

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NATIONAL TREASURY EMPLOYEES UNION
AND
THE INTERNAL REVENUE SERVICE
CONCERNING PHASED RETIREMENT**

This Memorandum of Understanding (“MOU”) between the National Treasury Employees Union (“NTEU” or “Union”) and the Internal Revenue Service (“IRS” or “Employer”) (collectively, “the Parties” or individually, “party”) addresses the implementation of a 1-year Phased Retirement pilot program for bargaining unit employees. At the conclusion of the pilot, the IRS will make a decision on whether the program will be permanently implemented.

The Parties acknowledge that Phased Retirement is a human resources tool for Federal agencies to retain employees who would have fully retired, but who are willing to continue in federal service for a period of time on a part-time schedule while engaging in mentoring. Moreover, Phased Retirement is designed to assist agencies with knowledge management and continuity of operations in the short term, but also to enhance the mentoring and training of the employees who will be filling the positions or taking on the duties of more experienced retiring employee.

Under Phased Retirement, participating employees will be paid for the part-time service they continue to provide the government and will receive additional credit for that service toward their full retirement. These employees will also begin receiving partial annuity payments, pro-rated based on the portion of the workweek that they are not scheduled to work.

Federal insurance coverage under the Federal Employees Health Benefits (FEHB) Program, the Federal Employees’ Group Life Insurance (FEGLI) Program, the Federal Employees Dental and Vision Plan (FEDVIP) and the Federal Flexible Spending Account Program (FSAFEDS) remains with the IRS during Phased Retirement. The cost of the premiums and the amount of the FEGLI coverage is based on a full-time work schedule even though the employee is working on a part-time basis under the PRP.

Leave accrual under the PRP will be based on the part-time schedule.

A phased retiree cannot retire on a disability retirement.

An employee may only elect phased retirement status once. If the phased retirement status ends for any reason, the employee may not re-elect phased retirement status.

In order to implement Phased Retirement, the Parties agree to the following provisions:

- 1. Communications Package.** At least five (5) workdays prior to implementation the Employer will electronically send a communication package to all bargaining unit employees informing them of the Phased Retirement policy. A copy of the communications package will be provided to NTEU National at least five (5) workdays prior to distribution to bargaining unit employees. At a minimum, the following information will be included in the

communication: a copy of this MOU; all relevant policies and IRM provisions applicable to the Phased Retirement policy; a consolidated document and/or detailed summary containing those policies and IRM provisions; a PowerPoint or similar presentation outlining the policy changes; any related guidance; and information on where employees can obtain further information if necessary, including where employees can submit any questions they have and receive a response.

Subject to the Employer's right to assign work, employees will be given up to thirty (30) minutes to review such materials and become familiar with the Phased Retirement program and its policies. Any request for additional time to review will not be unreasonably denied.

The Employer will also add a link to the ERC website to enable employees to access the Phased Retirement information that is on the HCO website.

2. **Timeline.** Phased Retirement will be piloted on or before January 31, 2018. Management has determined, the purpose of this pilot is to evaluate the viability of having eligible employees participate in phased retirement. The duration of the pilot will be for a period of one (1) year, unless the parties mutually agree to a longer duration. However, any employee participating in Phase Retirement at the end of the pilot may continue in Phased Retirement for the duration of their Phased Retirement term. At the conclusion of the pilot, the Agency will gather and review feedback in order to determine whether the Agency will permanently establish a Phased Retirement Program. The information the Agency gathers on the pilot will be shared with NTEU promptly, generally within five (5) business days of its compilation at the end of pilot. NTEU can submit comments and recommendations to the Employer concerning the permanent establishment of a Phased Retirement Program within fifteen (15) workdays of receipt of the information from the Employer. If the Agency determines that the Phased Retirement Program will be made permanent, the pilot will continue while the parties negotiate over the permanent implementation.

3. **Eligibility.** Management has determined that:

- a. Participation in Phased Retirement is voluntary and an employee must elect to participate.
- b. To participate in Phased Retirement, an employee must:
 - i. Have been employed on a full-time basis for not less than the 3-year period preceding the effective date of his or her entry into phased retirement status; and
 - ii. Be eligible for immediate retirement under either of the following provisions:
 - a. Under CSRS, the employee must be at least age 55 and must have performed at least 30 years of service, or must be at least age 60 and must have performed at least 20 years of service; or,

- b. Under FERS, the employee must be at least the minimum retirement age (MRA, Age 55-57, depending on your year of birth) and must have performed at least 30 years of service, or must be at least age 60 and must have performed at least 20 years of service; and
 - iii. Have a rating of fully successful or above on their most recent annual performance appraisal.
 - c. The following employees are not eligible for Phased Retirement:
 - i. Law Enforcement Officers subject to mandatory retirement provisions;
 - ii. Reemployed Annuitants;
 - iii. An employee who applies for Disability Retirement;
 - iv. Part-time employees;
 - v. An employee who accepts an offer for voluntary early retirement (VERA; also referred to as an early out); and
 - vi. Employees who are Age 62 with 5 years of service are not eligible to participate in phased retirement.
 - d. The employee has not engaged in any serious misconduct within a 12-month period prior to the supervisor's initial certification or the 12-month period prior to the effective date of the phased retirement appointment. According to the Treasury Directive entitled Monetary Recognition and Employee Misconduct, issued on December 15, 2014, serious misconduct is defined as misconduct that would reasonably be expected to impair public confidence in the integrity of the Service. Conduct that impacts the integrity of the Service includes criminal, infamous, dishonest, immoral or notoriously disgraceful conduct, or other conduct prejudicial to the Government. The fact that an employee is the subject of a disciplinary investigation, or has been the subject of disciplinary action, for serious misconduct during the twelve month period preceding the effective date of the phased retirement will not preclude the employee from participating in phased retirement unless such preclusion is necessary to protect the integrity of the Service. Decisions concerning whether an applicant engaged in serious misconduct and whether preclusion is necessary to protect the integrity of the Service will be made on a case-by-case basis.

4. Approval Criteria. The Agency will approve eligible employees electing to participate in Phased Retirement on a case-by-case basis, as determined by the needs of the business unit and the terms of this MOU, to retain the skills and/or knowledge of a particular retiring

employee for mentoring. The considerations for approval or disapproval include, but are not limited to whether:

- a. The employee possesses high, unique or specialized qualifications/competencies not readily available and/or provides a service to meet an essential IRS business need.
- b. The employee would likely retire if not approved for phased retirement participation.
- c. The employee's full retirement would impact the IRS' ability to carry out an activity, perform a function, or complete a project the Service deems essential to its mission.
- d. The employee's services are needed to serve as a mentor in a traditional mentoring role, or performing other mentoring activities such as training others (e.g., instructor/OJI), developing standard operating procedures or policy documents.
- e. The employee's position supports the organizational workforce and succession management plan.
- f. IRS operational needs will not require the employee to work more than a 50% work schedule (40 hours per pay period).
- g. The employee has the ability and consents to dedicating 100% of his/her phased retirement schedule to mentoring activities as provided in this MOU, and tracking the time worked via the Phased Retirement SETR Code, 800-52120.
- h. The employee agrees to collaborate with his/her immediate supervisor to develop the appropriate mentoring activities.

5. Approval Process. Management has determined that:

- a. The review and determination of an employee's eligibility for phased retirement must initially occur between the employee, supervisor, Benefits and Services Team (BeST) and Workforce Relations Division (WRD). Subject to management's right to assign work, employees will be given administrative time to perform the following steps in this approval process:
 - i. The employee will notify his/her supervisor of their interest/desire to participate in phased retirement.
 - ii. The employee will request an estimate through the GRB Platform.

- If employee owes a deposit for Post-1956 military service, the employee must use Form RI 20-97 to request a record of the military earnings for the period of active duty service from the Military Pay Center for the branch of service
 - Upon receipt of the military earnings, the employee must request a Post-1956 military deposit estimate through the GRB Platform for a calculation of the military deposit owed.
 - If the employee owes a deposit or redeposit for prior temporary or refunded civilian service, he/she must request an estimate of the deposit or redeposit owed using the GRB Platform.
- iii. The employee will request counselling from BeST to discuss any questions regarding the retirement estimate and to ensure he/she fully understands the implications of phased retirement service or owing a military or civilian deposit/redeposit.
 - iv. It is recommended that the employee review the required OPM phased retirement pamphlet before completing the election form.
 - SF-2825, Information & Instructions for Completing an Application for Phased Retirement Under CSRS
 - SF-3117, Information & Instructions for Completing an Application for Phased Retirement Under FERS
 - v. The employee will complete, sign and submit to his/her supervisor the:
 - Phased Employment/Phased Retirement Election (SF-3116, Part 1a)
 - IRS Phased Retirement Participation Mentoring Agreement
 - CSRS (SF-2801) or FERS (SF-3107) retirement application
 - All other required documents (including any civilian and/or military deposit/redeposit payments)
 - vi. The supervisor will submit the employee's name and Social Security Number (SSN) to BeST for verification of basic eligibility to participate in phased retirement.
 - vii. The supervisor will also complete and submit a request for Phased Retirement Misconduct Screening to WRD for certification as to whether the employee has engaged in any serious misconduct that would impair the integrity of the Service.
 - viii. Upon completion of the eligibility and certification processes, the supervisor will submit the employee's Phased Employment/Phased Retirement Election (SF-3116) and IRS Phased Retirement Participation

Mentoring Agreement to the appropriate IRS official for review and final approval or disapproval. Phased retirement applications must be approved or disapproved within 15 business days from the date the IRS approving official receives the employee's completed application.

- ix. The authority to approve or disapprove a request for phased retirement participation is delegated to the Business Unit Heads of Office (or equivalent).
- b. Decisions on applications for phased retirement will be made within fifteen (15) business days of receipt of the completed application by the approving official. If the application is denied, the approving official will identify the reason(s) for denying an application and it will be promptly communicated to the employee in writing.
- c. Phased employment is effective the first day of the pay period after phased retirement is approved by the IRS, or on the first day of a later pay period specified by the employee in their application. The phased retirement annuity commences at the same time as the effective date of phased employment. BeST will discuss and confirm the actual effective date with the employee and supervisor upon receipt of the employee's completed, signed and approved phased retirement application and other documents.
- d. A phased retiree may cancel an approved phased retirement election and withdraw the application for phased retirement by submitting a signed written request to the IRS, or designee, before the effective date of the phased employment. However, the election cannot be withdrawn if OPM has received a court order affecting the annuity benefits.
- e. In instances where a classified position description (PD) does not exist to describe the new mentoring duties, employees will be detailed to an unclassified set of duties using: PD #98501U for GS employees.
- f. In instances where there is an existing classified position description (PD) to describe the new mentoring duties, employees may be detailed or reassigned to the appropriate PD (e.g., OJI/Instructor/ Course Developer).
- g. Approved employees must also be placed on an appropriate performance plan, which must include the mentoring requirements.
- h. Approved employees will retain the same grade they held at the time of their entry into Phased Retirement unless they request a voluntary change to lower duties to participate.

6. Duration of Phased Retirement. Management has determined that the initial Phased Retirement period is recommended for six months but not exceed one year with the ability to

extend as needed for a period up to two (2) years in total. The term may be extended in six (6) month increments. A request for an extension of phased retirement must be made in writing by the phased retiree, prior to the expiration of the initial phased retirement term, or prior to the expiration of any extension of the initial term. Decisions on extensions will be made on a case-by-case basis as determined by the needs of the business unit and the approval process identified in the MOU. Decisions on extensions will be made consistent with the terms of this MOU and communicated promptly to the applicant, in writing, prior to the expiration of the current phased retirement term.

7. Mentoring Activities. Management has determined that:

- a. A phased retiree must spend 100% of his/her working hours performing mentoring activities. The Employer will make every reasonable effort to ensure there is sufficient mentoring work for the phased retiree to meet the mentoring requirement of 100% of the phased retiree's working hours. When mentoring activities are not available, this requirement may be waived, with managerial approval, for a limited time period generally not to exceed two weeks when organizational needs dictate.
- b. Mentoring activities are broadly defined and include teaching, training, reviewing, or providing advice, feedback, or guidance to employees, for the purpose of sharing knowledge and experience that will enhance the mentee's career development. Mentoring also includes other non-production, knowledge management work that can be made available to an employee, such as IRM development, IG development, desk guide development, SOPs, training material development, case reviews for coaching purposes, and benchmarking. Mentoring activities do not include the ability to conduct performance appraisals or employee evaluations.
- c. The Employer may allow a temporary waiver, generally not to exceed two weeks, to the 100% requirement in the event of circumstances which would make it impracticable for a phased retiree to fulfill the mentoring requirement, e.g. the unavailability of mentees. There is no limitation on the number of waivers which may be granted.
- d. Employees will report their time spent performing mentoring activities under SETR Code 800-52120. The Employer and phased retiree will jointly collaborate in the development of specific mentoring activities and projects including traditional, situational, peer-to-peer, group or other activities, such as training others, developing standard operating procedures or updating policy documents.

8. Training. Pursuant to Article 30 of the Parties' 2016 NA, all impacted employees will receive the appropriate materials and training necessary for performance of their roles under Phased Retirement. Approved phased retirees must self-certify via the IRS Phased Retirement Participation Mentoring Agreement, the review and completion of the "Phased Retirement Curriculum" located in the Enterprise Learning Management System (ELMS).

This curriculum includes online training related to various aspects of mentoring and requires completion before entrance into the IRS Phased Retirement Program.

9. **Working Percentage.** Currently, under law, the only available working percentage for phased retirement is 50%. Therefore, employees who elect to enter the PRP as a phased retiree will work 50% of their full-time work schedule. In the event the statute or regulations are modified to allow other working percentages, either party may reopen this MOU for the purpose of negotiation incorporating those options into the PRP. Additionally, a phased retiree may not be assigned hours of work in excess of the officially established part-time schedule (reflecting the working percentage), except under the conditions specified in OPM's phased retirement regulations. An authorized agency official may order or approve a phased retiree to perform hours of work in excess of the officially established part-time schedule only in rare and exceptional circumstances meeting all of the conditions noted at 5 CFR 831.1715(h) and 848.205(j).
10. **Reporting Time.** Management has determined that the phased retiree tracks the time worked via the Phased Retirement SETR Code, 800-52120.
11. The IRS will maintain information about the PRP on the IRS intranet. PRP Forms will be available via hyperlinks on the Phased Retirement web site for download by employees. The Employer will also add a link to the ERC website to enable employees to access the Phased Retirement information that is on the HCO website.
12. Employees interested in Phased Retirement must express interest to his/her supervisor and have a discussion to determine the potential opportunity for the employee to participate in phased retirement, participation timeframes and potential mentoring activities and projects.
13. Management has determined that employees will not be involuntarily downgraded based on their participation in phased retirement.
14. **Termination of Phased Retirement.** Management has determined, that Phased Retirement will terminate upon any one of the following conditions:
 - a. Expiration of the phased retirement period (including any extensions);
 - b. The employee elects full retirement at any time without IRS consent;
 - c. The employee receives approval to return to full-time or part-time employment;
 - d. The employee transfers to another agency (and the phased retirement is not continued by agreement of that agency), or
 - e. The IRS and the phased retiree may mutually rescind an existing agreement and enter into a new agreement to extend or reduce the term of the current phased retirement agreement, prior to the expiration date. IRS may rescind an existing agreement unilaterally when OPM:

- i. Has determined that the phased retiree has worked or is working a significant amount of hours in excess of the working percentage; and
- ii. Directs IRS to unilaterally end the employee's participation in phased retirement.

When OPM notifies the Agency of its unilateral determination to terminate the employee's phased retirement participation under this subsection the Agency will provide a phased retiree with notice, in advance when practicable.

- f. If the phased retiree has a break in service of more than three calendar days from the date of termination, he/she will be deemed to have elected full retirement.
- g. Once phased retirement is terminated, an employee is not eligible to re-elect phased retirement in the future. A phased retiree is limited to only one election during his/her retirement-eligible lifetime.

15. Management has determined that phased retirees are not subject to any annual leave pool procedures as outlined in the Customer Service Agreement MOU. Any decisions on requests for annual leave by phased retirees will be made pursuant to Article 32 of the parties' 2016 NA.

16. Evaluations. The Employer will evaluate employees approved for Phased Retirement in accordance with Article 12 of the Parties' 2016 NA.

17. Adverse Impact. Except as provided herein, there shall be no adverse impact on the conditions of employment of bargaining unit employees as a result of this initiative. However, if either party becomes aware of such adverse impact in the future to conditions of employment as a result of the implementation of this initiative, they will notify the other party and bargain to the extent required under Article 47 of the parties' 2016 NA and applicable law, rule and regulation.

18. Telework and AWS. Management has determined that:

- a. A phased retiree is eligible to telework. Decisions on telework will be made pursuant to Article 50 of the parties' 2016 NA.
- b. A phased retiree may participate in any work schedule (regular, compressed or flexible) pursuant to Article 23 of the parties' 2016 NA.
- c. A phased retiree authorized to work a flexible work schedule (FWS) is eligible to earn credit hours, if authorized. However, a phased retiree is limited to 25% of the biweekly work requirement (10 hours per pay period).

- 19. Phased Retirement Agreements.** When the Employer executes a Phased Retirement Agreement ("PRA") with a bargaining unit employee, a copy will be provided to the employee. The employee may provide a copy to the Union at their request
- 20. Opting-out.** Employees approved for Phased Retirement may elect to opt-out of phased retirement status at any time and choose any of the following:
- a. Enter full retirement status.
 - b. Return to the status of a regular employee with management approval. Management will assess budget and organizational needs before approval to return to full-time employment can be granted. Employees approved to return to full-time employment will be returned to their former or like position, at their current grade and step. They will also remain in their current post of duty.
 - c. Transfer to another agency and elect not to continue participation.

Employees who elect to opt-out of approved phased retirement status may not elect Phased Retirement thereafter.

- 21. Information to the Union.** If an employee is not approved for participation in Phased Retirement, the Employer will provide written notice to the employee including the specific reason for the denial. At the conclusion of the Phased Retirement pilot, IRS will provide a report to NTEU of the total number of bargaining unit applicants approved and/or denied.
- 22. Significant Problems.** If either party becomes aware of significant unanticipated problems that arise following implementation of this initiative, the Employer or the Union will inform the other party, and the Parties will meet to discuss and attempt to resolve the problem as soon as possible.
- 23. Reopener.** Either party may reopen this Agreement at any time twelve (12) months after the date on which it becomes effective. The parties may mutually agree to reopen this Agreement prior to that time.
- 24. Effective Date and Termination.** This MOU will take effect upon Agency Head approval or on the thirty-first (31st) day following execution, whichever is earlier, and will terminate with 2016 NA, or its successor agreement.

For NTEU:



M. Anna Gnadt, NTEU National
Negotiator

For IRS:



Julia W. Caldwell
Director, WRD

Date: 11/27/2017

Date: November 27, 2017