

**Agreement between U.S. Customs and Border Protection and the National Treasury
Employees Union**

I. Introduction

This Agreement is entered into by, and between U.S. Customs and Border Protection, (hereinafter referred to as "CBP" or "Agency") and the National Treasury Employees Union (hereinafter referred to as "NTEU" or "Union").

II. Background & Purpose

The Budget Control Act (Public Law 112-25) was enacted to limit federal spending and reduce the national debt. To enforce annual spending limits, that law requires across-the-board funding reductions to almost every federal program, project, and activity through a process called sequestration. On March 1, 2013, President Obama issued the sequester order making mandatory budget reductions and employee furloughs a reality in CBP.

This Agreement specifically addresses the procedures and appropriate arrangements related to the implementation of sequestration related changes including the furloughing of employees for up to 14 workdays (112 hours) that every employee in CBP will serve this fiscal year. This agreement represents the parties' joint interest to not place additional burdens on bargaining unit employees aside from those already imposed by the sequester.

III. Terms

1) As a default, CBP will schedule eight (8) hour furlough days in conjunction with an employee's regularly scheduled days off in a pay period, while pacing to ensure an unpaid furlough status of at least 8 hours per pay period.

1.A) Consistent with Article 34 Section 8 of the National Agreement, CBP will schedule all employee furlough days contiguous with one of the employee's regularly scheduled day off in the first ten pay periods starting on the pay period that begins on April 21, 2013 and contiguous with two of the employee's regularly scheduled days off in the last two pay periods of the 2013 fiscal year, consistent with the scheduling posting requirements of this provision.

1.B) After the schedules have been posted, employees may request to serve their furlough day(s) on an alternative day(s) which will be approved by CBP, workload permitting. Employees may also request to serve up to five consecutive furlough days in a pay period which will be approved, workload permitting.

1.C) CBP will schedule the furlough days of employees in light of furlough days already served so that employees do not serve more than the required number of furlough days.

1.D) Employees covered by the Customs Officer Pay Reform Act (COPRA), workload permitting, will not be furloughed on a Sunday. However, by April 21, 2013, employees

may notify their supervisor that they have no problems being scheduled for a furlough day on a Sunday.

1.E) An employee scheduled for pre-approved leave of any kind may substitute furlough days in lieu of such leave.

1.F) Requested swaps of furlough days between qualified employees will be approved. Nothing in this provision prevents CBP from documenting such swaps.

1.G) Upon request, employees on approved non-furlough-related LWOP status subsequent to April 21, 2013, will have their LWOP days converted to the required number of furlough days or portion thereof.

1.H) The parties at the local level, i.e. CBP and the local NTEU Chapter, may, by mutual agreement, establish procedures to schedule furlough hours in a manner different than the options described within this agreement. Also, an individual manager and employee, by mutual agreement, can schedule furlough days in a manner different than the options described within this agreement. Such decisions will be made in a fair and impartial manner consistent with the provisions set forth in Article 2: Fairness and Equitability of the National Agreement.

1.J) CBP will respond within a reasonable amount of time to employee requests for furlough schedules that deviate from the default procedure in provision 1.

1.K) In the event two or more employee requests for a different furlough schedule cannot be accommodated, CBP will grant requests that it can accommodate in order of submission. If employee requests are submitted at the same time, the conflict will be resolved by seniority as defined in the National Agreement.

2) In the event the United States Congress takes action that results in sequestration being terminated before the end of the fiscal year, employees who request and are approved to serve more than eight hours of furlough in a pay period, acknowledge they may end up serving excess furlough hours. Accordingly, the parties agree that this exception creates no liability for the Agency, i.e., the Union is barred from invoking arbitration and requesting back pay for excess furlough hours.

3) Pursuant to applicable law, furlough days that straddle a holiday will result in the employee losing holiday pay. As a result, an employee's furlough days will not be scheduled such that the employee is furloughed both the day before and the day after the holiday.

4) Furlough for part-time or uncommon tour of duty employees will be prorated by computing the furlough days as furlough hours in the same proportion to those hours scheduled for full-time employees working 80 hours biweekly. The furlough day for a part-time employee is defined as the number of hours they are scheduled to work in a basic work week divided by the number of days they work.

5.A) Employee schedules that are a product of a locally negotiated Alternate Work Schedules (AWS) agreement, will remain in place unless modified in accordance with the terms contained in the respective local agreement or the terms contained in Article 14 of the National Agreement. CBP will reinstate any AWSs that have been terminated outside the terms of the National or locally negotiated agreement.

5.B) Furlough days for employees with an AWS will be scheduled in accordance with this agreement.

5.C) For employees working on a compressed schedule, the application of 8 furlough hours to a workday may result in residual regular hours. For example, an employee working a 5/4-9 compressed schedule may have a scheduled day composed of 8 furlough hours and 1 residual regular hour of work. Or, an employee on a 4-10 compressed schedule may have a scheduled day composed of 8 furlough hours and 2 residual hours of work. In such cases, the residual regular hours of work will be appended to one or more of the employee's regularly scheduled workdays within the administrative workweek.

5.D) Alternatively, employees on a compressed schedule may request to be furloughed for all regularly scheduled hours of work in a workday. For example, an employee working a 4-10 compressed schedule may request to be furloughed for the full 10 hours in their regular workday. Such a request will be treated as an exception to provision 1 of this agreement.

6.A) Ad hoc Annual Leave requests will continue to be considered in accordance with the National Agreement.

6.B) Employees will not have their previously approved leave cancelled unless there is a need to address an extraordinary operational concern, e.g. elevated threat level, or a natural or man-made disaster.

6.C) In the event there is an extraordinary operational concern that results in the cancellation of previously approved leave, employees will be given a written explanation of the extraordinary operational concern and when such leave can be used. A copy of the explanation will be provided to the respective Director, Field Operations and NTEU Chapter.

7.A) Pursuant to the National Agreement, employees will continue to be permitted to work flexi-tour, earn and use credit hours, work compressed work schedules and earn and use compensatory time, including religious compensatory time, as appropriate. However, the parties acknowledge employees may not accrue compensatory time or perform work during scheduled furlough periods or during a regular day off that is scheduled during an administrative work week where the employee serves a furlough day.

7.B) In applying provision 7.A. above, an employee may not perform any work, including overtime, or accrue credit hours or compensatory time, or substitute

compensatory time for furlough hours during the 24 hour calendar day during which the furlough day is served.

7.C) For employees whose scheduled straddles two calendar days, the twenty four hour period begins when the employee begins their shift and ends 24 hours later.

8) The procedures for acquiring and denying official time will continue to be followed pursuant to the National Agreement.

9) Furloughs will not impact CBP's evaluation of employee performance.

10) The parties acknowledge the impact of sequestration on CBP's operations, as well as the employee's personal situation. Accordingly, CBP agrees to consider the impact of sequestration and employee furloughs when evaluating requests for a telework arrangement from eligible employees.

11) The employer will consider the impact of the sequestration and furloughs as a mitigating factor when taking disciplinary or adverse action against an employee for any debt or credit problems he or she has that may have resulted from the lack of income during the furlough period.

12) Employees who possess government-issued electronic device(s) and are permitted to use those devices for occasional personal business may continue to use those devices during the furlough for the same kind of occasional personal matters authorized by CBP's Directive titled: *Limited Personal Use of Government Office Equipment Including Information Technology*. For example, if the employee gave her child's school the number of the government phone as her emergency contact number, the employee can continue to use the phone for that purpose.

13.A) While in a furlough status, employees are not permitted to perform work or be compensated by CBP, however employees will be allowed to reenter the office (where access is normally granted) during furlough periods if the need is to obtain personal items that may have been left behind.

13.B) NTEU officials will be permitted to access their union offices and permitted to perform internal union business during their furlough designated hours. This time is not considered Agency work.

14) Overtime assignments to COPRA covered employees will be made pursuant to Article 35 of the National Agreement.

15) Employees who receive a transit subsidy from the government will not have their normal subsidy impacted by the furlough. Re-certification for obtaining a transit subsidy will continue under existing procedures.

16) Requests for outside employment will be made pursuant to the procedures contained in the National Agreement. CBP will expedite these requests to the extent practicable.

17) In the interest of cascading information concerning the impact of furlough on leave accrual, within-grade increases, and other benefits, attached to this agreement is the Agency's guidance document titled: *Administrative Furlough - Frequently Asked Questions*.

18) In the event the United States Congress takes action that results in sequestration being terminated before the end of the fiscal year, management will make a reasonable effort to contact the employee and order them to return to duty. If management cannot make contact with the employee, once the employee reports to their next scheduled shift they will be given the option to identify what form of excused absence they wish to use for the excess time away from duty.

19) Inasmuch as sequestration and furloughs are different experiences for Agency managers and the bargaining unit, the Parties commit to an open and routine dialogue at all levels that will allow problems to be identified and policy adjustments to occur expeditiously when needed.

19.A) No less than once per month, representatives from CBP and NTEU at the local and national level will meet to discuss sequestration implementation. Such meetings will take place in person unless the parties' representatives do not work in the same commuting area.

20) The parties' National Collective Bargaining Agreement continues to apply during sequestration except as modified by this agreement or any subsequent agreement.

21) In the event the agency determines that a furlough of employees is required, but that a furlough of fewer than 14 workdays (112 hours) is sufficient to achieve mandated budget reductions, CBP will adjust scheduling of furlough days within two weeks of such determination. The provisions of this agreement will remain in force except where such provisions are inconsistent with the equalized number of furlough hours required for each employee. Section (III.1.A) will be amended to read:


"Consistent with Article 34 Section 8 of the National Agreement, CBP will schedule all employee furlough days contiguous with one of the employee's regularly scheduled days off. Scheduling will be accomplished to ensure that furlough days are distributed as evenly as possible throughout the pay periods remaining from the date of this schedule adjustment to the end of the fiscal year in which this furlough is affected. Furlough days served prior to the schedule adjustment will be counted toward the aggregate number of workdays or work hours deemed necessary for each employee.

The parties acknowledge that in order to adjust schedules in the event of a reduced need for furlough hours, CBP may need to deviate from the advance posting requirements contained in Article 34 of the National Agreement".


IV. Effective Date and Termination

This Agreement will be submitted for Agency head review immediately after the final signature of the chief negotiators. This MOU will become effective thirty-one (31) days after the date it is signed by the last chief negotiator or after Agency head review, whichever occurs first.

V. Signatures



Donald R. Stakes Date
Director, Labor-Management Relations
U.S. Customs and Border Protection



Jonathan S. Levine Date
Assistant Counsel, Negotiations
National Treasury Employees Union