

**AGREEMENT BETWEEN LABOR AND MANAGEMENT OF THE CALIFORNIA
MILITARY DEPARTMENT, CALIFORNIA ARMY NATIONAL GUARD, AND
LABORERS' INTERNATIONAL UNION OF NORTH AMERICA (LIUNA) LOCAL 2163
TECHNICIAN WORKFORCE**

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Article . Basic Personnel Procedures.

Section 1. Position Descriptions.

A position description (PD) is a statement of major duties, responsibilities and supervisory relationships for a given position as required by the mission. A Supervisor in coordination with the Technician is responsible for ensuring that the duties and responsibilities of the current PD accurately reflect the work being performed by the Technician. When the PD is determined to be inaccurate by the Technician or Supervisor, the HRO will be notified of the need for a position classification review.

Technician(s) may obtain information relative to classification appeals and the regulatory procedures to be followed from HRO (Classification). The Agency shall ensure that the Technician's right to appeal the Title, Series and Grade of their PD is without restraint, prejudice, or reprisal. The supervisor will review the position description with the Technician annually.

The Parties agree that the phrase "other duties as assigned" as used in a PD simply establishes the principle that the Agency's assignment of duties to Technicians is not limited to the PD. "Other duties as assigned" should not exceed 25% of the time that a Technician is available to perform their PD duties.

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Section 2. Training.

The Agency shall encourage and assist to secure training for Technicians, as appropriate, (to include re-certification training in specialized areas) that is consistent with the Agency's needs and in accordance with applicable laws and regulations. Technicians shall have an equal opportunity to participate in training IAW applicable laws and regulations.

The Parties recognize that changes in the work place will continue as technology, new techniques, material, and equipment are developed and employed. Each Technician is responsible for taking the initiative necessary to keep abreast of these changes. The Agency shall provide Technicians with information and guidance regarding available training opportunities. Any Technician who seeks training is required to submit a request for training. If the request is approved, the prepared SF 182, Authorization, Agreement, and Certification of Training will then be forwarded through supervisory channels to HRO-HRD

The Employer shall authorize Labor Management Council/Forum (LMF) members Official Time to participate in training sessions and meetings sponsored by the CNG, or by other agencies (FLRA, NGB) Official Time authorized will be specific to the duration of the actual training and not include travel time. The Union agrees that request for such time shall normally be submitted at least 30 days in advance.

Section 3. Merit Placement.

The Parties recognize that it is in the best interest of the CMD and CA ARNG that all technician positions be filled by the best qualified individuals available and to ensure that all technicians have an opportunity to develop and advance to their full potential. Technician vacancies will be filled on the basis of merit and job-related factors. Military requirements are considered as job-related qualifying factors for positions in the excepted service. Actions will be made without discrimination for non-merit reasons, such as race, color, religion, sex, national origin, marital status, membership or non-membership in an employee organization, and age or non-disqualifying physical handicap (except military requirements for Dual Status technicians).

Merit placement will be accomplished within the guidelines of 5 CFR 335, TPR 300, and CNG FPR 335.

Section 4. Details.

Managers may detail technicians for a legitimate management purpose, for example, to handle unexpected workloads or special projects, to fill in during another technician's absence, or for training.

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Employees being detailed to another position do not need to meet NGB/OPM staffing qualification requirements. However, employees must meet any special licensing requirements necessary to perform the position (i.e., motor vehicle license).

Details to higher graded positions may not exceed 120 cumulative calendar days during any 12 month time frame. Details to a position of the same grade or lower graded position will normally be accomplished in increments not to exceed 120 calendar days. At the completion of the 120 calendar day detail, managers may detail the technician again for another 120 calendar days if necessary with classification approval.

Details may be to either an official position description or unclassified duties developed by the supervisor and coordinated and approved by the HRO (Classification) Section.

Details exceeding 30 calendar days must be documented on an SF-52, Request for Personnel Action, and filed in the technicians Official Personnel Folder.

Section 5. Temporary Promotions.

Technicians may be temporarily promoted for legitimate management purposes, for example, to handle unexpected workloads, special projects, or to fill in during another technician's absence. Temporary promotions must be to a valid authorized position description.

The Technician must meet the appropriate grade comparability required of the position (Dual Status – Officer, Warrant Officer, Enlisted; or, Non-Dual Status).

While serving on a temporary promotion, the employee must maintain the compatibility of the permanent position.

Technicians temporarily promoted must meet the OPM/NGB staffing qualifications, time in grade requirement (non-dual status only), and any special licensing requirements necessary to perform the position (i.e., motor vehicle license).

Competitive procedures are not required for temporary promotions of 120 days or less. Individual technicians may not be detailed to a higher graded position and/or temporarily promoted for a period of more than 120 days cumulative within a 12 month period. A temporary promotion beyond 120 calendar days must be filled by competitive procedures. A temporary promotion may be used up to 5 years if competitive procedures are used.

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Section 6. Reduction in Force.

The Agency will comply with NGB TPR 300 (351) in reduction-in-force (RIF) process.

The Agency shall notify the Union, as early as possible, of a planned RIF.

Section 8. Emergency (Shutdown) Furloughs.

An emergency (shutdown) furlough occurs when there is a lapse in annual appropriations. Shutdown furloughs can occur at the beginning of a fiscal year, if no funds have been appropriated for that year, or upon expiration of a continuing resolution, if a new continuing resolution or appropriations law is not passed.

In a shutdown furlough, the Agency would have to shut down any activities funded by annual appropriations that are not excepted by law. Typically, an agency will have very little to no lead time to plan and implement a shutdown furlough.

Section 9. Performance Appraisal Program.

TPR 430 establishes the Performance Appraisal Program for National Guard Technicians and is consistent with Title 5 of the Code of Federal Regulations (CFR); and in compliance with DoD 1400.25-M. The Performance Appraisal Program utilizes a multi-level (5-Tier) summary rating method that makes distinctions among employees or groups of employees such as comparing, categorizing, and ranking employees or groups on the basis of their performance. CNG FPR 430 established the program for the CMD and CA ARNG.

Section 10. Unacceptable Performance.

Managers and supervisors are required to provide proactive assistance to non-probationary employees who are performing at or below the Level 2, Marginal rating. Assistance may be provided at any time during the appraisal period that performance is determined to be at or below the Level 2 rating in one or more critical elements. This may also lead management to provide for reassignment, change to lower grade, or the removal of Technicians that continue to have unacceptable performance but only after the opportunity to demonstrate acceptable performance. Level 1, Unacceptable ratings of record shall also be reviewed and approved by a higher-level management official.

Section 11. Incentive and Awards Program.

The Incentive Awards Program is designed to motivate technicians to increase productivity and creativity and to achieve greater efficiency, economy, and improvement of operations. It

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provides a method for rewarding those whose job performance and ideas are substantially above normal job requirements and performance standards, and provides for consideration of performance contributions throughout the National Guard and the Federal Government. The Incentive Awards Program is endorsed and vigorously supported by all levels of management, and will be administered entirely on the basis of merit without regard to age, sex, race, color, religion, national origin, marital status, or physical or mental handicap. This program was implemented and is regulated by TPR 451 and CNG FPR 451.

Section 12. Compatibility.

The National Guard's full-time support program requires that all military technicians are members of the National Guard and are appointed to full-time positions which correspond to their military assignments. While drafting the National Guard Technician Act of 1968 (P.L. 90-486), the U.S. Senate recognized the importance of the technician's military assignment in relationship to their full-time job, and included the requirement for military membership and compatible military assignment as a part of the legislation. Since 1 January 1969 (the date of enactment of Public Law 90-486), it has been a legal requirement for technicians who hold Dual Status (DS) excepted appointments in the Federal Civil Service to be members of the appropriate state National Guard and to have a military assignment which is compatible with their full-time job position description.

Section 13. Wage Surveys.

The Parties mutually agree to advise each other as soon as practicable of any notice of a wage survey received that affects the wages of Technicians.

Section 14. Access to Records.

Technicians whose official duties involve personnel records shall be sensitive to individual rights to personal privacy and shall not disclose information from any personnel record unless disclosure is part of their official duties or required by executive order, regulation, or statute (e.g., required by the Freedom of Information Act, 5 U.S.C. 552).

The following information from both the Official Personnel Folder (OPF) and Technician performance file system folders, their automated equivalent records, and from other personnel record files that constitute an agency record within the meaning of the FOIA and which are under the control of the Agency, about most present and former Federal Technicians, is available to the public:

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- (1) Name;
- (2) Present and past position titles and occupational series;
- (3) Present and past grades;
- (4) Present and past annual salary rates (including performance awards or bonuses, incentive awards, merit pay amount, Meritorious or Distinguished Executive Ranks, and allowances and differentials);
- (5) Present and past duty stations (includes room numbers, shop designations, or other identifying information regarding buildings or places of employment); and
- (6) Position descriptions, identification of job elements, and those performance standards (but not actual performance appraisals) that the release of which would not interfere with law enforcement programs or severely inhibit agency effectiveness. Performance elements and standards (or work expectations) may be withheld when they are so intertwined with performance appraisals that their disclosure would reveal an individual's performance appraisal.

The Agency will generally not disclose information where the data sought is a list of names, present or past position titles, grades, salaries, performance standards, and/or duty stations of Federal Technicians which, as determined by the official responsible for custody of the information:

- (1) Is selected in such a way that would reveal more about the employee on whom information is sought than the six enumerated items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or
- (2) Would otherwise be protected from mandatory disclosure under an exemption of the FOIA.

In addition to the information described in paragraph (a) of this section, a management official may provide other information from these records (or automated equivalents) of a Technician, to others outside of the agency, under a summons, warrant, subpoena, or other legal process; as provided by the Privacy Act (5 U.S.C. 552a(b)(4) through (b)(11)), under those Privacy Act routine uses promulgated by the Office, and as required by the FOIA.

For additional information see 5 CFR 293.311 and 5 CFR 393.504.