STATE OF WEST VIRGINIA
OFFICE OF THE ADJUTANT GENERAL
1703 Coonskin Drive
Charleston, West Virginia 25311-1085

DEC 13 2013

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE WEST VIRGINIA NATIONAL GUARD AND THE ASSOCIATION OF CIVILIAN TECHNICIANS WEST VIRGINIA CHAPTERS

Subject: Procurement of Personal Protective Footwear

1. This Memorandum of Understanding supersedes Memorandum of Understanding; Subject Procurement of Personal Protective Footwear, dated 2 May 2013, and all associated amendments.

2. This Memorandum of Understanding (MOU) has been developed through Labor Management negotiations in accordance with the Labor Relations Agreement between the Adjutant General, State of West Virginia and the West Virginia Chapters of the Association of Civilian Technicians, and Public Law 95-454, to implement personal protective footwear procurement procedures for technicians of the West Virginia National Guard.

3. This Memorandum of Understanding has been negotiated with consideration for law, rule and regulation by The Adjutant General, State of West Virginia, and the West Virginia Chapters of the Association of Civilian Technicians, and as such shall constitute the full and final authority with respect to the WVNG and the procurement practices governing provision of personal protective footwear for all (Air and Army) WVNG technicians. This MOU shall remain in effect until or unless, by mutual agreement and or statutory mandate, the parties meet under appropriate conditions to alter or abolish it.

4. Technicians of the WVNG are authorized to request personal protective footwear which meets the requirements of the Occupational Safety and Health Administration (OSHA), ASTM International F2412 and F2413, and the LMRA for their individual medical necessity or occupational work activities.

A. A base price for the standard issue Belleville 675 (Sage Green)/775 (Tan) ST 600g Insulated Waterproof Steel Toe boot plus shipping and handling, per occurrence is authorized as the Maximum Agency Expenditure for procurement of personal protective footwear. The Maximum Agency Expenditure will be recognized as the maximum authorized reimbursable amount to a technician for approved individual purchase of personal protective footwear. This expenditure limit does not apply to procurement of personal protective footwear for medical or occupational necessity.

1. To insure that no employee is without safety footwear due to pricing interpretation and to negate the need to renegotiate this MOU, future authorizations will reflect any price increases of the standard issue Belleville 675 (Sage Green)/775 (Tan) ST 600g Insulated Waterproof Steel Toe boot at the time of purchase. The local supply office will provide verification of the price increase with the normal request documentation.

2. In the event the aforementioned boot should become unavailable, representatives of the Association State Council and TAG Staff will determine a suitable substitute for the standard issue Belleville 675 (Sage Green)/775 (Tan) ST 600g Insulated Waterproof Steel Toe boot.

5. There are no restrictions on personal preference, pricing, name brand, style, location or vender from whom the technician chooses to purchase personal protective footwear; however, procurement of personal protective footwear will have two specific stipulations, which are minimum safety requirements and appropriate appearance.

A. With the exception of an authorized occupational or medical necessity, the technician shall only be allotted the Maximum Agency Expenditure for each individual purchase amount.

1. Any cost in excess of the Maximum Agency Expenditure shall be considered a technician out of pocket expense for which the WVNG is not responsible.

2. The authorized purchase of personal protective footwear due to medical or occupational necessities will be paid in full by the employer. When making a selection, the following criteria must be met and verified by the employee's immediate supervisor:

a. The personal protective footwear must meet ASTM International F2412 and F2413, or exceed the safety requirements for the employee's work activities as described in the individual's position description, or as amended by the State Safety Office or the respective Wing Safety Office.

b. The personal protective footwear must have, or be made to have, a military appearance.

6. Special medical and/or occupational necessity requirements will be identified through the technician supervisor to the State Safety Office, or the respective Wing Safety Office, for an official determination and authorization for expenditure of funds. In either instance this will be a one-time documentation requirement to remain on file at the appropriate Safety Office, and in perpetual affect until the technician ceases to perform the duties which created the medical necessity, or until such time as the hazard which created the occupational necessity is resolved. IAW OSHA regulatory language the technician shall not incur an out of pocket expense for such purchases.

A. To establish an occupational necessity, technicians and supervisors shall utilize the technician's official Position Description, civil and/or military regulatory guidance to identify the need for special personal protective footwear. A partial list of examples for an occupational necessity is conductive soled footwear for ammunition handlers, static dissipative footwear for individuals handling electrostatic discharge sensitive (ESDS) items, and insulated footwear for those working predominantly in cold environments.

B. To establish medical necessity, the technician shall, through his/her supervisory chain, provide to the appropriate Safety Office the request with substantiating statements and/or medical justification attached. Acceptable medical justification is an affidavit, profile, or document from a medical professional, either civil or military, stating the affliction or need for special personal protective footwear. Individuals with extraordinary circumstances, not substantiated by documentation, will be authorized as medical or occupational necessity if, through consultation the Occupational Health Nurse Office or the respective Wing Safety Office, it is warranted and the Occupational Health Nurse or the respective Wing Chief of Safety makes such a recommendation.

7. To initiate a new technician's initial issue, the supervisor will provide the technician with selection criteria guidance, if possible, a list of local personal protective footwear venders, and direct the technician to identify a personal protective footwear preference from a source acceptable to the technician's personal choice. To initiate replacement of personal protective footwear for existing technicians the technician must first identify a need for replacement to his/her supervisor. The supervisor will verify the technician's personal protective footwear is unserviceable and warrants replacement, and direct the technician to identify desired personal protective footwear. On completion of the selection process, the supervisor will verify the personal protective footwear meets the criteria stated above, direct the local supply office to complete the required agency forms, obtain the necessary authorization, through the Occupational Safety Representative, from the appropriate Finance Manager, and pay by appropriate funds instrument the Maximum Agency Expenditure. For clarification, it has been previously established that local management officials or their representatives are authorized to facilitate purchase from any company offering personal protective footwear on GSA Schedule, or from the open market if the desired footwear is not available from GSA sources, or is offered at a better price than is available through GSA scheduled companies.

FOR THE ASSOCIATION

DENNIS K. RAYBURN
ASSOCIATION OF CIVILIAN TECHNICIANS
CHAIRMAN, WV STATE COUNCIL

FOR THE EMPLOYER

JAMES A. HOYER
MAJOR GENERAL, WVARNG
The Adjutant General