits information and materials, receiving financial counseling, or seeking supplemental retirement counseling.

Article 53 – Miscellaneous Provisions, Section 5

A manager or non-bargaining unit employee may receive an emergency salary payment to replace a regular salary payment that was not issued or a substitute payment if the issued salary payment is lost, stolen, mutilated, or not received.

Article 53 – Miscellaneous Provisions, Section 6

Managers or non-bargaining unit employees will receive salary payments via direct deposit unless the employee certifies a hardship as defined by Government-wide regulations.

Article 53 – Miscellaneous Provisions, Section 10

The IRS will subsidize the use of public transit for managers and non-bargaining unit employees for qualified transit passes up to the non-taxable amount. 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.