Diversity, Equity, Inclusion and Accessibility

Section I. Introduction.

1) The principles set forth in this Article will be integrated across and deep throughout the Agency. ~~are incorporated by reference into every Article of this MCBA.~~ The Agency and Union affirm the importance of advancing~~will affirmatively advance~~ equity, civil rights, racial justice, and equal opportunity for all employees~~.~~, while maximizing
2) ~~The parties agree the provisions of this Article apply throughout this MCBA to maximizes~~ the diverse talents, skills, and experiences of the EPA community ~~and~~ to achieve EPA's mission to protect human health and the environment through a sustained, equitable, and inclusive culture.

~~1)~~

~~1.~~ The Agency ~~must~~strives to ~~be a model for diversity, equity, inclusion, and accessibility.~~ The parties will treat each other and employees with dignity and respect. Accordingly, the Agency will endeavor to ~~must~~ strengthen its ability to recruit, hire, develop, ~~promote~~, and retain our Agency's~~Nation~~'s talent and remove barriers to equal opportunity. ~~**It must also provide resources and opportunities to strengthen and advance diversity, equity, inclusion, and accessibility across the Agency**~~. The Agency ~~should have~~aspires ~~to have~~**will work** ~~**progressively**~~ **toward** a workforce that reflects the diversity of the American people, while adhering to Merit System Principles.~~. Diversity, Equity, Inclusion, and Accessibility (DEIA) is necessary to create a workplace where everyone is valued and committed to achieving organizational goals.~~ A growing body of evidence demonstrates that diverse, equitable, inclusive, and accessible workplaces yield higher-performing organizations. ~~The Parties acknowledge that the employee experience begins and ends with the Agency's organizational goals. The Agency/employee working relationship is central to improved engagement and to better performance. Effective employers empower their employees.~~

~~2. The Parties agree in order to be a model employer for diversity, equity, inclusion, and accessibility all employees must be treated with dignity and respect. The Agency will strengthen its ability to recruit, hire, develop, promote, and retain talent and remove barriers to equal opportunity. The Agency shall effectively engage, recruit, hire, develop, promote, and retain highly qualified individuals at all levels and in all types of positions whose diverse backgrounds, perspectives, experience, education, and skills successfully advance the Agency's mission. The Agency will provide resources and opportunities to strengthen and advance diversity, equity, inclusion, and accessibility across the Agency.~~

~~3.~~3) The Agency's ~~will~~ recruitment efforts will include a focus on creating ~~more~~ diverse applicant pools. ~~increase practice equitable recruitment hiring of diverse candidates by through increasing the percentage of diverse candidates in its recruitment efforts to create applicant pools which reflect the diversity of the local population~~. ~~Examples may include~~The Agency will conduct outreach efforts which may include but are not limited to:;
~~4.~~

Commented [BJ1]: we agreed to arrange DEIA-DIAC briefing

Commented [BJ2]: union to add back in 2d sentence of para 1. (was not intended to be deleted)

Commented [CR3]: We are unclear of the meaning of this sentence. It seems like it has effect but it doesn't really but would cause much confusion.

Commented [OPM4]: AFGE incorporated the Agency language

Commented [OPM5R4]: Agency to look at

Commented [BJ6]: union cannot accept this right now

Commented [OPM7]: AFGE incorporated the Agency language

Commented [OPM8R7]: Agency to look at

Commented [OPM9]: AFGE incorporated the Agency language

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Commented [BJ10]: Agency can't say 'must' --all we can do is strive. This is a process of continual improvement.

Commented [BJ11]: we think the above language addresses this. What is the binding effect of this language on the agency?

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Commented [BJ12]: Union to confirm that they agree with this language.

Commented [OPM13R12]: AFGE
Union can accept this paragraph as modified...note new language in bold

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Commented [CR14]: Added language above.

Commented [BJ15]: EPA: the proposed language

Commented [OPM16]: AFGE

Commented [BJ17]: please explain what this would bir

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Commented [OPM18]: Agency to take a look. Unsure

Commented [BJ19]: union says this gives them nothing

Commented [BJ20]: union does not like limit of word

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~~1.~~i. Reaching out to underrepresented and underserved communities; including minority-serving institutions (HBCUs, HSIs, etc.);

ii. ~~Facilitate recruitment and employment opportunities of individuals who are members of underrepresented and diverse communities.~~ ~~The Agency will continue to~~ Ceonducting oOutreach and recruitment efforts to members of underrepresented and diverse communities (e.g., the ~~. As examples, the Agency has conducts ed recruiting efforts with the following organizations:~~ Native Youth Climate Conference; League of United Latin American Citizens; Blacks in Government; Clark-Atlanta University; Spelman College and Morehouse College).~~, among others.~~ ~~Nothing in the paragraph will limit the Agency's ability to conduct outreach and recruitment efforts to other organizations serving members of underrepresented and diverse communities.~~

The Agency will support applicants' accessibility needs through the Reasonable Accommodation process. ~~Improve accessibility to Agency systems and applications;~~

~~i.~~iii. Leveraging~~e~~ special hiring authorities, such as Federal internship programs, including Pathways Internship Program, to provide entry-level career development opportunities to students and recent graduates and Schedule A Hiring Authority for persons with disabilities.

iv. ~~The Agency will notify~~ Special Emphasis Program Managers and Union representatives are encouraged to set up automatic USAJobs notifications of recruitment and hiring activities~~. The Agency will build and strengthen partnerships with but not limited to the following:~~

4) ~~The Agency will practice equitable hiring of diverse candidates through a commitment to:~~ The Agency will follow Merit System Principles and practice equitable hiring ~~through:~~ , meaning~~including:~~

i) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

ii)

~~2)~~ ~~In addition, i~~If interviews occur, hiring managers are encouraged to use structured interviews and consider unconscious bias in the development of interview questions. ~~Develop and use standard interview questions to reduce unconscious bias in hiring;~~

iv ~~Wherever possible, create "blind" candidate certifications which have identifying information redacted such as name, school, ethnicity, etc.;~~

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Commented [OPM21]: AFGE
Both parties will look at this language

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Commented [OPM22]: AFGE
Union to consider in lieu of the next sentence

Commented [BJ23R22]: Agency agrees w 1st sentence.

Commented [BJ24]: EPA: USAJOBS controlled by OPM

Commented [BJ25R24]: union thinks steps can be taken to improve accessibility (cites using remote work forms)

Commented [OPM26R24]: AFGE
Union rejects this deletion. The Agency must continue to improve tools…assistive technologies

Commented [BJ27]: Agency will look at this language

Commented [BJ28]: union to reconsider language to meet Agency concerns about language being too general

Commented [OPM29]: AFGE
Union will provide counter after DIAC/DEIA briefing is rec'd

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Commented [BJ30]: union asks if there is any way to …

Commented [OPM31]: AFGE …

Commented [BJ32]: EPA: this will lead to people learni …

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Commented [BJ33]: resource intensive, and impractical

Supervisors are encouraged to have diverse interview panels. ~~Use a diverse intersectional hiring panel, including individuals from multiple protected classes for all vacancy selections;~~

~~Provide refresher on bias in hiring to selection panels upon formation; and~~

~~All other things being equal between two candidates, a choice shall be made to recruit, hire, or promote a member of a protected class over one who is not;~~

~~5.~~

~~6.~~4) The Agency will provide an equitable, accessible, and inclusive environment for employees with disabilities. The Agency will implement the Federal Government's initiatives to provide people with disabilities equal employment opportunities and take affirmative actions within the Agency to ensure full compliance with applicable laws including Sections 501, 504, and 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791, 794, 794d).

~~4)~~5) The Agency will not tolerate discrimination based on protected class.

~~5)~~6) Employees will not be subject to discrimination based on their sexual orientation, gender identity or gender expression. The Agency will foster a workplace that is an inclusive and respectful environment that invites participation from all people. There will be no tolerance of discrimination, including harassment, based on sex (including pregnancy, sex stereotyping, gender identity, gender expression or transgender status) or sexual orientation. The Agency will foster an environment that recognizes the inherent worth and dignity of every person and group, and embraces diversity, understanding, and mutual respect.

5) ~~Where feasible and as there are major changes in office buildings, the Agency will consider the provision of gender-neutral bathrooms. including provide but not limited to gender neutral bathrooms.~~ At the local level the parties are encouraged to discuss low-cost options for gender neutral bathrooms.

~~7.~~7) ~~The Agency will equip at least one (1) conference room per building (with 50 or more employees) provide a multi-use space for the exercise of religious activities and prayer, meditation including yoga, mindful moments, etc. This multi-use space should be large enough to accommodate six (6) to ten (10) individuals, equipped with a door and privacy shades for use in the exercise of religious activities, prayer, meditation, etc.~~ Employees seeking religious accommodations~~arrangements~~ should contact their Local Reasonable Accommodations Coordinator or ~~and~~ their supervisor. ~~Employees may reserve these rooms using the normal Agency room reservations procedures.~~

Section II. DEIA Reporting and Accountability.

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Commented [BJ34]: potentially discriminatory

Commented [BJ35R34]: making this an affirmative requirement is the issue.

Commented [BJ36]: Agency will consider alternates

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Commented [CR37]: Also potentially discriminatory

Commented [BJ38R37]: union will send case law

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Commented [BJ39]: not acceptable to union

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Commented [CR40]: Agency
Agency can look at language to consider to see what may be feasible.

Commented [OPM41R40]: AFGE
Union rejects this deletion

Commented [OPM42R40]: AFGE
Agency doesn't see a need for a special set aside here
Agency to work on counter language

A. Reporting. The Agency will continue to collect all information to support the operation of the EPA Diversity Dashboard (and any successor) and applicant flow data. the DEIA Data Repository. The Agency will update the Diversity Dashboard monthly. Access to the Diversity Dashboard and the DEIA Data Repository will be available to all employees.

B. The Agency agrees to provide AFGE Council 238 and the local Presidents the following:

1. Annually provide a copy of the MD-715 report and a briefing explaining the report. The briefing will include discussions on the status of each Region/Office on the state of EEO at the Regional/Office level as well as the Agency.

1.2.

Copy of discrimination and harassment complaints and settlements and harassment claims and settlements including those considered administratively closed, but not limited to 4711 claims. These documents should include the demographic information of the settling employee and the amount of the settlement;

2.

A. The agency is planning to create a Chief Diversity Office (CDO), per the government-wide DEIA strategic plan and the agency's DEIA Strategic Plan. The CDO will be responsible for implementing the agency Plan's strategic actions.

B. Once the CDO is in place, the Agency will notify the Union and initiate discussions regarding union membership on an applicable DEIA Executive Committee.

C. Accountability

1. The taskforce will include at least two (2) AFGE representatives. The taskforce will:

a. evaluate the Agency's incorporation of DEIA principles into the bargaining unit experience, including how it is approaching recruitment, hiring, promotion, retention, professional development, performance, pay, Reasonable Accommodations, and training;

b. develop a yearly report which will be submitted to the Agency Administrator and AFGE Council President regarding efforts to integrate DEIA principles, as outlined in this Article, for Recruitment, Hiring, Promotion, Retention, Professional Development, Performance, Pay, Reasonable Accommodations,

Commented [OPM43]: AFGE
Agency to confirm name of database (QLIK)

Commented [BJ44R43]: Agency still checking

Commented [BJ45]: possible periodic briefing?

Commented [OPM46]: AFGE
Agency to consider the Regional level

Commented [BJ47]: check w OCR to see if they're willing to do briefing

Commented [OPM48R47]: AFGE
■Agency...OCR has concerns with drilling data down to Regional/Office level...privacy concerns regarding race/ethnicity
■R4 has rec'd this info and couldn't identify individuals

Commented [CR49]: Agency
Union still seeking information at the Regional/Office level pictures – not asking to drill down further as well as including a broader picture.

Union seeking a regional/AAship level briefing and a broader level briefing.

Commented [OPM50]: Agency...not a Union action...very private information
Joyce...any tracking done by Agency regarding the #of complaints (EEO and 4711) ...Bob...OCR likely tracks information for EEO complaints...for 4711s there isn't an official data system...generally should be reported, but there is no obligation to report...decentralized

Commented [OPM51R50]: Can Agency inquire to OCR, the type of tracking done?

Commented [OPM52R50]: OCR doesn't handle the 4711 claims...Agency has tracking system but are just between ...

Commented [OPM53R50]: AFGE ...

Commented [OPM54R50]: AFGE
Union rejects this deletion...see suggested language changes

Commented [OPM55R50]: AFGE
Agency has Privacy Act concerns ...

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Commented [OPM56]: Agency to look at how taskforce is set up ...

Commented [OPM57R56]: Need info from Agency

Commented [OPM58R56]: Agency will arrange briefing to discuss differences between DIAC and DEIA Taskforce

~~and Training. The yearly report shall, at minimum, address how the Agency is:~~

~~i. conducting outreach to special emphasis communities and working with identified communities, stakeholders, subject matter experts, and leaders and use various data sources to determine viable outreach strategies and metrics to determine success;~~

~~ii. supporting planning of National Special Emphasis monthly programming from a DEIA perspective;~~

~~iii. incorporating efforts to recruit, hire and retain diverse candidates.~~

~~iv. educating, equipping, and empowering employees and management to foster DEIA and an inclusive and equitable workplace, including outreach to employees;~~

~~v. providing employees with specific training on DEIA; and~~

~~vi. provide recommendations for improvement to recruitment and hiring processes to ensure diverse candidates are recruited, hired, and retained.~~

~~2. Within 60 days after the yearly report has been submitted to the AFGE Council 238 President, the Parties will meet to discuss the report.~~

~~3. Annually the Agency will contract with an independent auditor to evaluate the Agency's efforts to incorporate DEIA principles. The Parties agree to ensure that the auditor is truly independent, the auditor must not have been an employee of the Agency. Further, the auditor may not be employed by the Agency for three years after the date of the evaluation. The independent auditor's findings will be an annual report and included as an attachment to the yearly report in Section II paragraph B 1 c.~~

~~4. Monthly, each Region and Headquarters office will meet with local AFGE representative(s) to discuss the Agency's efforts to incorporate DEIA principles into recruitment, hiring, promotion, retention, professional development, performance, pay, Reasonable Accommodations, and training.~~

~~5.~~

Section III. Training.

A. ~~In addition to the current No FEAR training, no later than ninety (90) days after the effective date of this MCBA, the Agency will provide implement an interactive, stand-alone, extensive, and detailed national mandatory DEIA training for all employees (including managers and political appointees). This training will reinforce the importance of incorporating DEIA principles into every aspect of the Agency's work. Further, the Agency will provide interactive facilitated discussions and exercises dedicated to DEIA at least quarterly at each Region and program office. The Parties agree that conditions of this training are fluid as more is learned about historical oppression and how to educate about experiences of marginalized people as such, this training will be updated regularly but no less than annually.~~

Commented [OPM59]: Agency reluctant to pay another Auditor…Who oversees taskforce, DIAC? Who ensures reporting is being done correctly? Accountability?

Commented [OPM60R59]: FMCS could serve as "independent auditor". AFGE could provide comments and FCMS could mediate disagreement

Commented [OPM61R59]: Agency will come back with something…FMCS doesn't have audit capacity…concern over outside entity auditing the Agency

Commented [CR62R59]: Agency
Union does not agree. Agency still has concerns above. Suggests DEIA briefing and then we come back and consider.

Commented [OPM63]: Can be built into Local/Regional "housekeeping" meeting.
Agency to add language to set expectations

Commented [CR64R63]: Agency
Union wants to encourage these discussions. Union to consider "encourage" language.

Commented [OPM65]: AFGE
Union not willing to accept deletion or counter until Agency provides DEIA/DIAC briefing as promised June 29, 2022

Commented [OPM66]: Agency just developed DEIA training

Commented [OPM67R66]: AFGE wants to see/hear about this training

Commented [OPM68R66]: Agency will provide notice and briefing

Commented [OPM69R66]: AFGE
Union added language based on briefing
Union is looking for more in the training we were briefed on…could be conveyed in announcement message, etc.
- DEIA was not defined.
- There was no mention of the DEIA EO
- There was no mention of why DEIA principles will be incorporated into EPA's workplace.
- There was no mention of what steps EPA will or plans to take in order to achieve DEIA principles.
- The focus of the training was defining the types of bias. However, there was no discussion as to how bias affects DEIA.
- There were not examples of what will be done in the workplace to make an effort to change the current status.

B. The Agency will survey the AAships and regions and review Fed Talent offerings to compile existing interactive DEIA learning activities. The Agency will then produce a list of interactive training addressing DEIA topics to be shared with agency employees. The Agency survey will include a search for the following topics:

~~B. The Agency will commit to provide training on the following topics/subjects:~~

1. promoting respectful and inclusive workplaces;
2. eliminating workplace harassment;
3. understanding cultural differences;
4. conflict resolution;
5. expanded intergenerational communication; and
6. increase its understanding of implicit and unconscious bias.

~~The Agency will provide multi-level leadership accountability and training to further DEIA data-driven decision making and transparency.~~

Section IV. Pay Equity.

~~A.~~ The Agency will follow OPM pay settings. ~~The Agency Parties agree the issuance of will review Government-wide regulations and guidance to address consistent with applicable law, and will address any pay inequities and advance equal pay with regard to with consideration of the following:~~

~~1. job classification and compensation practices; and/or~~
~~2. reliance on applicant's salary history during the hiring process will result in an amendment to this MCBA to be negotiated in accordance with the Mid Term and Supplemental Negotiations Article..~~

Commented [BJ70]: this language was gone from union proposal

Commented [OM71R70]: AFGE
Union can accept this paragraph IF we have acceptance on paragraph A

Commented [CR72]: Agency
Union wants to add emphasis on the participation of both employees and managers; add language from the DEIA Plan; 4711 training; seek to make training mandatory.

Agency expressed concern and will bring back to get a sense of scope of ask and what we have now.

Commented [OPM73]: Why is this in the "Training" section?
Some cultural differences lead to different considerations
Conflicts exist and aren't always bad
Agency to provide alternate language

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Commented [BJ74]: EPA: who is supposed to take this training?

Commented [BJ75]: AFGE to provide add'l language on applicant salary history....

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Commented [OPM76]: AFGE
Union accepts this language

Commented [OPM77R76]: AFGE
Union previously agreed to this language?? Why is it deleted

Commented [OPM78R76]: AFGE
Agency to review
https://www.whitehouse.gov/briefing-room/presidential-actions/2022/03/15/executive-order-on-advancing-economy-efficiency-and-effectiveness-in-federal-contracting-by-promoting-pay-equity-and-transparency/

Commented [BJ79R76]: Agency reviewed EO