

ARTICLE 33
Negotiations
Effective November 6, 2022

Section 1

- A. The Union recognizes that the Employer has the right to exercise its management rights as set forth in the Civil Service Reform Act and this Agreement and, in accordance with applicable law, rule, regulation, and this Agreement, to initiate changes in operational and administrative procedures and programs when the Employer determines it is in the interest of the Employer to do so.

- B. The Employer recognizes that the Union, in accordance with law, has the right to:
 - 1. Receive timely advance notice of any changes in the conditions of bargaining unit employees' employment.

 - 2. Bargain over the full range of statutory issues associated with the exercise of any management rights.

 - 3. To the extent required by law and as determined by the Federal Labor Relations Authority, bargain over matters not contained in or covered by this Agreement, unless the Union has waived its right to bargain about the subject matter. Procedures for such bargaining are set forth below in Section 3, titled, "Union-Initiated Bargaining."

- C. The Union and the Employer agree that it is in the interest of the Parties to expeditiously resolve bargaining issues.

- D. The duties of the Parties to negotiate in good faith under this Article shall include the obligation to:
 - 1. Approach negotiations with a sincere resolve to reach agreement;

 - 2. Be represented by duly authorized representatives prepared to discuss and negotiate on the subjects authorized by this Article;

 - 3. Meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

 - 4. In the case of the Employer, to furnish to the Union, upon request, and, to the extent not prohibited by law, data:
 - a. Which is normally maintained by the Employer in the regular course of business;

b. Which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

c. Which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors relating to collective bargaining; and

5. If agreement is reached, to execute on the request of any Party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

E. Should a provision of any agreement negotiated pursuant to this article be rendered invalid by appropriate authority (except the Agency head) after the effective date of this Agreement, either Party may reopen the specifically affected sections as well as issues clearly and unmistakably bargained away as part of any agreement on the now invalid terms, where one (1) or both Parties have not formally pursued enforcement of the provision.

F. Should a provision of any agreement negotiated pursuant to this article be rendered invalid by the Agency head after the effective date of this Agreement, either Party at its option may request reopening negotiations on the disapproved provision(s), and/or the Union may repudiate the agreement or any part thereof and request reopening negotiations on any of the repudiated provisions.

Section 2 Employer-Initiated Bargaining

A. The Employer shall provide the Union with reasonable advance notice, but normally not less than twenty-one (21) workdays, of intended changes in terms and conditions of bargaining unit members' employment prior to implementation of changes affecting conditions of employment subject to bargaining under 5 U.S.C. 71. The Union will have seven (7) workdays from the date of notice in which to request a briefing from the Agency concerning the intended changes and/or to invoke its right to negotiate by submitting written proposals. If the Union requests a briefing, the briefing will normally be held within seven (7) workdays of the Union's request. The Union will have seven (7) workdays from the date of the briefing to invoke its right to negotiate by submitting written proposals, if they have not been submitted previously. The Parties may mutually agree to waive the above constraints. The notice will include the following:

1. A description of the desired change,
2. An explanation of how this change will be implemented,
3. An explanation of why the proposed change is necessary.

- B. The Union agrees that the Employer has the right to implement necessary changes in personnel policies, procedures, and practices affecting the terms and conditions of employment after notice and an opportunity to negotiate have been afforded to the Union, and prior to impasse, where implementation is required to meet an exigency such as statutory deadlines, court ordered time limits, etc. In such circumstances the Parties may mutually agree to continue negotiations on a post-implementation basis.
- C. The Employer will provide notice of Employer-initiated changes to the President of the NTEU Chapter or designee(s). The notice will designate the Employer's representative.

Section 3 Union-Initiated Bargaining

- A. Union-initiated bargaining may be invoked one time per year only at the national (OHO Headquarters) level. There will be no carryover from year to year. For purposes of this Section, a year is defined as beginning on the effective date of this Article.
- B. The Chapter President or designee will provide the Associate Commissioner, Office of Labor Management and Employee Relations or designee with timely electronic notice of the request. The request will be considered received on the first workday after the day of transmission of the email.
- C. The notice will include an explanation of the matter in question, the Union's proposals, and suggested dates for bargaining. A particular demand will only cover one proposed change and will identify the affected employees.
- D. Management will respond to the request electronically within fifteen (15) workdays after receipt from the Union. If bargaining is required, the designated representatives will make appropriate arrangements.
- E. Bargaining will be scheduled as soon as possible after the date of an appropriate request, but no later than thirty (30) workdays, absent mutual agreement.
- F. When bargaining is required, arrangements will be as outlined in Sections 4, 5, and 6 below.

Section 4

- A. The Parties agree that proposed changes shall be negotiated at the OHO Headquarters level, unless the Parties mutually agree to negotiate at a lower level.
- B. The Employer and the Union can agree to conduct negotiations at any mutually agreeable site.

Section 5

Where negotiating meetings are required, the meeting will be conducted as follows:

- A. Negotiations will take place via technology or at a site provided by the Employer. Upon mutual agreement, the Parties may bargain at a different location.
- B. Negotiations will be conducted during the regular administrative workday of the office where negotiations are taking place. When feasible, the Employer shall make shift adjustments for Union representatives to accommodate the bargaining process.
- C. An employee representing the Union under this Article shall be authorized time in accordance with Article 8 for such purposes during the time the employee otherwise would be in a duty status. The bargaining teams shall be limited to three (3) members for each Party unless the Parties mutually agree otherwise. The number of employees for whom Union time is authorized under this Section shall not exceed the number of individuals designated as representing the Employer for such purposes.
- D. The Parties agree that, consistent with the opportunity for full discussions of proposals, every reasonable effort will be made to avoid travel and per diem costs by using alternative technology based methods. To that end, the Parties agree bargaining will be accomplished through virtual means, unless the Parties mutually agree to in-person bargaining.
 1. However, for up to two (2) bargaining sessions of up to three (3) days each, the Agency will agree to engage in face-to-face negotiations at the request of the Union. This request shall be made within the seven (7) workday deadline for submission of written proposals, set forth above in Section 2.A. This does not extend the timeframes in Section 3.D., or Section 5.F.
 2. For in-person sessions under D.1. above, up to three (3) bargaining unit employee team members on official time shall be reimbursed for travel and per diem for a period not to exceed three (3) days plus the time necessary to travel to and from the negotiating site. All payment of travel expenses and per diem will be governed by applicable law, rule, and regulation. In situations where travel is required, the Union representatives on official time shall be reimbursed for travel and per diem by the Employer for expenses incurred by up to three (3) bargaining unit employee team members. The Parties agree that this process includes bargaining sessions, mediation, and Federal Service Impasses Panel (FSIP) proceedings. The Parties agree to make every effort to reduce ancillary or unnecessary costs where possible throughout the bargaining and dispute resolution process.
 3. For additional sessions, at the mutual consent of the Parties to bargain in-person, the Union will be required to pay their own travel expenses.

4. Unless the Parties have agreed to in-person bargaining under the provisions above, bargaining will normally not exceed one (1) full week (or a total of five (5) days) of virtual bargaining pursuant to this Article. If mediation assistance is secured and the Parties do not reach agreement and are not released to the panel, a subsequent session will normally be held within ten (10) workdays, unless mutually agreed otherwise.
- E. When negotiating on Agency premises, the Employer will provide the Union Negotiating Team with access to customary and routine services such as office supplies, FAX, and photocopy equipment. If bargaining occurs on Union premises, the Union will provide the same.
- F. For employer-initiated changes, negotiations will commence on a mutually agreeable date. Absent such mutual agreement, negotiations will commence on the fifteenth (15th) day after the Employer received the Union's proposals (if a workday, otherwise the next succeeding workday).

Section 6

Upon certification of an impasse between the Parties in connection with mid-contract negotiations, either Party can appeal to the Federal Service Impasses Panel.

Section 7

- A. A mid-term agreement shall be viewed by the Parties as amendments to the Agreement. It shall be effective upon signing, unless otherwise specified, subject to the review of the Agency pursuant to 5 U.S.C. 7114(c).
- B. Any agreement applicable to a single work site or a single region shall be in the form of a memorandum of understanding (MOU). Copies of each approved memorandum of understanding shall be filed with the Chapter President, and the Associate Commissioner, Office of Labor Management and Employee Relations (OLMER), and shall be viewed by the Parties as supplements, rather than amendments, to the Agreement. Accordingly, they shall not necessarily run for a term concurrent with that of the Agreement, but instead may be for whatever duration is appropriate under the circumstances of the change, but not beyond the term of this Agreement except as mutually agreed by the Parties.