

United States of America  
BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

GEORGIA ARMY NATIONAL GAURD

And

ASSOCIATION OF CIVILIAN TECHNICIANS

Case No. 19 FSIP 046

**DECISION AND ORDER**

This request for assistance, filed by the Georgia Army National Guard (the Agency or Management) under the Federal Service Labor Management Relations Statute (the Statute), involves bargaining over a successor collective bargaining agreement (CBA). There is one remaining article at issue: Article 12 – Merit Placement and Promotion.

The Georgia Army National Guard enables the State of Georgia to respond to domestic emergencies, combat missions, counter-drug efforts, and reconstruction missions. Whether the call is coming from the Georgia State Governor or directly from the President of the United States, Georgia Army National Guard Soldiers are ready to provide the Governor and the President with ready forces in support of state and federal authorities at home and abroad. The Association of Civilian Technicians (ACT or the Union) represents 1,034 Title 32 Technicians. The current CBA expired April 2017, but the terms continue to roll over until the parties have negotiated a new CBA. The parties are currently bargaining a successor CBA, which is the subject of this impasse dispute.

**BACKGROUND, BARGAINING AND PROCEDURAL HISTORY**

Bargaining began over the successor CBA initially at the local level. Agreement was reached at the local level on all but 3 articles (Article 12 – Merit Placement and Promotion; Article 17 – Grievance and Arbitrations; and Article 19 – Appropriate Bargaining). The parties met on a number of days in September, October, and

November 2017 to negotiate. They were able to resolve most of the issues. The parties engaged with the Federal Mediation and Conciliation Services (FMCS) in August 2018. The Mediator released the parties in August 2018. The Agency filed this request for FSIP assistance in May 2019. In August 2019, the Panel asserted jurisdiction over the matter. The Panel directed the parties to resolve the remaining issues through written submissions, with an opportunity to submit rebuttal statements.

Pursuant to the order of the Panel, the Union provided a timely submission to both the Panel and the Agency representative. Due to a family emergency, the Agency's submission was submitted past the submission deadline. In accordance with the Panel's Determination Letter, the Agency submitted a timely rebuttal. The Union submitted its rebuttal past the submission deadline.

## **ISSUES AND POSITIONS OF THE PARTIES**

### **Issue 1 – Areas for Consideration (Section 12.10)**

First, the law is clear that it is a management right to ultimately hire or select from any appropriate source. 5 U.S.C. 7106 (a)(2)(C). Under the current CBA (which is also the Union's proposal; attached), the parties agree that the area of consideration for each vacancy announcement will be that which is deemed most appropriate by Human Resources (HR). The parties are in dispute over the timing in which each of the areas of applicants will be considered for a position (Section 12.10). In the current CBA, there are three categories of applicants for positions:

Area 1 – current, onboard Georgia National Guard full time permanent Technicians

Area 2 – current, temporary reservists (Airman or Army National Guard)

Area 3 – general public

The Agency's proposal states that management may extend the area of consideration beyond Area 1 to Area 2 or Area 3 when HR, after reviewing the Area 1 applicants, determines that sufficient Area 1 applicants are not available. The Union argues that the additional language proposed by the Agency should not be adopted because the additional language does not make sense. Under Section 12.5, the parties agree that the posting of the vacancy announcement must include "the area of consideration" that will be considered for the position. This is so interested applicants will know if they qualify for the position or not before they apply. If the Agency intends to expand the area of consideration, it would have to state that in the vacancy announcement in the posting phase. The Panel believes that this concern of the Union is addressed in the combination of Sections 12.5 and 12.10. If the Agency wants to preserve the opportunity to extend the area of consideration, it will need to state that in the posting itself.

## Issue 2 – Procedures for Consideration (Section 12.12)

The parties are in disagreement over the procedures for considering applicants for the vacancy. Under the current contract procedures, Section 12.12, HR provides the selecting official the list of Area 1 applicants first. The selecting official considers those applicants. Should the selecting official choose not to select from among the Area 1 applicants, the selecting official must provide a written justification for non-selection from Area 1 to HR. HR will review that justification, provide it to the Union for input, then HR will make a final decision regarding the merit of the non-selection. HR will then provide the selecting official the Area 2 then the Area 3 list of applicants.

The Union proposes to maintain the current contract language in Section 12.12. The Agency proposes that the selecting official receives all three area of consideration lists simultaneously. As the Agency has committed to priority consideration, under the Agency's proposal, the selecting official would still need to clear Area 1, by providing a written reason for non-selection, before they move onto considering Area 2 and Area 3. However, the selecting official would have the benefit of seeing the Area 1, 2 and 3 applicants simultaneously when considering the best applicant. The Panel agrees with the Agency that simultaneous review will promote the selection of the best candidate. Where the current process promotes selecting an applicant that is at least minimally qualified, the proposed process would ensure that the Agency selects the best candidate based upon merit.

## Issue 3 – Union Time to Comment on the Proposed Selection (Section 12.12)

The current contract, under Section 12.12, provides for the opportunity for the Union to consider the written justification for non-selection from among the Area 1 candidates before HR will issue the Area 2 or Area 3 lists to the selecting official. The current CBA language is silent on how much time the Union will be provided to review the written justification for non-selection of any Area 1 candidate. The Union proposes to maintain the current language. The Agency proposes to add a five-working-day time frame for the Union to consider the written justification for non-selection from among the Area 1 list before HR will move forward with announcing the final selection. The Panel believes 5 work days is a reasonable period of time for the Union to receive notice on the non-selection of a current bargaining unit employee, and, if they choose, to provide comment to HR. Management maintains the right to make its final selection. There is no need to delay the selection any more than necessary. The Union is free to challenge that selection through other procedures (e.g., grievance) should it believe there has been some sort of violation or misstep in the process.

#### Issue 4 – Referral List (Section 12.11)

Under the current contract Section 12.11, the selecting official receives the list of the top 10 Area 2 and top 5 Area 3 candidates, but not until after they first review and clear the Area 1 applicants with HR. Under the Agency's proposal, the selecting official would receive the referral list for Area 1 applicants at the same time it receives the lists for Area 2 and Area 3 applicants. The Union proposes to maintain the current first consideration process under the current contract language. The Union argues that the Agency's proposed simultaneous procedures would essentially eliminate priority consideration and will result in workforce instability, as internal candidates would not likely receive appropriate consideration for internal vacancies. The Union argues that the current process is more effective in promoting workforce stability and career development, and is more effective in rewarding employee loyalty. As for the point of the value of stability, the Union references a 2008 RAND Report that notes the difference in productivity with the promotion of team stability. The Union argues that the Agency proposed procedure, by devaluing loyalty and stability, is subjecting the workforce to reduced productivity. The Agency argues that their proposal would cause no more turbulence to the workforce because once personnel are hired they tend to stay in place. The Agency argues that the 2008 RAND report doesn't support the Union's argument that internal hiring promotes stability in the workforce. The Agency argues that the stability seen in their unit comes from the fact that the Agency doesn't pay for people to move geographically to other areas of the country to change jobs. Additionally, once people become a uniformed member of the Agency, the Agency ensures continuity because they can then control assignments.

The panel believes that workforce stability and career development continue to be valued by these parties through their continued commitment to first consideration of internal applicants (Section 12.1). The Panel also agrees that a more efficient, more timely hiring process aids the Agency in finding and quickly onboarding the best candidate for the position. The Agency's proposed amendments to the process meet both needs.

#### **PANEL DECISION**

The Panel has determined that the Agency proposed changes to the merit promotion process is more timely and efficient, and it provides the Agency the opportunity to select the best candidate for the vacancy. In effectuating the process, the parties continue to adhere to the principles of first consideration of internal candidates, management's right to select the best candidate, and adherence to merit principles. As such, the Panel is ordering the parties to adopt the Agency's Article 12 (attached), including the disputed proposals in Sections 12.1(d), 12.3 (k), 12.10, 12.11, and 12.12.

**ORDER**

Pursuant to the authority vested in the Federal Service Impasses Panel under 5 U.S.C. §7119, the Panel hereby orders the parties to adopt the provisions as stated above.

A handwritten signature in black ink, appearing to read 'Mark A. Carter', with a stylized flourish at the end.

Mark A. Carter  
FSIP Chairman

September 26, 2019  
Washington, D.C.

## ARTICLE 12

### MERIT PLACEMENT AND PROMOTION

#### SECTION 12.1 PURPOSE AND POLICY:

a. This article explains, supplements, and establishes those provisions in the NGB approved Merit Placement Plan governing merit promotion and placement matters. This article will be used to fill all federal dual and non-dual status vacancies as well as promotions and competitive reassignments for bargaining unit positions in the Georgia National Guard. Full consideration for promotion opportunity will be afforded to currently employed technicians on the basis of merit.

b. The policy of the Georgia National Guard is to create a stable work force and provide maximum opportunity for employee advancement. **FIRST CONSIDERATION FOR BARGAINING UNIT POSITIONS WILL BE GIVEN TO FILLING VACANT POSITIONS FROM WITHIN THE TECHNICIAN WORK FORCE IN GEORGIA.**

c. The purposes of this article are:

(1) To provide procedures that will insure that each Technician receives first consideration for all bargaining unit position vacancies for which they qualify.

(2) To present for management's consideration, qualified applicants.

(3) To give Technicians an opportunity to receive fair and appropriate consideration for higher level positions.

d. **The intent of this article is the understanding that both parties agree, that this language will not abrogate managements right to select from any appropriate source IAW 5 U.S.C. § 7106(a) (2) (C).**

#### SECTION 12.2 DEFINITIONS:

a. Area of Consideration (AOC) - An area of consideration is the area (geographic, organizationally, or functionally) in which an intensive search for eligible candidates is made. (Personnel from the following Categories will comprise the areas of consideration)

(1) AOC 1 - Current on board permanent and Indefinite employed Technicians of the GA NG.

(2) AOC 2- Current military members in the GA NG (Army and Air).

(3) AOC 3 - Individuals who qualify for membership in the GA NG (Army and Air).

b. Dual Status- Technicians who are required to be military members of the National Guard as a condition of employment.

c. Non-Dual Status- Technicians who are not required to be members of the National Guard as a condition of employment.

d. Selecting Official - An individual appointed by The Adjutant General as the administrative head of an organization for the purpose of assisting in the administration of the National Guard Technician Personnel Program within the State. The Selecting Official may designate their authority to other management officials. Selecting Officials must be permanently employed members of the Georgia National Guard (exceptions such as ATAG ARNG or ANG, etc. must be approved by HRO).

e. Transfer - A change of an employee, without a break in service of one full workday, from a position in one agency to a position in another agency.

- f. Reassignment - A change from one position to another position at the same pay grade.
- g. Detail - A temporary change of job assignment for a specified time period, with the technician returning to his or her regular duties at the end of the period.
- h. Temporary Promotion - The placement of a technician into a higher-graded position for which commensurate pay is received for a temporary period after which the technician will revert to the position from which was promoted.
- i. Promotion Potential Positions - Positions that provide an opportunity for promotion (trainee or upward mobility) in the same line of work. These positions normally provide training and experience for higher-level promotions.
- j. Reasonable Offer - A position that is equal to or higher than the retained grade. The assignment to a position of lesser military grade is not considered a reasonable offer.
- k. Retained Grade - Retention of an eligible technician's grade for a period not to exceed two years when demoted by RIF, reclassification, or management directed reassignment with the employee's concurrence.
- l. Retained Pay - Entitlement of eligible technicians to current pay when it exceeds the maximum rate of the grade of the position in which placed.
- m. Selective Placement Factors - Qualification requirements for the position to include general experience, specialized experience and other qualifying factors.
- n. Commuting Area - The geographical area in which a person can reasonably be expected to travel to and from work on a daily basis.
- o. Recommending Supervisor - Selecting official or the supervisor delegated by the selecting official to conduct the employment interviews.
- p. Interview Panel - Will consist of a minimum of three or maximum of five diverse members, consisting of two SME tasked to conduct an employment interview. Panel members must be full-time Georgia National Guard employees to include the panel chair. With the following exception; the panel chair will notify the Labor Organization when a Traditional Guardsmen will be a member of the interview panel.
- q. Selection Process - The process whereby the Employer's representative/s rate and rank all applicants in accordance with criteria established by (Title 5 CFR Part 335, Part 2301 and Title 32 USC Section 709) and this article for the purpose of making a selection among best qualified applicants culminated through individual or panel interviews of all applicants or selecting without interview one the top three internal applicants.
- r. Temporary Employee - An employee appointed for a limited period of time and with a specific not-to-exceed (NTE) date determined by the selecting official.
- s. Indefinite Employee - A non-permanent employee who is hired for an unlimited period of time.
- t. Electronic Announcement and Application Process - The method by which vacant positions are announced and by which applicants apply for these positions within the Georgia Department of Defense. Example would be USA Staffing/USA Jobs or another alternative automated method.

### **SECTION 12.3 EXCEPTIONS:**

- a. Promotion due to issuance of new classification standards or the correction of a classification error.
- b. Placement of overgraded technicians entitled to grade retention as a result of RIF or reclassification.
- c. Promotion when competition was previously conducted (i.e., position advertised with known promotion potential).
- d. Repromotion to a grade or an intervening grade or position from which a technician was demoted without personal cause and not at his or her request. Consideration of Technicians eligible for re-promotion will precede efforts to fill the position by competitive procedures, except when another Technician has a statutory or regulatory right to be placed in, or considered for this position. Technicians who believe they are entitled to such consideration should forward a description of the circumstances with their updated qualifications.
- e. Promotion resulting from a technician's position being reclassified at a higher grade because of additional duties and responsibilities.
- f. Reassignment to a position having no higher promotion potential. Notification will be given to the Labor Organization.
- g. Position change required by Reduction In Force regulations.
- h. Temporary promotion of 120 days or less.
- i. Details to higher-grade position or to a position with known promotion potential for 120 days or less.
- j. Selection of a former technician from the Reemployment Priority List for a position at the same or lower grade than the one last held.
- k. **The intent of this article is the understanding that both parties agree, that this language will not abrogate managements right to select from any appropriate source IAW 5 U.S.C. § 7106(a) (2) (C).**

#### **SECTION 12.4 INDEFINITE APPOINTMENTS:**

Excepted appointments with indefinite time limitations should be used when the appointment is expected to extend beyond one year. Competitive procedures must be used when filling a position on an indefinite basis in accordance with the NGB approved Merit Placement Plan and the provisions of this article.

#### **SECTION 12.5 ANNOUNCEMENT FORMAT:**

Vacancy announcements shall include, but not be limited to the following information:

- a. Announcement number.
- b. Title, series, and grade / salary range.
- c. Organization and location.
- d. Status of appointment (Dual Status and Non-Dual Status).
- e. Military appointment requirement (Officer, Warrant Officer, Enlisted) and compatibility requirements.
- f. Opening and closing dates of announcement, and reporting time-frames if selected.
- g. Qualification requirements for the position to include specialized and/or general experience, knowledge, skills, and abilities (KSA's) and other selective placement factors.
- h. Brief description of duties.



- i. Equal employment opportunity statement.
- j. Area of consideration.
- k. Instructions for applying.
- l. Information regarding known promotion potential, if applicable.
- m. Special conditions of employment, or developmental training, if applicable.
- n. Designated security clearance required.
- o. Medical standards/physical requirements.
- p. Electronic fund transfer information.
- q. Valid Georgia driver's license or other license requirements.
- r. Background checks as required for new hire employees.

**SECTION 12.6 KNOWLEDGE, SKILLS, AND ABILITIES (KSA):**

Selective placement factors are the knowledge, skills, and abilities, (KSA's) or other qualifications absolutely essential for satisfactory performance in the job. The KSA's will be determined prior to advertising a position and will be stated in the vacancy announcement. KSA requirements are used to determine qualifications for the interview process.

**SECTION 12.7 VACANCY POSTINGS:**

Bargaining Unit Technician vacancy announcements will be opened for twenty-one (21) calendar days. Exceptions to the 21 calendar day announcements will require selecting official coordination with the labor organization and approval by the HRO. To insure all interested candidates are aware of the vacancy, announcements will be posted on USA Jobs and/or the GA HRO website. Copies of all bargaining unit technician vacancy announcements will be forwarded to the Labor Organization Chair/Vice-Chair.

**SECTION 12.8 SELECTION TIME LIMITS:**

Normally, the selection process, including individual or panel interviews, will be concluded within forty-five (45) calendar days after the vacancy announcement closing date. The State Chairman or designated labor representative, or any applicant (if requested by the applicant) will be provided the reasons for delays beyond sixty (60) days.

**SECTION 12.9 APPLICATIONS and BASIC ELIGIBILITY:**

- a. The electronic application with supporting documents is the basic package by which the applicant's qualification for the position is determined. It must reflect the applicant's current and past employment data as well as military service (active, Reserve, or National Guard). Complete and accurate data is essential to insure fair evaluation of candidates. Persons interested in applying for a vacancy announcement may do so On-line through the USA JOBS website by completing the on-line questionnaire and uploading any supporting documents such as SF 50, resume, college transcripts, job certifications, etc.
- b. The Questionnaire consists of a series of questions built by the HRO Staffing Specialist which are derived from the applicable NGB Qualification Standards and Position Description. This Questionnaire helps to electronically determine the depth of the applicant's knowledge, skills, and abilities as they relate to the advertised position.

The applicant will receive a numerical rating based on the answers to the questions contained in the Questionnaire. The applicant will not be considered if the Resume and Questionnaire BOTH are not submitted for consideration. Although, the system is automatically rating each applicant and determining eligibility or ineligibility, the HRO Staffing Specialist manually reviews this information to determine whether or not the Resume supports the responses on the Questionnaire, etc. and will ultimately determine eligibility. The HRO Staffing Specialist can override the system generated rating of ineligible if he/she determines the Resume supports eligibility and correspondingly, the HRO Staffing Specialist can override and eligible rating making the applicant ineligible if he/she determines the Resume does not support an eligible rating. Whenever an eligibility rating is changed, an electronic/manual notation and justification will be entered to explain the change in rating. The applicant's application must meet the specialized experience requirement of the vacancy.

c. Specialized Experience Illustration: Where the "applicant must have 36 months specialized experience which involves..." The applicant's questionnaire and resume must support this claim. For example, if the applicant indicates that he/she meets this rating on the questionnaire, but indicates that he/she has only 20 months specialized experience on the resume, then he/she will not be considered for failing to meet the specialized experience requirement.

d. A properly completed and separate application will be submitted for each vacancy announcement in which applicants are interested. Applicants should address all job qualifications to include the KSA's described in the vacancy announcement. *If more than one type of duty is described in the experience portion of the application, applicants must include the approximate percentage of time performing each type of duty.* Technicians should retain a copy of their completed application for future use. *It is the ultimate responsibility of the applicant to ensure that a complete, accurate, up-to-date application is submitted for each vacancy.* Electronic applications via the USAJOBS website do not require a signature.

e. Applications will be submitted as follows:

(1) Applications will be submitted via USA JOBS website no later than 11:59pm on the closing date specified on the vacancy announcement.

(2) Submitting applications in government envelopes, or using government postage is prohibited by law. Applicants will apply on-line via USA Jobs. Do not send applications to HRO.

(3) Any additional documentation not required by the vacancy announcement (e.g., position descriptions, performance evaluation, letters of recommendation, certificates of training, etc.) will be removed from application package and will not be returned to the applicant.

(4) Any additional required documentation will be outlined and emphasized in the "Forms required" area of the vacancy. If the vacancy has an education or license requirement, the applicant will be notified that a copy of the transcript or license is required

f. Basic Eligibility – Applications will be reviewed by the HRO designated staffing representative to determine basic eligibility. Applicants who meet the minimal qualification and eligibility requirements, as required on the vacancy announcement, will be considered eligible for selection.

### **SECTION 12.10 AREAS OF CONSIDERATION:**

- a. The area of consideration for each specific position vacancy announcement will be that deemed most appropriate by the HRO to ensure the receipt of sufficient highly qualified candidates. The type of position, availability of candidates, position qualifications, budgetary limitations, and compatibility requirements will be considered in determining the area of consideration. **THE STANDARD AREA OF CONSIDERATION FOR BARGAINING UNIT POSITIONS WILL BE AOC 1 OR ON-BOARD GEORGIA NATIONAL GUARD FULL-TIME PERMANENT TECHNICIANS.** Management may extend the standard area of consideration to AOC 2 and AOC 3, subject to HRO approval. If extended, wording in the vacancy announcement will state: "Area Two and further extension of the area of consideration may be made to sources outside the Georgia National Guard Technician program when sufficient Area One qualified applicants are not available."
- b. For vacant positions, AOC 1 applicants will be listed as priority applicants on the electronic referral and selection certificate (i.e. USA Staffing referral certificate and/or GA HRR form 300-6). AOC 2 and AOC 3 candidates, if applicable, will be submitted to the selecting official for consideration concurrently with AOC 1 candidates on the referral and selection certificate, with the caveat that AOC 1 candidates will be given priority consideration for selection and that if an AOC 2 or 3 candidate is selected over an AOC 1 candidate, a written justification for the AOC 2 or 3 selection must be submitted to the HRO for review and, in turn, forwarded to the Labor Organization for review. The Labor Organization may provide HRO with a written response not later than five working days of the date the Labor Organization was notified of the proposed selection.
- c. **The intent of this article is that this language will not abrogate managements right to select from any appropriate source IAW 5 U.S.C. § 7106(a) (2) (C).**

### **12.11 CERTIFICATE REFERRAL:**

- a. After determining basic eligibility and qualifications via USAJOBS, HRO staffing review and after all necessary materials are gathered; the HRO Staffing Representative will provide an initial selection and referral certificate to the Selecting Official containing qualified candidates in concert with the following Georgia National Guard merit principle guidelines: (1) When announcing exclusively to AOC 1 applicants, the referral and selection certificate will include all qualified applicants initially rank ordered electronically by USAJOBS application system with a final numerical ranking. (2) When announcing to AOC 1 and 2 applicants, the referral and selection certificate will include all qualified AOC 1 applicants and up to the top five (5) AOC 2 applicants. All applicants are initially rank ordered electronically by the on-line application system, with separate AOC 1 and AOC 2 final numerical rankings determined by HRO Staffing specialists. (3) When announcing to AOC 1, 2, and 3 areas of consideration, the referral and selection certificate will include all qualified AOC 1 applicants, the top five (5) AOC 2 applicants, and top five (5) AOC 3 applicants.

### **SECTION 12.12 SELECTING OFFICIAL RESPONSIBILITIES:**

- a. Upon receiving the referral and selection certificate, the selecting official may make a selection in accordance with the following Georgia National Guard Merit principles:
- (1) If considering only AOC 1 applicants for selection, the Selecting Official (or designated representative) may choose one of the top three referred AOC 1 applicants based on a review of the applications without interviewing the applicants; or may interview all referred AOC 1 applicants and make a selection. If the interview process is chosen, all referred AOC 1 candidates should receive an interview unless documented circumstances prevent conducting an interview (a person not interviewed will not be selected).
- (a) If considering AOC 1, AOC 2 applicants, and/or AOC 3 for selection, the Selecting Official (or designated representative) may select from the top three of AOC 1 based on a review of the applications without interviewing the applicants; may select an applicant from AOC 1 based on interviewing all AOC 1 applicants; or may interview all AOC 1, AOC 2, and/or AOC 3 referred candidates unless documented circumstances prevent conducting an interview (any AOC 2 or AOC 3 candidate not interviewed will not be selected). In the event an AOC 2 or 3 candidate is selected over an AOC 1 candidate, the Selecting Official will provide justification for the selection to HRO for final approval. HRO will then afford the Labor Organization an opportunity to review the justification. The Labor Organization may provide HRO with a written response not later than five working days of the Labor Organization being notified of the proposed selection. The selected applicant will not be notified prior to final HRO approval. The final approval for all selections rests solely with the HRO.
- (b) The Selecting Official is entitled to select or non-select from among any of the applicants indicated on the list of candidates referred. The selection will be made with sole reference to merit and fitness and without regard to any other non-merit factors.

**SECTION 12.13 HRO or DESIGNATED REPRESENTATIVE NOTIFICATION RESPONSIBILITIES:**

- a. The HRO or designated representative will notify the individuals on the selection certificate of the selection.
- b. Arrange a start and/or release date for the selectee.
- c. HRO or designated representative will advise, electronically those individuals who did not meet qualifications required for the position in a reasonable amount of time.

**SECTION 12.14 INDIVIDUAL RESPONSIBILITIES:**

Individual technicians are responsible for:

- a. Familiarizing themselves with the provisions of the Merit Promotion and Placement Plan.
- b. Pursuing developmental opportunities in preparing to assume higher level duties.
- c. Assuring on-line and manual application forms and Official Personnel Folders (OPF's) contain accurate and current information concerning qualifications and self-development activities.
- d. Arranging with a supervisor to submit completed applications for vacancies when temporarily absent from their positions.

**SECTION 12.15 TECHNICIAN RELEASE:**

After selection for promotion/placement, a Technician should be released promptly from their present position. Release will normally be within two (2) weeks after selection, either the start of the 1st day of the next pay period, or the fill date as specified on SF 52 (Request for Personnel Action).

**SECTION 12.16 SELECTION DELAYS:**

If the vacant position remains open, the referral certificate may remain in effect for four (4) months. The HRO will notify the labor organization State Chairman and the candidates as to the reason for a cancellation or delay.

**SECTION 12.17 RECORDS:**

- a. Sufficient records are required to allow reconstruction of the placement action to provide; for an evaluation of merit promotion/placement plan; for clear record of the actions taken; and for proof that the Technician vacancies are filled on a fair and equitable basis in accordance with this article.
- b. The following records are to be maintained by the HRO or designated representative:
  - (1) Electronic and/or paper copy of the vacancy announcement.
  - (2) Electronic and/or paper copy of electronic referral and selection certificate/GA HRR Form 300-6.
  - (3) Electronic and/or paper copy of the application and attached documents.
  - (4) Electronic and/or paper copies of forms used in the evaluation and rating process.
- c. Records are to be maintained for a minimum of two (2) years. If a grievance is pending, records will be maintained until grievance resolution.

**SECTION 12.18 GRIEVANCES:**

- a. A Technician who believes that proper procedures were not followed in a particular placement action for which they were an applicant may present a grievance under the grievance procedures agreed to in this contract. A grievance will not be considered when it is based solely on non-selection.
- b. The Employer, upon written request, will provide to the Labor Organization the promotional material utilized in assisting the qualifications of the eligible candidates in an alleged or formal grievance action. Confidentiality of promotion material will be maintained by the Labor Organization.
- c. If a grievance concerning a merit promotion has been initiated, no action to cancel the vacancy announcement will take place until the grievance is resolved.

**SECTION 12.19 ADMINISTRATIVE REVIEW:**

Should a non-selected Technician wish to know the possible reason(s) for non-selection, they may request an administrative review from the Selecting Official or supervisor. The Selecting Official or supervisor *is encouraged to* address the area(s) where improvement(s) can be made to enhance the individual's promotion potential. The intent is not for the Technician to grieve his/her non-selection but to provide the Technician an awareness of potential weakness.

Union final offer

UNITED STATES  
FEDERAL SERVICE IMPASSES PANEL  
WASHINGTON, DC 20424-0001

GEORGIA ARMY & AIR NATIONAL GUARD

AND

Case No. 19 FSIP 046

ASSOCIATION OF CIVILIAN TECHNICIANS

**ASSOCIATION OF CIVILIAN TECHNICIANS'  
FINAL OFFERED LANGUAGE**

The Association of Civilian Technicians (ACT) accepts the agency's proposals for 12.1a, 12.2b, 12.2c, 12.4, 12.5d, and 12.9.

ACT rejects the agency's proposed changes to 12.10a, 12.10b, 12.11a(2); proposed new 12.11a(3); and proposed changes to 12.12. As to these matters ACT proposes that no change to the current agreement be made.

Consistent with the foregoing, ACT's final offered language for Article 12 is as follows:

**ARTICLE 12  
MERIT PLACEMENT AND PROMOTION**

**SECTION 12.1 PURPOSE AND POLICY:**

- a. This article explains, supplements, and establishes those provisions in IAW TPR 300 governing merit promotion and placement matters. This article will be used to fill all federal dual status and non-dual status vacancies as well as promotions and competitive reassignments for bargaining unit positions in the Georgia National Guard. Full consideration for promotion opportunity will be afforded to currently employed technicians on the basis of merit.
- b. The policy of the Georgia National Guard is to create a stable work force and provide maximum opportunity for employee advancement. **FIRST CONSIDERATION FOR BARGAINING UNIT POSITIONS WILL BE GIVEN TO FILLING VACANT POSITIONS FROM WITHIN THE TECHNICIAN WORK FORCE IN GEORGIA.**
- c. The purposes of this article are:
  - (1) To provide procedures that will insure that each Technician receives first consideration for all bargaining unit position vacancies for which they qualify.
  - (2) To present for management's consideration, qualified applicants.
  - (3) To give Technicians an opportunity to receive fair and appropriate consideration for higher level positions.

**SECTION 12.2 DEFINITIONS:**

- a. Area of Consideration - An area of consideration is the area (geographic, organizationally, or functionally) in which an intensive search for eligible candidates is made. (Personnel from the following Categories will comprise the areas of consideration)
  - (1) Area of Consideration 1 (AOC 1) - Current on board permanent and Indefinite employed Technicians of the GA NG.

(2) Area of Consideration 2 (AOC 2) – Current military members in the GA NG (Army and Air).

(3) Area of Consideration 3 (AOC 3) - Individuals who qualify for membership in the GA NG (Army and Air).

b. Dual Status - Technicians who are required to be military members of the National Guard as a condition of employment.

c. Non-Dual Status - Technicians who are not required to be members of the National Guard as a condition of employment.

d. Selecting Official - An individual appointed by The Adjutant General as the administrative head of an organization for the purpose of assisting in the administration of the National Guard Technician Personnel Program within the State. The Selecting Official may designate their authority to other management officials. Selecting Officials must be permanently employed members of the Georgia National Guard (exceptions such as ATAG ARNG or ANG, etc. must be approved by HRO).

e. Transfer - A change of an employee, without a break in service of one full workday, from a position in one agency to a position in another agency.

f. Reassignment - A change from one position to another position at the same pay grade.

g. Detail - A temporary change of job assignment for a specified time period, with the technician returning to his or her regular duties at the end of the period.

h. Temporary Promotion - The placement of a technician into a higher-graded position for which commensurate pay is received for a temporary period after which the technician will revert to the position from which was promoted.

i. Promotion Potential Positions - Positions that provide an opportunity for promotion (trainee or upward mobility) in the same line of work. These positions normally provide training and experience for higher-level promotions.

j. Reasonable Offer - A position that is equal to or higher than the retained grade. The assignment to a position of lesser military grade is not considered a reasonable offer.

k. Retained Grade – Retention of an eligible technician's grade for a period not to exceed two years when demoted by RIF, reclassification, or management directed reassignment with the employee's concurrence.

l. Retained Pay – Entitlement of eligible technicians to current pay when it exceeds the maximum rate of the grade of the position in which placed.

m. Selective Placement Factors - Qualification requirements for the position to include general experience, specialized experience and other qualifying factors.

n. Commuting Area - The geographical area in which a person can reasonably be expected to travel to and from work on a daily basis.

o. Recommending Supervisor - Selecting official or the supervisor delegated by the selecting official to conduct the employment interviews.

p. Interview Panel – Will consist of a minimum of three or maximum of five diverse members, consisting of two SME tasked to conduct an employment interview. Panel members must be full-time Georgia National Guard employees to include the panel chair. With the following exception; the panel chair will notify the Labor Organization when a Traditional Guardsmen will be a member of the interview panel.

q. Selection Process - The process whereby the Employer's representative/s rate and rank all applicants in accordance with criteria established by (Title 5 CFR Part 335, Part 2301 and Title 32 USC Section 709) and this article for the purpose of making a selection among best qualified applicants culminated through individual or panel interviews of all applicants or selecting without interview one the top three internal applicants.

- r. Temporary Employee - An employee appointed for a limited period of time and with a specific not-to-exceed (NTE) date determined by the selecting official.
- s. Indefinite Employee - A non-permanent employee who is hired for an unlimited period of time.
- t. Electronic Announcement and Application Process - The method by which vacant positions are announced and by which applicants apply for these positions within the Georgia Department of Defense. Example would be USA Staffing/USA Jobs or another alternative automated method.

### **SECTION 12.3 EXCEPTIONS:**

- a. Promotion due to issuance of new classification standards or the correction of a classification error.
- b. Placement of overgraded technicians entitled to grade retention as a result of RIF or reclassification.
- c. Promotion when competition was previously conducted (i.e., position advertised with known promotion potential).
- d. Repromotion to a grade or an intervening grade or position from which a technician was demoted without personal cause and not at his or her request. Consideration of Technicians eligible for re-promotion will precede efforts to fill the position by competitive procedures, except when another Technician has a statutory or regulatory right to be placed in, or considered for, this position. Technicians who believe they are entitled to such consideration should forward a description of the circumstances with their updated qualifications.
- e. Promotion resulting from a technician's position being reclassified at a higher grade because of additional duties and responsibilities.
- f. Reassignment to a position having no higher promotion potential. Notification will be given to the Labor Organization.
- g. Position change required by Reduction In Force regulations.
- h. Temporary promotion of 120 days or less.
- i. Details to higher-grade position or to a position with known promotion potential for 120 days or less.
- j. Selection of a former technician from the Reemployment Priority List for a position at the same or lower grade than the one last held.

### **SECTION 12.4 INDEFINITE APPOINTMENTS:**

Dual Status appointments with indefinite time limitations should be used when the appointment is expected to extend beyond one year. Competitive procedures must be used when filling a position on an indefinite basis in accordance with TPR 335 and the provisions of this article.

### **SECTION 12.5 ANNOUNCEMENT FORMAT:**

Vacancy announcements shall include, but not be limited to the following information:

- a. Announcement number.
- b. Title, series, and grade / salary range.
- c. Organization and location.
- d. Status of appointment (Dual Status or Non-Dual Status).
- e. Military appointment requirement (Officer, Warrant Officer, Enlisted) and compatibility requirements.
- f. Opening and closing dates of announcement, and reporting time-frames if selected.
- g. Qualification requirements for the position to include specialized and/or general experience, knowledge, skills, and abilities (KSA's) and other selective placement factors.
- h. Brief description of duties.
- i. Equal employment opportunity statement.
- j. Area of consideration.
- k. Instructions for applying.



- l. Information regarding known promotion potential, if applicable.
- m. Special conditions of employment, or developmental training, if applicable.
- n. Designated security clearance required.
- o. Medical standards/physical requirements.
- p. Electronic fund transfer information.
- q. Valid Georgia driver's license or other license requirements.
- r. Background checks as required for new hire employees.

**SECTION 12.6 KNOWLEDGE, SKILLS, AND ABILITIES (KSA):**

Selective placement factors are the knowledge, skills, and abilities, (KSA's) or other qualifications absolutely essential for satisfactory performance in the job. The KSA's will be determined prior to advertising a position and will be stated in the vacancy announcement. KSA requirements are used to determine qualifications for the interview process.

**SECTION 12.7 VACANCY POSTINGS:**

Bargaining Unit Technician vacancy announcements will be opened for twenty-one (21) calendar days. Exceptions to the 21 calendar day announcements will require selecting official coordination with the labor organization and approval by the HRO. To insure all interested candidates are aware of the vacancy, announcements will be posted on USA Jobs and/or the GA HRO website. Copies of all bargaining unit technician vacancy announcements will be forwarded to the Labor Organization Chair/Vice-Chair.

**SECTION 12.8 SELECTION TIME LIMITS:**

Normally, the selection process, including individual or panel interviews, will be concluded within forty-five (45) calendar days after the vacancy announcement closing date. The State Chairman or designated labor representative, or any applicant (if requested by the applicant) will be provided the reasons for delays beyond sixty (60) days.

**SECTION 12.9 APPLICATIONS and BASIC ELIGIBILITY:**

- a. The electronic application with supporting documents is the basic package by which the applicant's qualification for the position is determined. It must reflect the applicant's current and past employment data as well as military service (active, Reserve, or National Guard). Complete and accurate data is essential to insure fair evaluation of candidates. Persons interested in applying for a vacancy announcement may do so On-line through the USA JOBS website by completing the on-line questionnaire and uploading any supporting documents such as SF 50, resume, college transcripts, job certifications, etc.
- b. The Questionnaire consists of a series of questions built by the HRO Staffing Specialist which are derived from the applicable NGB Qualification Standards and Position Description. This Questionnaire helps to electronically determine the depth of the applicant's knowledge, skills, and abilities as they relate to the advertised position. The applicant will receive a numerical rating based on the answers to the questions contained in the Questionnaire. The applicant will not be considered if the Resume and Questionnaire BOTH are not submitted for consideration. Although, the system is automatically rating each applicant and determining eligibility or ineligibility, the HRO Staffing Specialist manually reviews this information to determine whether or not the Resume supports the responses on the Questionnaire, etc. and will ultimately determine eligibility. The HRO Staffing Specialist can override the system generated rating of ineligible if he/she determines the Resume supports eligibility and correspondingly, the HRO Staffing Specialist can override and eligible rating making the applicant ineligible if he/she determines the Resume does not support an eligible rating. Whenever an eligibility

rating is changed, an electronic/manual notation and justification will be entered to explain the change in rating. The applicant's application must meet the specialized experience requirement of the vacancy.

c. Specialized Experience Illustration: Where the "applicant must have 36 months specialized experience which involves..." The applicant's questionnaire and resume must support this claim. For example, if the applicant indicates that he/she meets this rating on the questionnaire, but indicates that he/she has only 20 months specialized experience on the resume, then he/she will not be considered for failing to meet the specialized experience requirement.

d. A properly completed and separate application will be submitted for each vacancy announcement in which applicants are interested. Applicants should address all job qualifications to include the KSA's described in the vacancy announcement. *If more than one type of duty is described in the experience portion of the application, applicants must include the approximate percentage of time performing each type of duty.* Technicians should retain a copy of their completed application for future use. *It is the ultimate responsibility of the applicant to ensure that a complete, accurate, up-to-date application is submitted for each vacancy.* Electronic applications via the USAJOBS website do not require a signature.

e. Applications will be submitted as follows:

(1) Applications will be submitted via USA JOBS website no later than 11:59pm on the closing date specified on the vacancy announcement.

(2) Submitting applications in government envelopes, or using government postage is prohibited by law. Applicants will apply on-line via USA Jobs. Do not send applications to HRO.

(3) Any additional documentation not required by the vacancy announcement (e.g., position descriptions, performance evaluation, letters of recommendation, certificates of training, etc.) will be removed from application package and will not be returned to the applicant.

(4) Any additional required documentation will be outlined and emphasized in the "Forms required" area of the vacancy. If the vacancy has an education or license requirement, the applicant will be notified that a copy of the transcript or license is required

f. Basic Eligibility – Applications will be reviewed by the HRO designated staffing representative to determine basic eligibility. Applicants who meet the minimal qualification and eligibility requirements, as required on the vacancy announcement, will be considered eligible for selection.

#### **SECTION 12.10 AREAS OF CONSIDERATION:**

a. The area of consideration for each specific position vacancy announcement will be that deemed most appropriate by the HRO to ensure the receipt of sufficient highly qualified candidates. The type of position, availability of candidates, position qualifications, budgetary limitations, and compatibility requirements will be considered in determining the area of consideration. **THE STANDARD AREA OF CONSIDERATION FOR BARGAINING UNIT POSITIONS WILL BE AREA ONE OR**

**ON-BOARD GEORGIA NATIONAL GUARD FULL-TIME PERMANENT TECHNICIANS.**

b. For vacant bargaining positions, all areas of consideration will be listed on separate electronic referral and selection certificates.

#### **12.11 CERTIFICATE REFERRAL:**

a. After determining basic eligibility and qualifications via USAJOBS, HRO staffing review, and after all necessary materials are gathered; the HRO Staffing Representative will provide an initial selection and referral certificate to the Selecting Official containing qualified candidates in concert with the following Georgia National Guard merit principle guidelines:

(1) When announcing exclusively to area one applicants, the referral and selection certificate will include all qualified applicants initially rank ordered electronically by USAJOBS application system with a final numerical ranking.

(2) When announcing to all areas of consideration, the referral and selection certificate will include all area ones. The selecting official will receive the top ten (10) area two and five (5) area three applicants, after final decision of the non-selection of all area one applicants numerical rating from USAJOBS.

**SECTION 12.12 SELECTING OFFICIAL RESPONSIBILITIES:**

a. Upon receiving the referral and selection certificate, the selecting official may make a selection in accordance with the following Georgia National Guard Merit principles:

(1) When considering all referral selection certificate, the Selecting Official (or designated representative) may select one of the top five referred area one applicants based on a review of the applications without interviewing the applicants; or may interview all referred area one top five applicants and make a selection.

(a) If the interview process is chosen, the Selecting Official (or designated representative) will interview the top five applicants and other area one applicants of choice on the referral certificate. (A person not interviewed will not be selected).

(b) If the selecting official non-selects from all of the area one applicants, he or she will provide definitive justification in writing for non-selecting each applicant to the HRO. The HRO will notify the State Chairman or designated Labor organization representative of the non-selection, discuss the justifications for non-selection, consider the Labor organizations input, and advise the State Chairman of the final decision. After final decision of the non-selection of area one, area two and area three will be sent in sequence to the selecting official for further consideration.

(c) When considering area two and area three applicants for selection, the selecting official (or designated representative) may select one of the top five referred area two applicants based on review of the applications without interviewing applicants; or may interview any referred area two and three applicants.

**SECTION 12.13 HRO or DESIGNATED REPRESENTATIVE NOTIFICATION RESPONSIBILITIES:**

a. The HRO or designated representative will notify the individuals on the selection certificate of the selection.

b. Arrange a start and/or release date for the selectee.

c. HRO or designated representative will advise, electronically those individuals who did not meet qualifications required for the position in a reasonable amount of time.

**SECTION 12.14 INDIVIDUAL RESPONSIBILITIES:**

Individual technicians are responsible for:

a. Familiarizing themselves with the provisions of the Merit Promotion and Placement Plan.

b. Pursuing developmental opportunities in preparing to assume higher level duties.

c. Assuring on-line and manual application forms and Official Personnel Folders (OPF's) contain accurate and current information concerning qualifications and self-development activities.

d. Arranging with a supervisor to submit completed applications for vacancies when temporarily absent from their positions.

**SECTION 12.15 TECHNICIAN RELEASE:**

After selection for promotion/placement, a Technician should be released promptly from their present position. Release will normally be within two (2) weeks after selection, either the start of the 1st day of the next pay period, or the fill date as specified on SF 52 (Request for Personnel Action).

**SECTION 12.16 SELECTION DELAYS:**

If the vacant position remains open, the referral certificate may remain in effect for four (4) months. The HRO will notify the labor organization State Chairman and the candidates as to the reason for a cancellation or delay.

**SECTION 12.17 RECORDS:**

- a. Sufficient records are required to allow reconstruction of the placement action to provide; for an evaluation of merit promotion/placement plan; for clear record of the actions taken; and for proof that the Technician vacancies are filled on a fair and equitable basis in accordance with this article.
- b. The following records are to be maintained by the HRO or designated representative:
  - (1) Electronic and/or paper copy of the vacancy announcement.
  - (2) Electronic and/or paper copy of electronic referral and selection certificate/GA HRR Form 300-6.
  - (3) Electronic and/or paper copy of the application and attached documents.
  - (4) Electronic and/or paper copies of forms used in the evaluation and rating process.
- c. Records are to be maintained for a minimum of two (2) years. If a grievance is pending, records will be maintained until grievance resolution.

**SECTION 12.18 GRIEVANCES:**

- a. A Technician who believes that proper procedures were not followed in a particular placement action for which they were an applicant may present a grievance under the grievance procedures agreed to in this contract. A grievance will not be considered when it is based solely on non-selection.
- b. The Employer, upon written request, will provide to the Labor Organization the promotional material utilized in assisting the qualifications of the eligible candidates in an alleged, or formal grievance action. Confidentiality of promotion material will be maintained by the Labor Organization.
- c. If a grievance concerning a merit promotion has been initiated, no action to cancel the vacancy announcement will take place until the grievance is resolved.

**SECTION 12.19 ADMINISTRATIVE REVIEW:**

Should a non-selected Technician wish to know the possible reason(s) for non-selection, they may request an administrative review from the Selecting Official or supervisor. The Selecting Official or supervisor *is encouraged to* address the area(s) where improvement(s) can be made to enhance the individual's promotion potential. The intent is not for the Technician to grieve his/her non-selection but to provide the Technician an awareness of potential weakness.