

PREAMBLE

This Agreement is made and entered into by and between the United States Department of Housing and Urban Development, hereinafter referred to as "Management" and the American Federation of Government Employees, AFL-CIO, hereinafter referred to as the "Union," together referred to as the "Parties."

Management and the Union agree that labor-management relations within the Department are strengthened by the participation of employees in the formulation and implementation of personnel policies and practices relating to their conditions of employment and through constructive and cooperative relationships with labor organizations.

The parties affirm that the public purposes to which the Department is dedicated can be advanced through understanding and cooperation achieved through collective bargaining as defined in Public Law 95-454. The provisions of this Contract shall be administered and interpreted in a manner consistent with the requirement for an effective and efficient Government.

The terms and conditions of this Agreement apply only to employees within the bargaining unit.

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ARTICLE 1
COVERAGE AND RECOGNITION

Section 1.01 - Recognition.

- (1) The Union is recognized as the sole and exclusive representative for all bargaining unit employees as defined in the following Sections of this Article.
- (2) As the sole and exclusive representative, the Union is entitled to act for and to negotiate agreements covering all employees in the bargaining unit. The Union is responsible for representing all employees in the bargaining unit without discrimination and without regard to Union membership.
- (3) Management agrees that in regard to the bargaining unit, it will not enter into other agreements, understandings, or contracts with any other organization, association, group of employees, or union on matters concerning the conditions of employment of the bargaining unit.
- (4) Management and the Union agree that, in regard to the bargaining unit, they will not do anything by custom or practice that will contravene or violate this Agreement. The parties recognize that changes may be made to this Agreement when required by law, Governmentwide regulation, or other appropriate authority outside the Department, such as the Comptroller General.

Section 1.02 - Bargaining Unit. Bargaining unit employees include all eligible employees of the offices listed on the description of the consolidated unit which is attached as Appendix A.

- (1) The Union represents employees in a nonprofessional unit and a professional unit as described in Appendix A.
- (2) "Professional employee" is defined by Public Law 95-454 (Title VII of the Civil Service Reform Act of 1978 (5 U.S.C. 7103)). Examples of "professional" positions in the Department's professional unit are: accountants, architects, attorneys, engineers, and economists, as well as other similar fields.

Section 1.03 - Position Exclusions. The following groups of employees are excluded from the units:

- (1) Any management official or supervisor;
- (2) A confidential employee;

- (3) An employee engaged in personnel work in other than a purely clerical capacity;
- (4) Any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity; and
- (5) Temporary employees with appointments not to exceed six (6) months or less.

Section 1.04 - Scope and Future Application. If the Union, in the future, becomes certified as exclusive representative for employees of the Department not now included with the bargaining unit, this Agreement shall extend automatically to those employees. Management and the Union agree that when a new group of employees is added to the bargaining unit, any past practices that exist with respect to those employees shall continue unless such practices contravene or violate specific provisions of this Agreement, any law, Governmentwide regulation, or other appropriate authority outside the Department. If the past practice is discontinued, the Union shall be given an opportunity to bargain in accordance with the Statute.

With regard to past practices in existence at the time of the execution of this Agreement, those practices shall be discontinued if such practices contravene or violate specific provisions of this Agreement, any law, Governmentwide regulation, or other appropriate authority outside the Department. If any past practice is discontinued, the Union shall be given an opportunity to bargain in accordance with the Statute.

Section 1.05 - Exclusions from the Unit. If Management makes the decision to exclude any position from the existing bargaining unit as it stands on the effective date of this Agreement, before Management takes the action, the Local Union representative shall first be notified. Upon receipt of the notice, the Local Union representative may meet with Management within five (5) working days to attempt to resolve the matter. If the matter is not resolved, either party may follow the applicable Federal Labor Relations Authority (FLRA) procedures.

ARTICLE 2
DEFINITIONS

Section 2.01 - Definitions. For the purposes of this Agreement, the following words and terms shall have the stated meanings:

- (1) **"Management"** or **"Department"** shall mean the United States Department of Housing and Urban Development and its managers and supervisors, to the extent authorized to act on behalf of Management.
- (2) **"Union"** shall mean the American Federation of Government Employees (AFGE), AFL-CIO, and its authorized agents, including the National Council of HUD Locals, and its officers and stewards, to the extent that they are authorized to act on behalf of the Union.
- (3) **"Employee"** shall mean bargaining unit employee as described in Article 1, Section 1.02, of this Agreement.
- (4) **"Government"** means the United States of America.
- (5) **"Governmentwide rule or regulation"** shall have the meaning ascribed to it by the Federal Labor Relations Authority.
- (6) **"Unit"** as used in this Agreement, shall mean the AFGE exclusively recognized bargaining unit within the Department of Housing and Urban Development.
- (7) **"Council"** shall mean the National Council of HUD Locals, the Union's designated agent to handle the day-to-day business in the administration of this Agreement and other appropriate business of the Union, as specified in the delegation of authority by the American Federation of Government Employees, AFL-CIO.
- (8) **"Local"** as distinguished from "local" shall mean a constituent AFGE Local designated by the HUD Council of Locals to act on its behalf.
- (9) **"Region"** means the Department's designated geographic areas where it maintains HUD Regional Offices.
- (10) **"Statutory appeal"** means an appeals process which is specifically prescribed by law, as opposed to one negotiated by the parties, as an employee's redress for complaint.
- (11) **"Contract"** or **"Agreement"** shall mean this collective bargaining Agreement between the parties.

- (12) **"The Statute"** shall mean the labor relations Statute which is the title that governs Federal labor relations for employees of the Federal Government. (Also known as the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101, et sec., (Title VII of the Civil Service Reform Act of 1978)).
- (13) **"Disabled"** shall mean "qualified handicapped individual" or "individual with handicaps" as defined in the Rehabilitation Act of 1973, as amended.

Section 2.02 - Other Words and Terms. Any word or term used in this Agreement not defined in Section 2.01 above, shall have the common, dictionary meaning with only the following exceptions:

- (1) **Statutory Wording.** Where wording is used which is the same and in the same context as the Statute, it shall have the same meaning as that in the Statute unless clearly stated otherwise.
- (2) **Terms of Art.** Where terms or phrases are used having special meaning in the Government personnel system, the meaning ascribed to them in the Federal Personnel Manual shall be controlling unless clearly stated otherwise.
- (3) **Contract Phrases.** Where an Article of this Agreement deals with special terms or phrases, they shall be defined by the particular Article in which they appear.

ARTICLE 3
RIGHTS AND OBLIGATIONS OF THE PARTIES

Section 3.01 - Governing Authorities. In the administration of all matters covered by this Agreement, the parties are governed by existing and future laws, existing Governmentwide regulations, and existing and future decisions of outside authorities binding on the Department.

Section 3.02 - Mutual Responsibilities of the Parties. The Federal Labor Relations Program is provided for by Title VII of the Civil Service Reform Act of 1978, which specifies that the program be administered consistent with the need of "an effective and efficient Government."

Section 3.03 - Rights of Union Recognition. The Union is the exclusive representative of the employees in the unit and is entitled to act and contract for all employees in the unit. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to labor organization membership. Management shall fulfill any bargaining obligations imposed by the law regarding bargaining unit employees' inclusion on any committees which deal with the development of personnel policies, practices, or general conditions of employment. Soliciting of membership in the Union is internal Union business and is prohibited on official time.

Section 3.04 - Union Presence at Formal Discussions.

- (1) The Civil Service Reform Act of 1978 provides that the Union shall be informed of and be entitled to be present at "all formal discussions" between one (1) or more representatives of Management and one (1) or more unit employees, or their representatives, concerning any grievance, personnel policies and practices, and other general conditions of employment. The Union representative may participate and ask questions, as appropriate.
- (2) Meetings held for the purpose of making a statement or announcement and not to engender a dialogue, if they meet the Federal Labor Relations Authority (FLRA) criteria, are formal discussions. It is not necessary that a meeting propose or result in a change in working conditions or personnel policies or practices to be considered a formal meeting. In a number of case decisions, the FLRA has noted several factors relevant to a determination of whether discussions are formal. These factors are:

- (a) Whether the individual who held the discussions is a first-level supervisor or is higher in the management hierarchy;
- (b) Whether any other Management representatives attended;
- (c) Where the individual meetings took place, i.e., the supervisor's office, at each employee's desk, or elsewhere;
- (d) How long the meetings lasted;
- (e) How the meetings were called, i.e., with formal advance written notice or more spontaneously and informally;
- (f) Whether a formal agenda was established for the meetings;
- (g) Whether each employee's attendance was mandatory; and
- (h) The manner in which the meetings were conducted, i.e., whether the employee's identity and comments were noted or transcribed.

FLRA has further stated that this list of eight (8) factors is not exhaustive, that other factors may be identified and applied as appropriate in a particular case, and in determining the "formality" of the meeting, the FLRA will consider the totality of facts and circumstances presented.

- (3) Examples of discussions which would be formal, if the above described factors are present, are meetings between bargaining unit employees and Management representatives to discuss such topics as reorganizations, space changes, reductions-in-force, and office relocations. Other examples are employee orientations and exit interviews. These examples are not intended to be exhaustive.

Section 3.05 - Proper Notice. Reasonable notice to the Union of a formal meeting shall be provided to the designated Union representative no less than twenty-four (24) hours in advance of the meeting, except in unusual circumstances. The notice shall include:

- (1) The general nature of the meeting;
- (2) Copies of any handouts that will be distributed, if available; and
- (3) The general identification of who will be expected to attend.

Section 3.06 - Union Delegations of Authority. The Union may delegate its authority as exclusive representative to whatever agent it deems appropriate. Management shall recognize such agents and conduct appropriate labor relations business with them, upon receipt of written delegations. The Union shall hold its agents responsible for complying with this Agreement and the labor relations chapter of the Civil Service Reform Act of 1978.

Section 3.07 - Management Rights. Nothing in this Agreement shall affect the authority of Management:

- (1) To determine the mission, budget, organization, number of employees, and internal security practices of the agency; and
- (2) In accordance with applicable laws and its duty to bargain on such matters, to the extent provided by law:
 - (a) To hire, assign, direct, lay off, and retain employees in the agency; or to suspend, remove, reduce in grade or pay; or take other disciplinary action against such employees;
 - (b) To assign work, to make determinations with respect to contracting out and to determine the personnel by which agency operations shall be conducted;
 - (c) With respect to the filling of positions, to make selections for appointments from:
 - o Among properly ranked and certified candidates for promotion; or
 - o Any other appropriate source.
 - (d) To take whatever actions may be necessary to carry out the agency mission during emergencies.

Section 3.08 - Management Delegations of Authority. Should a Union representative be uncertain of which official in management has authority to represent the Department on a matter of concern, such information may be requested by the Union. Management shall promptly reply to such requests.

Section 3.09 - Surveys. If Management requires bargaining unit employees to complete a written survey on personnel practices, policies, or working conditions, the Union shall be given an advance copy of the questionnaire. Management shall fulfill any bargaining obligation required by law or decisions of appropriate authority. Surveys done with the Union's concurrence shall include a statement to that effect.

Section 3.10 - Conduct of Labor-Management Relations. Representatives of the parties shall conduct themselves in the professional manner that their positions and responsibilities warrant. The parties to this Agreement shall strive to achieve a relationship based on mutual trust and respect for the job each is required to do.

Section 3.11 - Agency Regulations. Management shall comply with agency regulations governing personnel policies and practices, and general conditions of employment. This Section shall not be construed to require Management to issue, change, or retain a regulation, but is intended to effectuate stability and fairness in implementing regulations.

ARTICLE 4
EMPLOYEE RIGHTS/STANDARDS OF CONDUCT

Section 4.01 - General. Employees have the right to direct and to pursue their private lives consistent with the Department's Standards of Conduct, as clarified by this Article, without interference, coercion or discrimination by Management.

Section 4.02 - Right to Participate in the Labor Organization. Any employee of the Department has the right, freely and without fear of penalty or reprisal, to form, join, or assist the Union and its affiliated Locals, or to refrain from any such activity. As provided in the Statute, an employee's right to assist a labor organization extends to participation in the management of the Union.

Section 4.03 - Employee Right to Grieve. Employees shall be treated fairly and equitably in the administration of this Agreement and policies and practices concerning conditions of employment and standards of conduct. An employee may grieve any matter relating to employment or any dispute over the interpretation or application of the Standards of Conduct.

Section 4.04 - Performance of Duties. Employees shall perform all lawful duties assigned by appropriate Management officials and the successful performance of these duties shall not be the reason for delay or denial of a within-grade increase, or career ladder promotion, or for an act of reprisal against an employee.

Section 4.05 - Complying with Orders.

- (1) Employees recognize their responsibility to promptly comply with all orders and instructions from their supervisors. If an employee reasonably believes that an order or instruction patently violates any law, rule, or regulation, he/she has the right to state those beliefs to the supervisor. If the instruction remains unchanged, the employee has the right to state concisely his/her beliefs promptly and orally to the next higher level of Management available. If the order or instruction is confirmed by that higher level Management, or if the higher level of Management is not readily available, then the order or instruction shall be carried out promptly by the employee.
- (2) Continued refusal to carry out an order or instruction may be cause for disciplinary action. An exception would be when an employee reasonably believes he/she will be in a situation of imminent danger, of death or serious bodily harm, and that there is insufficient time to effectively seek corrective action.

Section 4.06 - Employee's Personnel Records.

- (1) Management shall maintain and retain employee personnel records in accordance with law, rule, regulation, and this Agreement. The contents of any personnel file shall be made available for review without charge to leave or loss of pay, and copies thereof provided, upon the employee's request, to the employee (or his/her designated representative). In accordance with applicable laws and regulations, materials which are no longer relevant to the supervisor and employee shall be withdrawn and destroyed.
- (2) Personnel records kept by an employee's immediate supervisor shall be maintained in a secure, confidential file and shall be accessed only by officials with an administrative need to know its contents.
- (3) Annually, employees shall be advised of the nature, purpose, and location of their Official Personnel Folder (OPF) and of their right to access to their OPFs.

Section 4.07 - Morale. Recognizing that productivity is enhanced when their morale is high, managers, supervisors, and employees shall endeavor to treat one another with the utmost respect and dignity, notwithstanding the type of work or grade of jobs held.

Section 4.08 - Voluntary Participation. Management may provide the opportunity, but may not require employees to participate in recognized Savings Bonds programs, charitable campaigns for contributions, or other community activities not related to the employee's job.

Section 4.09 - Right to Representation In Investigatory Interviews.

- (1) Each employee shall have the right to be represented by the Union at an examination of the employee conducted by a representative of Management in connection with an investigation if:
 - (a) The employee reasonably believes that the examination may result in disciplinary action against the employee; and
 - (b) The employee requests representation.
- (2) If, during a meeting between the unit employee and a Management official, the unit employee reasonably believes the meeting may result in disciplinary action, the employee may request to be represented by the Union. If such a

request is made, the Management official shall suspend the meeting. The unit employee shall immediately inform the Union. The Management official shall reschedule the meeting.

- (3) When management schedules a meeting for the purpose of disciplining an employee, Management shall inform the employee of his/her right to representation by the Union.
- (4) At any meeting described in this Section in which attendance, participation, or representation by an official of the Union takes place, that official shall continue on official time as provided for in Article 7 of this Agreement.
- (5) Management shall annually inform employees of their rights under this Section.

Section 4.10 - Standards of Conduct.

- (1) **General.** Management and the Union recognize that the public interest requires the maintenance of high standards of conduct, equitably applied and clearly understood. To the extent that any provision of this Agreement conflicts with any provision of the Department's Standards of Conduct, other than a provision dictated by Governmentwide law, rule, or regulation, including 24 CFR Part 0, this Agreement shall prevail.
- (2) **Political Activities.**
 - (a) Employees shall have the right to wear political badges, buttons, and stickers provided that the display of such items does not interfere with the efficient performance of official duties or create a conflict or apparent conflict of interest.
 - (b) Questions concerning interpretation or application of the Hatch Act, restricting political activities, may, at the employee's option, be directed to the Office of Special Counsel, the Merit Systems Protection Board (MSPB), to the HUD General Counsel, or to any HUD Regional Counsel.
- (3) **Acceptance of Food, Refreshments, Gifts, Entertainments and Favors.**
 - (a) Employees may accept food and refreshments of nominal value on infrequent occasions in the course of a business meeting or conference sponsored by a trade, technical, or professional association at which the employee is properly in attendance.

- (b) Employees may accept unsolicited advertising or promotional material such as pens, pencils, plaques, note pads, calendars, or other items of nominal intrinsic value.

(4) **Outside Employment and Other Activities.**

- (a) The Standards of Conduct regulation contains a provision prohibiting "active participation in, or conduct of, a business dealing with, or related to, real estate or manufactured housing including, but not limited to, real estate brokerage, management and sales, architecture, engineering, mortgage lending, property insurance, appraisal services, construction, construction financing, land planning and real estate development." In applying this provision, the Department recognizes that isolated real estate brokerage, management and sales activities transactions are, to some extent, permissible. However, when regularly conducted on a large scale, such activities may be a prohibited "business" even when they involve only employee-owned properties.

In applying the prohibition on outside employment with a person or business entity doing business with the Department, the waiver provision under 24 CFR 0.735-106 shall be available in situations where the prohibition is not necessary to prevent an actual or apparent conflict of interest.

- (b) Employees may engage in outside employment and other activities, with or without compensation, but only if it shall not affect adversely the performance of their official duties and shall not create a real or apparent conflict of interest with those duties. Such work may include, but not be limited to, civic, charitable, religious, and community undertakings.
- (c) Employees may serve as an officer, director or employee of a condominium, cooperative, or neighborhood association, where the employee is also a resident or tenant.
- (d) The Department may restrict or prohibit outside employment that creates a real or apparent conflict of interest, or may prescribe reasonable restrictions intended to diminish the likelihood of a real or apparent conflict of interest. Outside employment likely to result in criticism or to cause embarrassment to the Department may be prohibited.

- (e) The Department may not require employees to obtain the prior approval of a Deputy Counselor before maintaining a publicly-listed place of business. However, employees are encouraged to seek guidance from the appropriate Deputy Counselor before making such a public listing.
 - (f) Employees are encouraged to consult a Deputy Counselor on Standards of Conduct before accepting outside employment. Employees must obtain prior approval of the appropriate Deputy Counselor on Standards of Conduct before beginning outside employment with a State or local government, or in the same professional field as that of the employee's HUD position. A decision on the request for approval shall be made within twenty (20) working days.
- (5) **Misuse of Official Information.** For the purpose of furthering a private interest, an employee shall not, except as permitted by 24 CFR Section 0.735-203(e) (2) (e.g., teaching, lecturing, or writing with Department approval), directly or indirectly use, or allow the use of, official information which has not been made available to the general public. However, Management recognizes that in formulating advice and providing assistance to the Department's clients, employees must occasionally rely upon and utilize such information. In such cases, nothing in the Standards of Conduct shall be construed as to prohibit the disclosure of such information except in cases where a law, regulation, or official policy requires such information to be withheld; where the employee has been directed by a supervisor to withhold such information; or where the employee has reason to believe that a policy or directive is, in effect, requiring such information to be withheld.
- (6) **Financial Disclosure.**
- (a) No employees below the grade of GS-13 shall be required to file a confidential financial disclosure statement unless the employee's position involves: (1) contracting or procurement; (2) administering or monitoring grants or subsidies; (3) regulating or auditing private or other nonfederal enterprises; or (4) other activities where the decision or action has an economic impact on the interests of any nonfederal enterprises; and, the Department has justified to the Office of Personnel Management (OPM) in writing the reason(s) for including these positions. The Union shall be provided with copies of the justification at the time it is submitted to OPM. Affected employees shall be provided a copy at the time they are directed

to file a disclosure statement. In applying the reporting requirements, the Department shall impose the same requirement on similar positions that are similarly situated.

- (b) Disclosure shall be accomplished through the completion of a Standard Form, HUD-844, or successor form, which shall be submitted to the appropriate Deputy Standards of Conduct Counselor in a sealed envelope clearly marked "confidential to be opened only by Deputy Counselor." The Deputy Standards of Conduct Counselor may require employees to submit the disclosure forms in their sealed envelopes to an intermediate collection point which shall transmit them unopened to the Deputy Counselor. Contents of forms may not be disclosed except to carry out the purposes of the Standards of Conduct regulations, or as OPM or the Counselor, i.e., the General Counsel of the Department, shall direct for good cause shown. The Department shall keep a record of such disclosures and shall make them available to the Union upon request.

(7) **Right to Outside Financial Interests.**

- (a) **Ownership of Real Estate.** Employees may own non-HUD related real estate without limit as to the number or size of the holdings. The previous "rule of six (6)" describing the maximum number of units that can be owned is no longer applicable. See Section 4.10(4) (a) for related requirements regarding management of employee-owned real property.
- (b) **Financial Interests of Family Members.** An employee must not participate in his or her capacity as a Government employee in any matter in which, to his or her knowledge, the employee, his or her spouse, minor child, any organization in which the employee is serving as an officer, director, trustee, partner, or staff member, or a partner of the employee has a financial interest. However, no employee shall be held responsible for financial interests of a spouse, minor child, or person residing in the employee's household, unless such interests are really the property of the employee which has been put in the name of another.

(8) **Participation in HUD Programs.**

- (a) **FHA Insurance.** An employee may have one (1) FHA-insured mortgage on a single family residential property in addition to that which he/she is permitted to have on his/her current principal residence. For purposes of this paragraph, a single family property

may include a two-unit dwelling, and a FHA-insured mortgage includes a mortgage on a property occupied by the employee as owner-occupant under Section 235.

Employees must divest themselves of any FHA-insured mortgages which are not consistent with these regulations. Divestiture should occur within a reasonable time, but in any event, for current employees, no later than eighteen (18) months after the effective date of this Agreement, and for new employees, no later than eighteen (18) months from their entrance on duty.

- (b) **Property Disposition.** Employees may purchase HUD acquired properties provided they comply with the requirements of HUD Handbook 4310.5.
 - (c) **Subsidized Housing.** Employees who are otherwise eligible may participate as tenants in HUD Section 8 Public Housing, 221(d) (3), 236, 202 Programs and other programs designed for low and moderate income persons.
 - (d) **Community Development.** Employees who are otherwise eligible may participate in community development rehabilitation loan and grant programs as owner-occupant. To acquire a CDBG assisted rehabilitation loan or grant on a rental property requires prior approval in accordance with Section 0.735-204 (a) of the Standards of Conduct regulations.
- (9) **General Conduct and Conduct Prejudicial to the Government.** Employees shall be courteous and considerate when dealing with the public. Employees shall act as expeditiously as conditions allow when dealing with the public.
- (10) **Membership in Organizations.** Participation by an employee in the work of housing and community development associations is subject to the prior approval of a Deputy Standards of Conduct Counselor. Such participation is often beneficial to the Government, the association, and to the employee. Standards of Conduct Counselors shall give full and fair consideration to each request.
- (11) **Employee Notice of Investigative Findings.** In cases involving unfavorable allegations made about personnel which were not sustained by the investigative findings of the Office of the HUD Inspector General, the employees in question shall be informed in writing of the clearance by the action officials respectively concerned. Copies of the notifications shall be filed in appropriate records. Upon

request of the employee, the Union shall notify each investigative contact identified in the report that the employee was cleared of the allegations.

- (12) **Information to the Union.** Upon request, the Union shall be provided with a copy of any waiver granted to the Department's Standards of Conduct, or any standards of conduct opinion; however, when required by law to protect personal privacy, names and other personal identifiers shall be deleted by Management.
- (13) **Employee Right to Privacy.**
 - (a) **Searches and Seizures.** Searches and seizures by the Government of the private property of its employees are subject to Constitutional constraints. Individuals do not lose their Constitutional rights merely because they work for the Government instead of a private employer. Employees may store personal papers and effects in their offices, desks, and file cabinets. However, a search or seizure of such items without a warrant may be justified if Management has reasonable grounds for suspecting that the search will produce evidence that the employee is guilty of work-related misconduct, or that the search is necessary for a non-investigative work-related purpose, such as insuring the internal security of the agency. Security concerns may necessitate searches of HUD space by any appropriate and legal method. It should be understood that personal items owned by the employee, such as pocketbooks, briefcases or other like materials, are not subject to search without probable cause to believe criminal activity is involved, but that failure to comply with a search prompted by security concerns may be grounds for denial of access to HUD space. The provisions outlined above are intended to deal with matters such as, but not limited to, possession of illegal drugs, firearms, explosives or other material that presents a threat to the internal security of the agency. Employees should also be aware that Management may exercise its right to access work spaces to obtain work materials when the employee is not present or for other legitimate reasons.
 - (b) **Counseling.** Whenever possible, counseling of employees concerning alleged violations of Standards of Conduct shall be conducted in private.
- (14) **Waivers.** An employee can apply for a waiver concerning any dispute over the interpretation or application of the Standards of Conduct under 24 CFR 0.735-106.

- (15) **Whistle Blowing.** Employees shall be protected against reprisal of any nature for the disclosure of information not prohibited by law, which the employee reasonably believes evidences a violation of law, rule, or regulation, or evidences fraud, waste or mismanagement, an abuse of authority, or a substantial or specific danger to public health or safety.
- (16) **Prohibited Personnel Practices.** In accordance with 5 U.S.C. 2302, any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority - -
- (a) discriminate for or against any employee or applicant for employment - -
1. on the basis of race, color, religion, sex, or national origin, as prohibited under Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);
 2. on the basis of age, as prohibited under Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);
 3. on the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));
 4. on the basis of handicapping condition, as prohibited under Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or
 5. on the basis of marital status or political affiliation, as prohibited under any law, rule or regulation.
- (b) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests, or is under consideration for, any personnel action unless such recommendation or statement is based on the personnel knowledge or records of the person furnishing it and consists of - -
1. an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or
 2. an evaluation of the character, loyalty, or suitability of such individual.

- (c) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;
- (d) deceive or willfully obstruct any person with respect to such person's right to compete for employment;
- (e) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;
- (f) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;
- (g) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position, any individual who is a relative (as defined in Section 3110(a) (3)) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in Section 3110(a) (2)) or over which such employee exercises jurisdiction or control as such an official;
- (h) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for - -
 1. a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences - -
 - a. a violation of any law, rule, or regulation, or
 - b. mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of National defense or the conduct of foreign affairs.
 2. a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated

by the head of the agency to receive such disclosures of information, which the employee or applicant reasonably believes evidences - -

- a. a violation of any law, rule, or regulation, or
 - b. mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- (i) take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;
- (j) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness, any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States; or
- (k) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in Section 2301. This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.
1. The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.
 2. This Section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any

right or remedy available to any employee or applicant for employment in the civil service under - -

- a. Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;
- b. Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;
- c. under Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;
- d. Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping conditions; or
- e. the provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

Section 4.11 - Resolution of Outside Employment Disputes. When Management objects to an employee's outside employment, the employee shall be notified of the specific reasons for the objections and may respond to them. Management shall investigate all allegations, pro and con, concerning whether there is a real or apparent conflict of interest or whether such employment is likely to result in criticism or to cause embarrassment to the Department. Should a proper investigation and full disclosure show that no real or apparent conflict of interest or likelihood of criticism or embarrassment to the Department exists, no further Management interference with the employee's outside employment activities shall occur. The employee shall receive a copy of the investigation report upon request. Should the employee disagree with the results of the Department's investigation or an adverse determination, the matter may be referred to the grievance procedure.

ARTICLE 5
MID-TERM BARGAINING

Section 5.01 - Mid-Term Changes at the National Level. During the term of this Agreement, Management shall transmit to the Union its proposed changes relating to personnel policies, practices, and general conditions of employment. The parties agree that it is in the interest of the Government, the public and the parties to negotiate in good faith in order to facilitate the negotiations process.

Section 5.02 - Ground Rules for Mid-Term Negotiations at the National Level. During the term of this Agreement, Management shall transmit to the Union its proposed changes relating to personnel policies, practices, and general conditions of employment. These notices of proposed Management change shall be referred to the Union in accordance with the following procedures:

- (1) The proposed changes shall be sent to the Council President and five (5) other Union representatives designated by the Union. Receipt of the proposed changes by the Council President, or by the Council President's designee in his/her absence, shall constitute receipt by the Union for the purpose of calculating the deadline for requesting negotiations referred to in this Article.
- (2) Upon receipt of Management's notice of proposed change(s), the Union may request negotiations over the change(s) within ten (10) calendar days by submitting preliminary proposals. All proposals shall be related to the impact of the proposed change(s). Failure by the Union to submit bargaining proposals within the ten (10) calendar day time limit shall be deemed to indicate no intent to bargain.
- (3) Upon timely request for negotiations from the Union, the negotiations shall begin within ten (10) calendar days from the Union's submission of its bargaining proposals.
- (4) Changes that are negotiated or agreed to pursuant to this Section shall be duly executed by the parties and shall become an integral part of this Agreement and subject to all of its terms and conditions.
- (5) By mutual consent, the parties may agree to conduct negotiations by telephone.
- (6) Each party may authorize up to four (4) negotiators. All of the Union negotiators shall receive official time. All but one (1) of the Union negotiators must be designated Union representatives under Article 7 of this Agreement. The

number of negotiators may be changed by mutual consent of the parties. Each party may have one (1) technical expert attend the negotiations for the limited purpose of discussing a particular subject. The Union technical expert shall not receive official time.

- (7) Facilities shall be provided in accordance with Article 8.
- (8) Nothing in this Section is intended to discourage the resolution of mid-term bargaining issues through negotiation.
- (9) The Union shall be entitled to receive travel and per diem reimbursement for three (3) representatives located outside the Washington, D.C. metropolitan area, to attend any face-to-face negotiations and a subsequent impasse proceeding if such is required to resolve the matter. Each Union negotiator shall receive up to five (5) days of travel and per diem for negotiations and necessary travel related to the negotiations. Negotiators shall be on official time while in travel status.
- (10) There shall be no smoking in the negotiating room. Individual negotiators may leave at any time to smoke. Negotiations need not recess during smoking breaks. No eating is allowed in the negotiating room, unless by mutual consent.
- (11) Dates and times for negotiation sessions shall be mutually agreed to by the parties; however, once negotiations begin, the parties shall continue negotiating until agreement, impasse or as mutually agreed. Negotiations shall normally begin at 9:00 a.m. and last at least until 4:00 p.m. This schedule may be altered by mutual consent. There shall be a one (1) hour break for lunch.
- (12) Either party may substitute negotiating team members at any time by notifying the other party. Additional travel and per diem resulting from substitution shall be paid by the party making the substitution. Union substitutes shall not receive official time for travel.
- (13) Once negotiations begin, the parties shall not submit new proposals but may modify their initial proposals and/or submit counterproposals until agreement has been reached. This shall not preclude the submission of additional proposals upon receipt of previously unavailable information related to the scope of the negotiations.

- (14) Either party may take written notes of the bargaining sessions. There shall be no taping of the actual negotiations.
- (15) Observers shall be permitted in negotiating sessions only by the mutual consent of the parties.
- (16) Either party may caucus at any time during negotiations. If a caucus shall last more than fifteen (15) minutes, the party not in caucus shall be advised at least once an hour of the estimated duration of the caucus.
- (17) Upon reaching agreement on each item, the Chief Negotiators shall signify tentative agreement by initialling the agreed upon item. This shall not preclude the parties from reconsidering or revising the agreed upon items until final agreement is reached on all items. Upon completing the negotiations, the parties shall review and edit for consistency and make mutually agreed upon changes.
- (18) The time limits set forth in this Section may be extended by mutual consent.

Section 5.03 - Ground Rules for Mid-Term Bargaining at the Local/Regional Level.

Local Management shall give in writing to the Local or Regional designated representative, as appropriate, proposed changes relating to personnel policies, practices, and conditions of employment.

- (1) Such notice shall be given to the representative according to the following procedures:
 - (a) The proposed changes shall be sent to the designated representative. Receipt of the proposed changes by the designated representative, or his/her designee in his/her absence, shall constitute receipt by the Union for the purpose of calculating the deadline for requesting negotiations referred to in this Article.
 - (b) Upon receipt of Management's notice, the Union may request bargaining within five (5) workdays by submitting preliminary bargaining proposals to Management. All proposals shall be related to the proposed changes.
 - (c) The parties shall begin negotiations within five (5) workdays after the Union submits its bargaining proposals. This time period may be extended by mutual consent.

- (d) Failure by the Union to submit preliminary bargaining proposals within the five (5) workday time limit shall be deemed to indicate no intent to bargain.
- (2) Each party may authorize up to three (3) negotiators. All of the Union negotiators shall receive official time. All but one (1) of the Union negotiators must be designated Union representatives under Article 7 of this Agreement. The number of negotiators may be changed by mutual consent of the parties. Each party may have one (1) technical expert attend the negotiations for the limited purpose of discussing a particular subject. The Union technical expert shall not receive official time. If there are less than two (2) Union representatives in a Field Office where the negotiations are taking place, the Union may have up to two (2) Union negotiators who are not designated Union representatives under Article 7 of this Agreement. For negotiations on Region-wide issues, travel and per diem shall be authorized for two (2) Union negotiators. Each Union negotiator shall receive up to three (3) days of per diem for the negotiations, plus necessary travel. Negotiators shall be on official time while in travel status.
- (3) Facilities shall be provided in accordance with Article 8.
- (4) The product of local mid-term bargaining shall be a local Supplement to this Agreement which shall become effective when signed by the parties at the local level.
- (5) There shall be no smoking in the negotiating room. Individual negotiators may leave at any time to smoke. Negotiations need not recess during smoking breaks. No eating is allowed in the negotiating room, unless by mutual consent.
- (6) Dates and times for negotiation sessions shall be mutually agreed to by the parties; however, once negotiations begin, the parties shall continue negotiating until agreement, impasse or as mutually agreed. Negotiations shall normally begin at 9:00 a.m. and last at least until 4:00 p.m. This schedule may be altered by mutual consent. There shall be a one (1) hour break for lunch.
- (7) Either party may substitute negotiating team members at any time by notifying the other party. Additional travel and per diem resulting from substitution shall be paid by the party making the substitution. Union substitutes shall not receive official time for travel.

- (8) Either party may take written notes of the bargaining sessions. There shall be no taping of the actual negotiations.
- (9) Observers shall be permitted in negotiating sessions only by the mutual consent of the parties.
- (10) Either party may caucus at any time during negotiations. If a caucus shall last more than fifteen (15) minutes, the party not in caucus shall be advised at least once an hour of the estimated duration of the caucus.
- (11) Upon reaching agreement on each item, the Chief Negotiators shall signify tentative agreement by initialling the agreed upon item. This shall not preclude the parties from reconsidering or revising the agreed upon items until final agreement is reached on all items. Upon completing the negotiations, the parties shall review and edit for consistency and make mutually agreed upon changes.
- (12) Once negotiations begin, the parties shall not submit new proposals but may modify their initial proposals and/or submit counterproposals until agreement has been reached. This shall not preclude the submission of additional proposals upon receipt of previously unavailable information related to the scope of the negotiations.

Section 5.04 - Information to the Union on Mid-Term Changes. The following information, if available, shall be included in the notices of proposed Management mid-term changes at the National, Regional, or local level. Any further requests for information by the Union shall not delay the commencement or completion of negotiations.

- (1) **Change in a policy or past practice.**
 - (a) Copy or statement of the current policy or practice.
 - (b) A statement of the reason(s) for the change.
 - (c) A copy or statement of the proposed new policy or practice.
- (2) **Moves.**
 - (a) Name, room numbers, grade, title, and position of all affected bargaining unit employees.
 - (b) New room number for each affected bargaining unit employee.

- (c) Current space plan (with names, average number of square feet per employee, and total number of square feet for the office being moved).
 - (d) New space plan (with same information as above).
 - (e) Name and phone number of the move coordinator.
 - (f) Whether employees will be able to keep their current office furniture.
 - (g) Description of any plans to install modular furniture, lay carpet, shampoo carpet, install partitions, paint walls, exterminate, lay computer lines, move phone jacks or electrical outlets, or take out or install walls. If any such activity is planned, when the activity will take place and how the employees will be accommodated, if necessary.
 - (h) Names of any employees in the affected office known by Management to have disabling conditions that need to be accommodated in the move. If so, how will they be accommodated?
 - (i) Estimated cost.
- (3) **Reorganizations.**
- (a) Name, grade, title, and position of affected bargaining unit employees.
 - (b) Impact, if any, upon upward mobility and/or career ladder positions.
 - (c) Employees who will have a different first or second line supervisor as a result of the reorganization.
 - (d) Impact, if any, upon employee's receipt of performance ratings.
 - (e) Copies of position descriptions for new positions if different from current position.
 - (f) Names of any employees detailed in connection with the reorganization.
 - (g) Any new positions created as a result of the reorganization.
 - (h) Names of any employees who will be downgraded or separated as a result of the reorganization.

(i) Names of any employees who will be moved as a result of the reorganization.

(j) Copy of before and after organization charts.

(4) Conversion to Contract Performance Under OMB Circular A-76.

(a) The invitation for bid (IFB) or request for proposal (RFP).

(b) The abstract of bids or proposals after contract award.

(c) All correspondence from higher authority directing the cost comparison study.

(d) The official Department of Labor documentation supporting the wage rates applicable to the function being considered for contracting out.

(e) The performance work statement.

(f) The "Milestone" chart or similar document setting forth the estimated dates for the contracting out process.

(g) All changes to the performance work statement.

(h) All bidder questions and the Department's answers related to the performance of work statement.

(i) Copy of the retention register.

(j) Impact upon bargaining unit employees.

(5) Reduction-In-Force (RIF) or Transfer of Function.

(a) Name, grade, title, position, service computation date, and bargaining unit status of all affected employees.

(b) Impact, if any, upon upward mobility and/or career ladder promotions.

(c) Impact, if any, upon employee's receipt of performance ratings.

(d) Will or have any employees been detailed in connection with the reorganization/realignment? If so, who and provide position description(s).

(e) Will any new positions be created as a result of this reorganization?

- (f) Will any employee be downgraded, RIFed, or moved out of the bargaining unit as a result of this reorganization/realignment?
- (g) Will any employees be moved as a result of the reorganization/realignment? If so, provide information requested above.
- (h) Copy of before-and-after organization charts.

Section 5.05 - Negotiability Disputes. Where a matter is alleged to be inappropriate for local bargaining on the sole basis that it conflicts with the Master Agreement, the matter must be resolved under the arbitration clause of this Agreement. The arbitrator is not authorized to consider the merits of a disputed proposal. Matters involving other allegations of nonnegotiability shall be referred to the Federal Labor Relations Authority (FLRA) for resolution.

Section 5.06 - Bargaining Impasses.

- (1) Impasses reached in bargaining may, by mutual agreement, be resolved by interest arbitration, subject to approval of the Federal Service Impasses Panel (FSIP).
- (2) If there are negotiability disputes, all agreed-upon terms shall be implemented upon agreement on all but the disputed items.
- (3) Impasses resolutions shall be implemented expeditiously.
- (4) If the Union fails to request FSIP assistance within five (5) workdays of its receipt of Management's notice of intent to implement its last offer, Management may implement its last offer.

ARTICLE 6
LABOR-MANAGEMENT RELATIONS (LMR) COMMITTEE MEETINGS

Section 6.01 - General. The parties recognize the value of establishing a system for the exchange of views on matters affecting the Department and its employees. The parties, therefore, agree to participate in joint labor-management relations meetings at the local, Regional, and National levels.

Section 6.02 - Purpose. The primary purpose of the joint Labor-Management Relations Committee meeting shall be to promote and facilitate understanding, and constructive and cooperative relationships between Union and Management. Committee meetings under this Article shall provide the parties with a structured opportunity to hold informal discussions and consult on personnel policies and practices and other working conditions.

- (1) Items that may be discussed during these meetings include, but are not limited to:
 - (a) Interpretation or application of the language of this Agreement that deals with personnel policies and practices and other working conditions;
 - (b) Systemic or operational concerns related to equal employment opportunity, training, safety and health, and performance management;
 - (c) Problems that may arise in the implementation and administration of this Agreement;
 - (d) Matters of mutual concern and interest with respect to personnel policies and practices or matters affecting working conditions not specifically addressed in this Agreement; and
 - (e) Systemic concerns regarding the grievance, arbitration, or unfair labor practice (ULP) process where patterns of behavior on the part of either party appear to exist and are adversely affecting the relationship of the parties. The discussion of specific grievances, arbitrations, or ULPs that are currently in process shall not be allowed or appropriate for discussion at these meetings.
- (2) The consultation or informal discussions that take place during these meetings shall not prejudice either party from exercising its bargaining rights should the consultation or informal discussion cover a mandatory subject for bargaining.

Section 6.03 - Local Meetings. Upon request of either party, local meetings shall be held at a time and place mutually agreed upon by the parties.

Section 6.04 - Regional Meetings. Regional LMR meetings shall be held once annually, normally in the month of March. The meeting shall be scheduled at a mutually agreeable time, date, and room in the appropriate Regional Office cities, and should precede the annual National LMR meeting. The number of Union representatives should not exceed the number of local offices covered by this Agreement. Either party may invite no more than three (3) technical representatives to the meeting. The inviting party shall pay all expenses of the technical representative(s). The Union participants' travel, per diem, and subsistence expenses shall be paid by Management as follows:

- (1) Regions I, VII, VIII, IX, and X shall be entitled to two (2) Union representatives; and
- (2) All other Regions shall be entitled to three (3) Union representatives.

Regional LMR meetings shall not exceed one (1) day duration except when mutually agreed.

Section 6.05 - National Meetings.

- (1) A National LMR meeting shall be held once annually, normally in the month of April. The meeting shall be scheduled at a mutually agreeable time, date, and room at Headquarters, Washington, D.C. The number of Union representatives shall not exceed:
 - (a) Two (2) designated National representatives;
 - (b) The designated Region-wide representative from each Region in which the American Federation of Government Employees (AFGE) represents employees;
 - (c) The designated Headquarters representative; and
 - (d) No more than three (3) technical representatives and the Union shall pay all expenses of the technical representative(s).
- (2) A second LMR meeting at the National level shall be held with the Council President and two (2) other National representatives once each year. This meeting shall be held in Headquarters, Washington, D.C., at a mutually agreeable time, date, and room, and shall be with HUD Labor-Management Relations staff.

- (3) For National LMR meetings, the Union participants' travel, per diem, and subsistence expenses shall be paid by Management. National LMR meetings shall not exceed two (2) days in duration except when mutually agreed.

Section 6.06 - Agenda. The parties shall exchange agenda for the LMR meetings. The agenda should be exchanged at least two (2) weeks in advance of the National and Regional LMR meetings. The time period for local office agenda submission should be agreed upon at the local level.

Section 6.07 - Official Time. Union representatives whose attendance at LMR meetings has been approved by Management shall be entitled to official time from point of departure to point of return, provided the employee would otherwise be in a duty status. This shall not preclude Union representatives from utilizing either LMR official time or, as appropriate, annual leave or leave without pay to conduct other appropriate business before returning to their duty stations, provided that the use of official time, annual leave or leave without pay does not exceed any limitations imposed by law, rule, or regulation and is approved by Management under existing administrative procedures and the conditions of this Agreement. Payment of travel expenses shall be in accordance with this Article. The release of Union representatives for official time shall be handled in accordance with the official time Article.

ARTICLE 7
UNION REPRESENTATION AND OFFICIAL TIME

Section 7.01 - Definition. Official time under this Article shall include all representational functions including statutory functions. Only time spent by a Union representative in actual negotiations with Management does not count towards the allotment of official time. Representational functions for which official time is authorized are: (1) Attending formal discussions; (2) Attending investigatory interviews; (3) Meeting with Management representatives; (4) Meeting with employees to resolve complaints and grievances; (5) Attending grievance meetings with managers and employees; (6) Attending a meeting with a Federal Labor Relations Authority field agent or attorney pursuant to an unfair labor practice charge or complaint; (7) Serving as a witness at an arbitration related to this Agreement, an unfair labor practice hearing or in a proceeding to resolve an impasse arising from bargaining related to the AFGE/HUD unit; (8) Participating as the representative of the Union at an arbitration, unfair labor practice hearing or impasse proceeding related to the AFGE/HUD unit; (9) Attending authorized labor-management relations meetings; or (10) Other representational functions permitted by law.

Section 7.02 - Certification of National and Local Representatives. National and Local office representatives certified by the Union in accordance with this Article shall be recognized as employee representatives for bargaining unit employees and shall be entitled to the use of official time under the provisions of this Article. No other person shall be entitled to such use of official time except as specifically authorized in this Agreement. The Union shall certify to the appropriate Management official at the National and local levels, in writing, the name, title, duty station, and phone number of the Union's representatives who are authorized to use official time as provided under Section 7.03 of this Article. Any official or representative not identified in this manner shall not be entitled to the use of official time. An employee from one local office may not be designated as a representative or steward in another local office.

Section 7.03 - Representatives and Amounts of Official Time. There shall be no additional official time for simultaneously held positions except as provided for by this Article. Where a Union official or representative is working less than full time, the percentages contained in this Section shall be applied to the actual number of hours the employee works. The number and types of Union representatives and the amount of official time provided are as follows:

(1) **National.**

- (a) Council President. 100%
- (b) One (1) National representative. 50%
May be combined with official time described in (2) below.
- (c) One (1) to three (3) National representatives. May be 25% (Total 75%)
combined with any other increment of official time, the resulting position not to exceed 75%.

The Council President shall designate these (b) & (c) representatives and the percentages to be combined. The designations shall remain in effect for no less than twelve (12) months except under unusual circumstances.

- (d) National Vice Presidents (NVP) - 50% each for Regions IV, V, and VI. All other Regions, 25% each. If the NVP for Region I, II, III, VII, VIII, IX, or X is also a locally designated 50% representative, that Local is entitled to an additional 25% representative. The 25% allocation under (d) may be combined with Local official time authorized under (2) below, not to exceed 50%.

(2) **Local.**

- (a) Headquarters
 - Local President 100%
 - One (1) representative 100%
 - Three (3) representatives 50% each
 - Two (2) representatives 25% each
 - Seven (7) representatives 10% each
- (b) Field Office with 110 or more permanent full-time (PFT) employees. One (1) representative @ 50% plus One (1) representative @ 10% for each 65 PFT increment starting at 110. For example:
 - 110-175 = One (1) @ 10%
 - 176-240 = Two (2) @ 10%

The 10% allotments may be combined. Under this provision, the Local may create no more than one (1) 25% representative. If three (3) 10% increments are combined to create one (1) 25% representative, one (1) additional 5% representative is authorized. This redistribution of time shall occur no more often than once in a twelve (12) month period.

- (c) Field Office with 100-109 PFTs One (1) Representative @ 50%
 - (d) Field Office with 65-99 PFTs one (1) Representative @ 25%
 - (e) Field Office with 45-64 PFTs one (1) Representative @ 20%
 - (f) Field Office with 1-44 PFTs one (1) Representative @ 5%
- (3) **Accrual of Official Time.** Time shall be allotted on a quarterly basis and shall not accrue from one quarter to another. The time allotments for each quarter shall be based on the actual permanent full-time employee count in an office as of the last full pay period preceding that quarter. Quarters shall begin on the first day of January, April, July, and October.
- (4) **Transferrals of Official Time.** The percentages of official time appearing in this Article may not be increased by transferring unused official time between Union officials or representatives unless specifically provided for by this Agreement.
- (a) In offices where there are less than 110 PFTs, an alternate may use all or part of the official time allotment assigned to the principal representative who is absent. Because there is only one (1) representative in these offices, "absence" here means "unavailability" as distinct from "physically absent" which is the standard for the larger offices with two (2) or more representatives.
 - (b) In all other offices where the principal representative is physically absent, an alternate representative may use all or part of the time allotted to the principal representative. An alternate shall first exhaust his/her allotted time prior to using time allotted to the principal representative.
 - (c) In paragraph (b) above, the definition of absence on the part of the Union official or representative shall not include cases where the official or representative is on official time and in another office or organization on normal labor-management matters.
 - (d) If an Article 7 representative is appointed to a vacant position, or a current representative is designated to a position which is allotted a greater percentage of official time, then the amount of official time

available shall be based upon the percentage of time allotted, prorated by the time remaining in the quarter. However, if the vacancy results from the incumbent's (a) extended leave, (b) termination of employment, or (c) resignation as a Union representative, the representative shall be allotted the position's unprorated time remaining in the quarter. This time, when combined with any previously used Article 7 time, shall not exceed the vacancy's total number of hours for the quarter.

Section 7.04 - Adjustments of Workload. In order to facilitate release of Union representatives on official time, individual workloads shall be adjusted to reflect time needed away from official duties. Such adjustments shall not diminish an employee's right to fair and equitable treatment with regard to performance appraisals and promotions.

Section 7.05 - Official Time for Union Representatives Outside of Immediate Offices. A representative who goes from his/her duty station to another office during duty hours in order to represent the Union or a bargaining unit employee, is on official time for representational purposes and when traveling. The official time used shall count against that individual's allocation. There shall be no travel expenses and/or per diem for Union designated representatives except where expressly stated in this Agreement.

Section 7.06 - Additional Time. No additional official time for Union activities beyond those amounts specified in Section 7.03 may be authorized except as follows:

- (1) The head of a local office with fewer than forty-five (45) PFTs shall grant additional official time to the designated representative upon showing of just cause.
- (2) There are fewer than four (4) Article 7 representatives to participate in joint labor-management committee activities (e.g., Safety & Health, EEO, Training, etcetera); or
- (3) As provided in Article 5, Mid-term Bargaining.

Section 7.07 - Procedure.

- (1) When it is necessary to use official time, the representative shall first obtain approval from his/her immediate supervisor, or designee, who has supervisory authority. The representative must, in addition, when entering a work area to meet with an employee, obtain advance approval from the supervisor of the employee.

- (2) Approval under this Section shall be granted unless such absence would cause an undue interruption of work. If approval is denied or delayed, the reason shall be given as soon as practicable.
- (3) Upon conclusion of the representational activity, the representative shall inform the supervisor or designee that the activity has been completed.
- (4) All designated Union representatives who are entitled to official time under this Article shall record and specifically annotate the use of all representational time on the report form (Appendix B).
 - (a) These reports shall be kept by the supervisor, or his/her designee, and each use of time shall be posted on or before the day it occurs.
 - (b) Each entry on the official time report shall be entered by the representative and initialed by the supervisor, or his/her designee.
 - (c) A copy of Appendix B shall be furnished to the representative biweekly.

Section 7.08 - Official Time for Union-Sponsored Training. Normally, twenty-four (24) hours per year of official time may be granted to employee representatives authorized by Section 7.03, to attend appropriate Union-sponsored instruction or briefing consistent with applicable decisions of the Comptroller General. The number of hours may be increased when the instruction or briefing is mutually deemed to benefit both Management and the Union. The amount of time shall only be for the time in class that the appropriate instruction is occurring. There shall be no official time for travel to attend these instructions, nor shall the designated Union representative be eligible for, or entitled to, travel expenses and per diem. Written requests, including an agenda describing the training to be conducted, shall be submitted not less than five (5) workdays in advance to the employee's immediate supervisor who shall forward it to the appropriate Management official for action.

Section 7.09 - Leave of Absence for Union Officials.

- (1) Consistent with the needs of the Department, Management agrees to approve a leave of absence, without pay, not to exceed three (3) years for a bargaining unit employee who is elected to a position of National officer of the American Federation of Government Employees, AFL-CIO, for the purpose of serving full time in the elected position, or who is

selected as an AFGE National Union representative. Management shall be given not less than two (2) weeks advance notice.

- (2) The Union agrees that all of the leaves of absence granted or approved in accordance with this Section are subject to appropriate Governmentwide regulations or other outside authority binding on Management. Management, to the extent of its authority, shall place the employee, at the end of the leave of absence, in the position the employee left, or one of like seniority, status, grade, and pay.

ARTICLE 8
USE OF EMPLOYER FACILITIES

Section 8.01 - Union Office Space. Management shall continue to provide the Union with one (1) office in Headquarters and at those field locations that currently provide private office space for Union representatives. While Management is not necessarily obligated to provide additional office space to the Union through this Agreement, the parties may discuss, at the local office level, the need for additional office space for the purpose of providing the Local Union official with adequate privacy or more storage and file space.

Management shall provide one (1) private office with file cabinet, desk, typewriter or access to a typewriter, to the extent available, telephone with FTS capacity for the Union Council President at his/her local office site, if a private office is not already provided to the Union at that site. An additional file cabinet shall be provided the Council President when he/she utilizes the Local Union office.

Section 8.02 - Meeting Space. Upon request, Management shall provide the Union with the use of suitable space for membership meetings and other such Union meetings during nonduty hours of employees involved. Such requests shall normally be made at least twenty-four (24) hours in advance to the designated Management representative at each location. However, where such notice is not given and space is available, such space shall be provided to the Union.

Section 8.03 - Meeting Space for Representation Purposes. Management agrees to provide meeting space, within the Department's assigned space, for Union representatives for representational purposes (to discuss grievance and pre-grievance complaints or other employee concerns) which shall accord the Union privacy. This space shall be made available on an ad hoc basis by verbal request. When the request is of an emergency nature, priority consideration shall be given to the Union's request. If Management is unable to provide the requested space, a verbal explanation shall be made to the requesting Union representative.

Section 8.04 - Telephone Usage for Local Calls. Union representatives may use available telephones at their individual work sites for local calls while performing local office representation functions.

Section 8.05 - Use of Federal Telecommunications System (FTS).

- (1) The Union may use FTS telephone service for long-distance calls while performing their representation functions. The

Department shall provide FTS telephone service for the Union's principal Local representatives at each HUD location and the National and Region-wide representatives designated under Article 7 while they are performing official representational duties. As appropriate, the Union shall use the Department's telephone conference facilities (HUCS), or the General Services Administration (GSA) telephone conference facilities, in such a way as to minimize overall FTS telephone usage and costs.

- (2) All telephone usage shall be in compliance with applicable laws and regulations.
- (3) Commercial toll calls by the Union shall be made at the Union's expense.
- (4) If any Union representative authorized to use the FTS is absent, a person may be designated to act in his/her behalf and thus utilize the FTS system during this period.
- (5) Should Management believe that the telephone services provided in this Article are not being utilized in accordance with the intent and procedures of this Article, the appropriate Union representative shall be notified and corrective action on the part of the Union shall be requested. If the matter cannot be resolved appropriately between Management and Union, it shall be referred to the grievance procedure for resolution.

Section 8.06 - Display and Distribution of Union Material.

- (1) The display, distribution, and content of Union materials shall be as provided for in this Section.
- (2) Management shall provide bulletin boards or space on designated bulletin boards for Union purposes in each building having bargaining unit employees. Bulletin boards shall be so located as to be accessible to employees. The number, size, appearance (glass enclosed, etc.), and location of bulletin boards shall be determined locally by agreement between Management and Union officials. The Union shall maintain its bulletin boards in a proper and orderly manner at all times.
- (3) Management shall permit Union officials to distribute Union-sponsored information on the Department's premises in work areas to individual employees before and after scheduled business hours and in nonwork areas during breaks and lunch periods.
- (4) Notices placed on bulletin boards or distributed by the Union shall be clearly identified as having been prepared by

the Union and are not Departmental issuances. All material placed on the board shall be on its face clearly identified as belonging to the Union. Notices and posters prepared and posted by the Union shall not indicate the Department has sponsored or endorsed a position unless such action has been agreed to by an appropriate Management official. Notices and posters shall not contain material that is scurrilous, libelous, or in violation of the Hatch Act.

- (5) The Union shall refrain from posting notices in hallways, bathrooms, elevators, and other public places.
- (6) Management agrees to deliver pre-addressed bulk material to the designated Union office at each Management building through Management's pouch mail system. The Council President may make up to four (4) mailings a year to local office employees to be distributed in the same manner as Management's intra-office mail.

Section 8.07 - Office Equipment and Services.

- (1) Management shall, upon request by the Local Union official, furnish a lockable file cabinet, suitable space for placing a file cabinet, and a typewriter or access to a typewriter. PCs not being used for Government work shall be available for Union use. Such use shall be coordinated with the appropriate Management official. Management shall make available to the Union computer software, speaker phones, audio-visual equipment, and any other office equipment and services routinely available to the Department.
- (2) Management shall allow the Union representative to use the "telefax," or its equivalent facilities, in conducting representational duties. Coordination through Management must be completed prior to the use of the service.

Section 8.08 - Access to Federal Personnel Manual. Management shall provide the Union with access to its Federal Personnel Manual and Office of Personnel Management, GSA, and EEOC regulations and GAO decisions that are located in personnel offices or administrative offices at each HUD location. The Union shall not remove any material from these manuals or office files without first receiving permission from Management.

Section 8.09 - Photocopying Equipment. The use of photocopying equipment shall be made available to the Union for routine representational purposes. For non-routine use, the Union shall reimburse Management on an actual cost basis.

Section 8.10 - Access to the Building. Union representatives shall be provided access to the Union and HUD office space similar to that provided supervisors and employees.

Section 8.11 - Facilities and Other Concerns.

- (1) At National mid-term negotiations, Management shall provide the Union negotiating team with access to a room with a telephone with FTS capability for the term of negotiations. This room may be the same room as the room used for negotiations.
- (2) Management shall assign the Union the exclusive use of a personal computer and printer which shall be set up in the room referred to in (1) above. Upon request, the Union shall also be provided a typewriter.
- (3) Management shall provide the Union with reasonable office supplies.
- (4) Management shall provide the Union access to a copy machine with collator.
- (5) Subject to availability, similar facilities shall be made available for Headquarters, Regional, and local negotiations.

ARTICLE 9
POSITION CLASSIFICATION

Section 9.01 - General. Classification standards shall be applied fairly and equitably to all positions. Each position covered by this Agreement that is established or changed must be accurately described, in writing, and classified as to the proper title, series, and grade and so certified by an appropriate Management official. A position description does not list every duty an employee may be assigned but reflects those duties which are series and grade controlling. The phrase "other duties as assigned" shall not be used as the basis for the assignment to employees of duties unrelated to the principal duties of their position, except on an infrequent basis and only under circumstances in which such assignments can be justified as reasonable.

Section 9.02 - Uniform Position Descriptions. Normally, position descriptions of the same title, series and grade under the same supervisor shall be uniform. Management shall provide every employee with an accurate copy of his/her position description upon initial assignment to a position, and whenever a change is effected to the position description.

Section 9.03 - General Notification and Involvement of Union. Copies of classification standards for bargaining unit jobs developed within the Department shall be provided to the Council President, or the Council President's designee, for informational purposes, prior to the office of Personnel Management's approval. Management agrees to consider the Union's oral or written views concerning the occupational classification standards and notify the Union of any action taken. Management shall advise the Union of the Department's position classification and management program activities and objectives.

Section 9.04 - Notification to Employees. Where classification audits are to be performed, advance notice of three (3) working days shall be provided to employees who are to be interviewed.

Section 9.05 - Resolution of Discrepancies. Employees shall be encouraged to discuss any position description change or inaccuracy with the supervisor, who shall also maintain a continuing review of duties. Disputes involving the qualitative or quantitative value of tasks performed by the employees which affect the grading of a job may be appealed to the Department and/or other appropriate authorities. This does not preclude the filing of a grievance where the loss of a grade is involved. The following issues may be appealed through the Grievance Procedure, Article 22:

- (1) Accuracy of the Official Position Description including the inclusion or exclusion of a major duty.
- (2) An assignment or detail out of the scope of normally performed duties as outlined in the official Position Description.
- (3) The accuracy, consistency, or use of agency supplemental classification guides.
- (4) The title of the position unless a specific title is authorized in a published Office of Personnel Management classification standard or guide, or the title reflects a qualification requirement or authorized area of specialization.

Section 9.06 - Representation During Classification Appeal Desk Audit. An employee who has filed a formal classification appeal is entitled to Union representation to assist in the preparation and presentation of the appeal or meeting with management concerning the appeal. A written summary of the finding(s) shall be promptly presented to the employee and to the Union.

Section 9.07 - Notices of Grade and Pay Retention. Notices of grade and pay retention entitlements shall (pursuant to Public Law 95-454, Title 8, Subchapter 6) be issued to employees whose positions are reclassified at a lower grade as a result of a desk audit or by the application of new classification standards. A copy of all notices shall be concurrently furnished to the Union.

ARTICLE 10
TESTING AND EMPLOYEE SELECTION

Section 10.01. The parties recognize a responsibility to maintain selection procedures in compliance with Federal policy concerning validity and job relatedness. Management shall continue to review its selection procedures to assure that they are in compliance with Federal regulations as they may be revised.

Section 10.02. Management shall fairly and equitably administer any tests used for placement purposes. Any tests that have been determined by the appropriate authority to have an adverse impact on employees shall be modified or discontinued accordingly.

ARTICLE 11
INCENTIVE AWARDS PROGRAM

Section 11.01 - General. The parties agree that substantial benefits and enhanced productivity accrue to the Department when an Incentive Awards Program is developed and maintained to recognize the achievements of Departmental employees. Management, therefore, shall conduct an Incentive Awards Program for employees of the Department for the purpose of recognizing those employees whose performance or contribution is in excess of normal expectations for the positions that they occupy.

Section 11.02 - Awards for Overall Performance.

- (1) All Employees who have received an Outstanding performance rating for the year shall be eligible for:
 - (a) A quality step increase; or
 - (b) A cash award of up to three (3) percent of the entrance level salary of the employee's grade for which the period of the award covers, rounded by the nearest five dollars (\$5).
- (2) Each year Management shall determine, based upon the funds provided to the Department, whether said awards shall be granted and the amount thereof.
- (3) Management shall determine which of the two (2) types of awards shall be granted. Management shall process the award granted within three (3) pay periods of the date of the decision to make the awards or the appraisal, whichever is later.

Section 11.03 - Awards for Special Acts of Service. Employees who have had superior accomplishments on a special project, assignment, act or task, or who have done a superior job with regard to the quality or quantity of the work performed, may be considered by Management for an award for special acts of service. Special acts of service mean a contribution or accomplishment in the public interest which is (a) a nonrecurring contribution either within or outside of job responsibilities; (b) a scientific achievement; or (c) an act of heroism. An award based on these criteria may be given to an individual or to a group of individuals.

Section 11.04 - Awards of an Honorary Nature. Employees may also be considered by Management for the Department's Honorary Awards Program. These awards may include the Secretary's Honorary Awards, or the Department's nominee for outside honorary award programs.

Section 11.05 - Methodology for Granting Awards. The methodology used by Management to establish and give awards under this Article shall be developed and applied in a fair and equitable manner. Use of annual or sick leave shall not be a consideration in assessing employee qualifications for an award.

Section 11.06 - Prompt Presentation of Award. Recognizing that awards are most effective when presented as promptly as possible after the performance or act that is being recognized, Management agrees to make awards as promptly as possible after the decision is made by Management to grant an award.

Section 11.07 - Information. Upon request, the Union shall be provided with statistical data and budget information concerning the awards program that Management normally maintains, which is reasonably available, and the disclosure of which is not prohibited by law.

Section 11.08 - Publicity. Management agrees to publicize the recipients of Departmental awards in each local office by posting on bulletin boards and/or through Management memoranda or notices to all employees. The notification shall be done not less than semiannually and shall include the names of the award recipients and a description of each award.

ARTICLE 12
TRAINING AND CAREER DEVELOPMENT

Section 12.01 - General.

- (1) It is recognized that training and development of employees is a matter of importance and is clearly in the public interest. Management agrees to provide the opportunity for and to consider the views of the Union in order to maintain progressive, effective policies and programs designed to:
 - (a) Aid employees in improving performance in their current positions;
 - (b) Provide career mobility and advancement opportunity within the Department; and
 - (c) Establish and continue training programs that are supportive of the Equal Employment Opportunity and Affirmative Action Programs of the Department.
- (2) It is also understood that Management determines training needs and the methods for meeting these needs, as well as assignment of employees to training.
- (3) Management shall request comments and recommendations from the Union at the local and National levels during its development of the Department's training needs assessment each year and shall advise the Council President of the Department's overall training objectives each fiscal year.

Section 12.02 - Upward Mobility.

- (1) Management shall provide training programs in support of employees selected through the merit staffing process to participate in Upward Mobility programs. This training shall be directed toward providing the knowledge and skills required by the targeted positions.
- (2) The implementation and effectiveness of the Upward Mobility training program may be reviewed at the local level by the Training Committee and may be discussed, as well, in the local and National Labor-Management Committees. Management shall consider the Union's recommendations concerning improving the effectiveness of the Upward Mobility Program.

Section 12.03 - Training Committee. Upon request by the Union, the Department shall establish Training Committees at the local level. The Union shall have up to two (2) members on each of these Committees to represent bargaining unit employees' concerns. Where appropriate, these Committees shall make

recommendations on local training needs and programs, and provide advice to Management. Management shall seriously consider the recommendations and advice. The recommendations and advice, however, are advisory in nature and can be accepted, deferred or rejected, depending upon the circumstances facing Management. Training matters discussed in these meetings and unresolved can be addressed by the Union at scheduled Labor-Management Relations Committee meetings at the local and National levels.

- (1) At the National LMR meeting, Management and the Union shall discuss training policies and programs; exchange agenda and views on training and training plans; and discuss local Training Committee recommendations and the effectiveness of the training program.
- (2) Based on the discussions and information exchanged at the National LMR meeting, the Union may submit recommendations to Management concerning the training program.

Section 12.04 - Training Criteria.

- (1) All training requests shall be processed in accordance with applicable Departmental regulations and the Government Employee Training Act of 1958, as amended. Management may use the following criteria. The criteria shall be explained upon request, to employees when developing an Individual Development Plan and when approving or developing a training request:
 - (a) Availability of funds;
 - (b) Relationship of the training to the employee's ability to meet or exceed required standards of performance for the employee's current job or for the job which the employee has been selected to fill;
 - (c) Potential use of the training for readily foreseeable developments or events in the Department's programs;
 - (d) Consistency with plans for the employee's career development;
 - (e) Equitable distribution of training opportunities; and
 - (f) Expectation that the training could help the employee correct a deficiency in performance.
- (2) Management may develop additional criteria in accordance with Federal regulations. The Union's input shall be solicited prior to the criteria being finalized.

Section 12.05 - Outside Training. The parties recognize that employees are responsible for applying reasonable effort, time, and initiative in increasing their potential value to the Department through self-development and training. Employees are encouraged to take advantage of training and educational opportunities available and needed to increase their efficiency in the performance of their duties and for possible advancement in the Department. Management may consider providing outside training to employees upon request. Funds for this purpose must be requested, approved, and obligated before the training begins.

Section 12.06 - Individual Development Plans.

- (1) When an employee is selected for training within a formal training program, Management (in accordance with procedures developed locally or nationally) shall develop with the employee an Individual Development Plan which shall be responsive to both the needs of the program and the employee. Other employees may request Individual Development Plans once a year at the time of their annual performance appraisal or at their progress review. If requested, the supervisor shall develop with the employee an Individual Development Plan which shall be responsive to both the needs of the program and the employee. The supervisor may also initiate the development of an Individual Development Plan for an employee.
- (2) Individual Development Plans shall be implemented within resources available, and taking into consideration workload demands.
- (3) Upon request, Management shall provide career counseling through such means as discussing career goals, skills, and experience required for positions within the Department. The employee's supervisor, the supervisors of the positions in which the employee is interested, as well as the servicing personnel office, are available for this purpose.

Section 12.07 - Training Records. Management shall maintain training data which shall include an analysis of the training provided, broken down into the categories of sex, minority grouping, and grade range. Management shall provide the Council President twice a year with a copy of the report containing this data. A copy of the Department's centrally managed Training Schedule shall be provided to the Council President as soon as it is available.

Section 12.08 - Accommodation for Training. Employees may be granted variations within the normal workweek, including leave without pay and absence without charge to leave, for educational purposes where such modifications of normal work schedules do not

disrupt operations. When practicable, travel for training purposes normally shall be scheduled within an employee's regular workweek and duty hours.

Section 12.09 - Membership in Organizations. Employees are encouraged to join and participate in organizations which are related to their work. Where membership in an organization is required by Management, Management agrees to pay membership dues related to that requirement. The employee must be instructed in writing by an authorized Management official to participate in an organization on behalf of, and in the name of, the Department prior to the commitment of funds.

Section 12.10 - Orientation Sessions.

- (1) Management shall provide the Union with the opportunity to meet with new employees during the first week of their employment. In addition, Management shall provide the Union reasonable advance notice of the date, time, and location of any orientation meeting that may be held for groups of new employees. This notice shall include a general identification of who shall be in attendance. The Union shall be afforded the opportunity at such meetings to explain and/or hand out material on the role of the Union, including identifying Union representatives.
- (2) The Union shall provide each new employee with a copy of the Agreement. Management shall provide sufficient quantities of the Agreement to the Union to accomplish this task.

Section 12.11 - Information to the Union. Agreement to provide this or any other information to the Union, in no way diminishes the Union's right to additional information pursuant to 5 U.S.C. 7114(b) (4). Management shall provide the Union with the following information on training, within thirty (30) calendar days of its availability:

- (1) The appropriation requested for training;
- (2) The amount actually appropriated for training; and
- (3) The allocation of training funds for each office.

ARTICLE 13
MERIT PROMOTION AND INTERNAL PLACEMENT

Section 13.01 - General. This Article sets forth the merit promotion and internal placement policy and procedures to be followed in staffing positions within the bargaining unit. The parties agree that the provisions of this Article shall be administered by the parties to ensure that employees are evaluated and selected solely on the basis of merit in accordance with valid job-related criteria. Management agrees that it is desirable to develop or utilize programs that facilitate the career development of the Department's employees. To that end, Management shall consider filling positions from within the Department and developing bridge and/or upward mobility positions, where feasible, to help promote the internal advancement of employees.

Section 13.02 - Equal Employment Opportunity. The parties agree that the staffing of all positions within the bargaining unit shall be accomplished without regard to political, religious, or labor organization affiliation or nonaffiliation, marital status, race, color, sex, national origin, nondisqualifying disability or age.

Section 13.03 - Definitions. The following words and phrases shall have the meanings indicated for the purposes of the application of this Article:

- (1) **Position Change.** A promotion, demotion, or reassignment made during an employee's continuous service within the Department.
- (2) **Promotion.** The change of an employee, while serving continuously within the Department:
 - (a) To a higher grade when both the old and new positions are under the General Schedule or under the same type graded wage schedule; or
 - (b) To a position with a higher rate of pay when both the old and the new positions are under the same type ungraded wage schedule, or in different pay method categories.
- (3) **Demotion.** The change of an employee, while serving continuously within the Department:
 - (a) To a lower grade when both the old and the new positions are under the General Schedule or under the same type graded wage schedules; or

- (b) To a position with a lower rate of pay when both the old and the new positions are under the same type ungraded wage schedules, or in different pay method categories.
- (4) **Reassignment.** The change of an employee from one position to another without promotion or demotion.
- (5) **Area of Consideration.** The area in which an intensive search is made for agency candidates who are eligible for consideration in a specific competitive placement action.
- (6) **Career Ladder.** A series of positions of increasing complexity and at successively higher grades in the same line of work, through which employees may progress from entrance levels to the full-performance, or journey level. A career ladder may exist within one (1) organizational unit or it may cross organizational lines.
- (7) **Full-Performance Level.** The target or journey level in a specific occupational career ladder.
- (8) **Known Promotion Potential.** The projected full-performance level of a position to which an employee may be noncompetitively promoted based on a prior selection through competitive procedures.
- (9) **Career Promotion.** A promotion without current competition when:
 - (a) The employee was previously appointed or competitively selected for an assignment intended to prepare him/her for the position currently being filled.
 - (b) The employee's position is reclassified to a higher grade because of additional duties and responsibilities.
 - (c) The employee's position is upgraded without significant change in its duties and responsibilities due to issuance of a new classification standard or the correction of a prior classification error.
- (10) **Job Analysis.** The systematic process of analyzing the duties of a position to identify the knowledges, skills, abilities and other characteristics (KSAOs) required for successful job performance.
- (11) **Crediting Plan.** An evaluation method, based on job-related criteria developed through job analysis, to:
 - (a) Rate candidates' qualifications; and

- (b) Rank candidates for referral in a competitive placement action.
- (12) **Qualified Candidates.** Those candidates who meet the minimum Office of Personnel Management (OPM) Qualification Standards (X-118) for a position and, also, any appropriate selective placement factors.
- (13) **Best Qualified Candidates.** Those candidates whose qualifications are clearly superior when compared with other qualified candidates for the position to be filled, and who are referred to the selecting official on a competitive placement certificate.
- (14) **Selective Placement Factor.** A selective placement factor is a knowledge, skill, ability or other characteristic in addition to the basic qualification standard that is essential for satisfactory performance on the job. The following are examples of appropriate selective factors for determining eligibility when the factors are essential for successful job performance:
 - (a) Ability to speak, read, and/or write a language other than English;
 - (b) Knowledges and abilities pertaining to a certain program or mission, when these cannot readily be acquired after selection; and
 - (c) Ability in a functional area (for example, ability to evaluate alternative ADP systems).
- (15) **Competitive Placement Certificate.** A list of the best qualified candidates, identified through competitive placement procedures, for use by a selecting official in filling a vacancy.

Section 13.04 - Notification to Union of Staff Vacancies. As a bargaining unit position becomes available, Management agrees to notify the Union within ninety (90) days of its intent to staff or cancel the vacancy.

Section 13.05 - Simultaneous Consideration in Filling Unit Vacancies. Management agrees to provide simultaneous selection consideration of:

- (1) Properly ranked and certified candidates for either immediate or potential promotion, identified through the competitive procedures of this Article; and
- (2) Qualified candidates eligible for appointment from an OPM or DEU/PAC register, by reinstatement or by transfer.

Simultaneous consideration shall not apply to the filling of positions with no greater promotion potential than GS-5 in Headquarters; GS-4 in the Field, as well as critical shortage or hard to fill positions identified by the Office of Personnel Management.

Consideration of candidates from appropriate sources outside the Department shall not be required except at Management's option.

Section 13.06 - Actions Covered by Competitive Procedures. Competitive placement procedures shall apply to the following types of personnel actions concerning bargaining unit positions:

- (1) Promotions, unless excluded by Section 13.07;
- (2) Temporary promotions exceeding one hundred and twenty (120) days;
- (3) Details to higher graded positions or to positions with known promotion potential for more than one hundred and twenty (120) days;
- (4) Selection for training which is given primarily to prepare an employee for advancement and is required for promotion;
- (5) Reassignment or demotion to a position with more promotion potential than the employee's current position;
- (6) Transfer from another Federal agency to a higher grade position; and
- (7) Reinstatement to a permanent or temporary position at a higher grade than the last nontemporary position held in the competitive service.

Section 13.07 - Actions Not Covered by Competitive Procedures. Nothing in this Agreement shall preclude the selection or placement of a person entitled to a higher order of consideration by law or Governmentwide rule or regulation. In addition, the following actions are specifically excluded from coverage of the competitive placement procedures of this Agreement:

- (1) **Appointments.**
 - (a) Appointment from an Office of Personnel Management register or a register under the Department's delegated examining and/or Schedule B appointment authority process for the Office of Personnel Management;
 - (b) Reinstatement to the same or lower grade than the last-held permanent grade;

- (c) Reinstatement from the Department's Reemployment Priority List (RPL) for a position at a higher grade than the one last held in the competitive service;
- (d) Transfer to the same or lower grade from another Federal agency;
- (e) Conversion to competitive appointment of an employee who has successfully satisfied the specific requirements of a special employment program. Examples of such programs include:

Cooperative Education;
Veterans' Readjustment;
Selective Placement; and
Presidential Management Intern.

- (f) Action to fill a position which has no greater promotion potential than GS-5 in Headquarters; GS-4 in the Field.

(2) **Position Changes - Permanent.**

- (a) Reassignment or demotion to a position with no greater promotion potential than the employee's current position; including to a position that might require a training plan and/or qualifications waiver;
- (b) Career promotion resulting from the upgrading of a position without significant changes in the duties and responsibilities due to issuance of a new classification standard or the correction of an initial classification error;
- (c) Career promotion resulting from an employee's position being reclassified at a higher grade because of additional duties and responsibilities;
- (d) Career promotion without current competition when an employee was previously appointed or competitively selected for an assignment intended to prepare the employee for the position to be filled;
- (e) Repromotion to a grade or position from which an employee was demoted without personal cause and not at his/her request;
- (f) Promotion resulting from priority consideration granted because of failure in the past to receive proper placement consideration;

- (g) Promotion through career ladders after employees are converted from a special employment program to career or career-conditional;
 - (h) A position change permitted by reduction-in-force regulations;
 - (i) Placement of an employee who failed to satisfactorily complete a supervisory/managerial probationary period; and
 - (j) Permanent promotion of an employee competitively selected for temporary assignment, provided the initial announcement stated that a permanent promotion could result.
- (3) **Position Changes - Temporary.**
- (a) Temporary promotions of one hundred and twenty (120) days or less; and
 - (b) Details of one hundred and twenty (120) days or less to higher-graded positions or to positions with known promotion potential.

Section 13.08 - Locating Candidates and Publicizing Vacancies. Vacancies in the bargaining unit which are to be filled by competitive placement procedures shall be announced and posted in the area of consideration. The procedures described below shall be followed.

- (1) **Area of Consideration.** The minimum area of consideration shall be:
- (a) Department-wide: GS-14 and above;
 - (b) Region-wide or throughout Headquarters: GS-13; and
 - (c) Local Commuting Area: GS-12 and below.

When the minimum area of consideration does not generate an adequate number of candidates, it may be expanded. However, the initial area of consideration may be extended before posting for Category C Offices or to fill vacancies that are hard to fill, at the discretion of the servicing personnel office.

- (2) **Vacancy Announcements.** Vacancy announcements shall include the following information:
- (a) Announcement number and opening and closing dates;

- (b) Title, series and grade of the position;
 - (c) Number of vacancies to be filled;
 - (d) Geographic and organizational location;
 - (e) Summary statement of the principal duties and responsibilities;
 - (f) Minimum Office of Personnel Management (OPM) qualifications and eligibility requirements;
 - (g) All selective placement factors;
 - (h) Summary statement of the evaluation method and criteria, including relative weights, to be used to rate and rank candidates. The criteria shall be expressed in terms of knowledges, skills, abilities and other characteristics (KSAOs);
 - (i) Description of known promotion potential, if any;
 - (j) Permanent or temporary nature and, if temporary, the duration and whether the assignment can be made permanent;
 - (k) The area of consideration;
 - (l) Coverage of position under the Fair Labor Standards Act (FLSA);
 - (m) Whether or not position is in the bargaining unit;
 - (n) Where additional information may be secured;
 - (o) Where applications should be sent and what they should include;
 - (p) Written examinations to be used, if any;
 - (q) A statement on Equal Employment Opportunity;
 - (r) A statement on smoking restriction; and
 - (s) Where applications can be accepted or submitted.
- (3) **Posting Periods.**
- (a) The number of calendar days that a vacancy announcement is open shall be determined by its area of

consideration. The opening and closing dates shall be specified on the vacancy announcement.

- (b) Positions advertised Department-wide shall be open a minimum of twenty-one (21) calendar days.
 - (c) Positions advertised Headquarters-wide or Region-wide shall be open a minimum of fourteen (14) calendar days.
 - (d) Positions advertised with an area of consideration smaller than those specified above shall be open a minimum of fourteen (14) calendar days.
 - (e) Open continuous announcements, without specific closing dates, may be used to advertise recurring vacancies.
- (4) **Reposting, Extension or Cancellation.**
- (a) If a vacancy announcement has been posted and any significant information is later found to have been omitted or in error, an amended announcement shall be reposted citing the change(s) and whether or not the original applicants must refile in order to be considered. Posting periods shall be adjusted, if necessary.
 - (b) Extension of the closing date of an announcement shall be done by an amendment to the original announcement.
 - (c) Cancellation of an announcement shall be done by an amendment to the original announcement. The reasons for cancellation shall be noted on the amended announcement.
- (5) **Posting Vacancy Announcements.** When positions are advertised, Management agrees to post vacancy announcements for both unit and nonunit positions on bulletin boards or other appropriate places within the area of consideration. It is further agreed that a copy of each vacancy announcement (including DEU/PAC) shall be provided to the designated Union official. These provisions also apply to vacancy announcements which are reposted, extended or canceled.

Section 13.09 - Employee Applications.

- (1) **Filing an Application.** To be considered for a vacancy, an employee must file an application (Personal Qualifications Statement, SF-171) with the servicing personnel office responsible for staffing the vacancy or with the local office where the vacancy is located.

- (2) **Full and Complete Information.** An employee is responsible for providing full and complete information, in writing, on his/her application for a posted vacancy, as follows:
- (a) The employee should identify the announcement number and position title.
 - (b) The employee should describe experiences, awards and performance ratings as they relate to (each of the) knowledges, skills, abilities and other characteristics (KSAOs) for the vacancy, in a supplemental qualification statement.
 - (c) The employee shall describe any training or outside activities related to the vacancy.
 - (d) All pages of the most recent performance appraisal shall be submitted.
 - (e) The employee shall give organization location, and/or home address, home and/or work telephone number, and shall sign and date the application.
 - (f) Other information required by the announcement.
- (4) **Failure to Provide Information.** Failure to provide any necessary and relevant information such as SF-171s, Supplemental Qualifications Statements, and latest performance appraisals, etc., required by the vacancy announcement, shall be disqualifying.
- (5) **Time Limits.** Applications forwarded in response to individual announcements shall be accepted if they are received in the servicing personnel office staffing the vacancy by close of business (COB) of the last open day of the announcement or the COB in the local office where the vacancy is located.

Section 13.10 - Evaluation of Candidates.

- (1) **Determining Basic Eligibility.** The minimum Qualification Standards (X-118) prescribed by the Office of Personnel Management and, in addition, selective placement factors, if any, identified as essential to satisfactory job performance, shall be used to determine basic eligibility of candidates for competitive placement consideration.
- (a) The minimum qualification standards and selective placement factors, for a position to be filled by competitive placement procedures, shall be stated on the vacancy announcement.

- (b) Candidates who shall meet all requirements within thirty (30) calendar days after the closing date of the vacancy shall be considered qualified and eligible for further consideration.
 - (c) Ineligible applicants shall be promptly notified in writing of the reasons for their ineligibility.
- (2) **Criteria for Evaluation of Candidate Qualifications.** The evaluation process shall be based on a comparison of the qualified candidates' qualifications against a set of job-related criteria that have been developed for the position to be filled.
- (a) Job-related criteria shall go beyond the minimum standards for basic eligibility and shall be expressed in terms of the specific knowledges, skills, abilities, and other characteristics (KSAOs) that shall be used to distinguish BEST QUALIFIED candidates from a group of QUALIFIED applicants.
 - (b) Evaluation criteria shall be identified through analysis of the duties and responsibilities of the position to be filled or of a group of related positions having common characteristics and no critical differences in duties and responsibilities.
 - (c) A crediting plan shall be developed by Management for the position to be filled. It shall specify how each knowledge, skill, ability and other characteristic (KSAO) is to be measured and the credit levels for each. The plan must equate the quality of candidates' possession of essential KSAOs to specific credit levels.
 - (d) A candidate's rating shall be determined on the basis of relevant job-related information derived from a specified combination of the following sources:
 - SF-171, Personal Qualifications Statement;
 - Supplemental Qualifications Statements;
 - Supervisory Appraisals;
 - Structured interviews; and
 - Written aptitude/ability tests (if required by the Office of Personnel Management).

(3) **Rating and Ranking of Candidates and Certificates.**

- (a) Rating is the process of evaluating the qualifications of QUALIFIED candidates by use of a crediting plan to identify those who are QUALIFIED in terms of the KSAOs of the position to be filled.
- (b) Ranking is another step in the candidate evaluation process involving the comparison of QUALIFIED candidates based on rating with each other to determine if there is a natural break. Those who clearly stand out are the BEST QUALIFIED.
- (c) Candidates may be rated and ranked utilizing a merit staffing panel. However, when there are fewer than ten (10) qualified candidates in Headquarters and Regional Offices and fewer than six (6) qualified candidates in Category A, B, or C Offices at any one grade level, the personnel specialist shall apply the crediting plan to determine the best qualified candidates to be referred to the selecting official; a panel shall not be convened. If there are five (5) or fewer qualified, the personnel representative shall forward all candidates to the selecting official without the need to rate or rank.
- (d) Merit Staffing Panel
 - 1. If a merit staffing panel is used, the selecting official shall not be a member of the panel.
 - 2. Members of the panel must evaluate candidates in accordance with the applicable crediting plan. They must take into consideration all job-related information derived from the application forms, supplemental qualifications statements, supervisory appraisals; and, if used, structured interviews and/or written tests. If necessary, the panel may ask the personnel specialist for clarification/verification of the information on any candidate.
 - 3. Ratings of applicants may be done jointly, or individually, and then averaged. Ratings shall be sufficiently documented in order to reconstruct the action.
 - 4. Determination of the number of BEST QUALIFIED candidates referred shall be based on a natural break between the relative ranking of QUALIFIED candidates. Normally three to five names shall be

submitted to the selecting official. The lowest ranking candidate above the break should be able to perform the job with substantially equal success as all candidates with higher scores.

- a. In case of ties, candidates with the same numerical ranking shall be considered as one referral and all such candidates shall be referred. When a selecting official has more than one vacancy to fill, two (2) additional names may be added for each vacancy.
- (4) **Extending the Search.** Ordinarily, the search may be extended if there are less than three (3) BEST QUALIFIED candidates and the search is likely to increase this number in a reasonable period of time.
 - (5) **Additions to the Certificate.** In the event of declinations after referral, additional candidates may be added to the Competitive Placement Certificate in accordance with the general rule as to the number to be referred in 4(a) above.
 - (6) **Validity of Certificate.** Certificates are valid for up to sixty (60) days. However, if a selectee declines before assuming the duties of the vacancy, the certificate may be used again to make a selection.
 - (7) **Reuse of Certificate.** The same certificate may be used again within sixty (60) days from the date of selection or cancellation for additional identical positions.

Section 13.11 Selection Consideration. Management shall ensure that the evaluation of candidates complies with this Agreement and shall forward the Competitive Placement Certificate to the selecting official.

- (1) **Action by Selecting Official.** The selecting official is entitled to select, or not select, any of the candidates on the Competitive Placement Certificate. The selecting official is expected to make a selection normally within thirty (30) days following receipt of the certificate.
- (2) **Interviewing Candidates.**
 - (a) The selecting official or a designee shall interview all or none of the BEST QUALIFIED candidates referred.
 - (b) Telephone interviews are acceptable for candidates located outside of the local commuting area.
 - (c) Supervisors shall release employees for such interviews for the necessary length of time.

- (3) **Notification to Candidates.** When a selection is made, the employee shall be notified and a release date arranged by Management. Candidates who were certified but not selected shall be promptly advised of their nonselection by Management and also the name of the selectee.
- (4) **Effective Dates of Actions.**
 - (a) An employee selected for a position shall be released from the former position at the earliest practicable date after approval of the action, but not later than forty-five (45) days from the date of selection.
 - (b) When an employee is competitively promoted, the effective date of the promotion shall normally be no later than the beginning of the second complete pay period following the date of selection.

Section 13.12 - Priority Consideration.

- (1) **Definition.** Priority consideration is special placement consideration for an appropriate vacancy given to an employee who did not receive proper consideration in a prior competitive placement case due to a documented procedural, regulatory, or program violation.
- (2) **Appropriate Vacancy.** An appropriate vacancy is the next available position for which the employee is interested and fully qualified and which has the same or less promotion potential as the one for which proper consideration was not given.
- (3) **Entitlement.** An employee is entitled to only one (1) priority consideration for noncompetitive placement for each instance in which he/she was previously denied proper consideration. An employee shall exercise his/ her entitlement to priority consideration for a specific, advertised vacancy by written request to the servicing personnel office staffing the vacancy. If not exercised within two (2) years from official notification, an employee's entitlement to priority consideration shall expire.
- (4) **Processing.** The procedures for processing priority consideration(s) shall be:
 - (a) Before referring a Competitive Placement Certificate to the selecting official, Management shall provide the selecting official with a list of employees interested and eligible for priority consideration.

- (b) The selecting official shall interview and give bona fide consideration to those employees on the priority consideration list.
- (c) Management shall notify the employee of nonselection under priority consideration. Nonselection under this Section shall not preclude an employee from subsequent selection from a Competitive Placement Certificate for the same position provided that the employee has submitted all the required application documents, supplemental statements and performance appraisals.
- (d) Upon request, the employee shall be provided the reasons for nonselection.

Section 13.13 - Career Ladder Promotion. Management shall make prompt determinations regarding career ladder promotions of their employees. Management shall notify the employee by his/her anniversary date whether or not a promotion shall be recommended and provide a written explanation if the employee shall not be promoted. A career ladder promotion is dependent on:

- (1) The employee's demonstration of the ability to perform the duties of the next higher grade to the satisfaction of his/her supervisor. A copy of the promotion criteria shall be given to an employee as he/she enters each level of a career ladder.
- (2) The availability of enough work at the next higher grade.
- (3) Meeting the minimum qualification and time-in-grade requirements.

Section 13.14 - Employee Information.

- (1) **Information on Certificates.** Upon request, the Union shall have access to information on the certificate not prohibited by law, or Governmentwide regulation. For purposes of the Privacy Act, the Union shall be considered a party with a need to know when it requests information under this Article.
- (2) **Information on Selection.** Quarterly announcements of persons selected for positions within the preceding period shall be posted at the locations at which vacancies are advertised. Copies shall be given to the Union.

Section 13.15 - Union-Management Review of Competitive Placement Actions. Upon request, appropriate Union and Management representatives shall review and audit any competitive placement records pertaining to unit employee positions. The disclosure of such information shall not be contrary to Governmentwide rule,

regulation, the law, or the Privacy Act. Such reviews shall take place within five (5) days, unless the position was staffed in an office other than the office where the vacancy is located, after Management has received a formal request from the Union following the competitive placement action. The review may be done in the office where the vacancy is located.

Section 13.16 - Corrective Action. If a violation of the competitive placement procedures of this Agreement is officially determined to have occurred, Management shall take prompt action to rectify the situation. The nature and extent of the corrective action(s) to be taken shall be determined on the basis of all the facts in a case, to the equitable and legal rights of the parties concerned, and to the interest of the Government.

ARTICLE 14
DETAILS AND TEMPORARY PROMOTIONS

Section 14.01 - Definition. A detail is the temporary assignment of an employee to a different position or a different set of duties for a specified period, with the employee returning to his/her regular duties at the end of the detail, as the employee continues to be the incumbent of the position from which detailed.

Section 14.02 - Documentation. Management agrees that employees shall be recognized for the work that they perform. Therefore, details in excess of thirty (30) days shall be documented and maintained as a permanent record in the employee's Official Personnel Folder (OPF).

Section 14.03 - Appropriate Use of Detail. Details shall be used to meet temporary needs of the Department's work program when necessary services cannot be obtained by other means. This includes, but is not limited to:

- (1) Meeting unusual workload demands;
- (2) Special projects or studies;
- (3) Change in mission or organization; and
- (4) Employee absences.

Management shall consider employees who indicate an interest in a detail. Where Management determines that a detail may best be accomplished by utilizing volunteers, it shall announce the detail by memorandum and consider those who express an interest.

Section 14.04 - Details to Higher Grade Positions. A detail exceeding one hundred and twenty (120) days to a higher grade position or to a position with known promotion potential shall be made under competitive placement procedures.

Section 14.05 - Temporary Promotions. When qualified employees are detailed to a bargaining unit position of higher grade for a period in excess of thirty (30) consecutive days, the assignment must be made via temporary promotion. Employees who are temporarily promoted must meet all regulatory and qualification requirements for promotion. If the detail exceeds one hundred and twenty (120) days, it shall be done via merit promotion.

ARTICLE 15
**REDUCTION-IN-FORCE, REORGANIZATION,
AND/OR TRANSFER OF FUNCTION**

Section 15.01 - Reference. The policy, procedures, and terminology established in this Article are in conformance with:

- (1) 5 U.S.C. 3501-3504
- (2) 5 CFR Part 351
- (3) FPM Chapter 351
- (4) 29 CFR 1613.203
- (5) 5 CFR 351.203
- (6) 5 U.S.C. 7501(2)

Section 15.02 - Definitions.

- (1) **Reduction-In-Force (RIF)** - means the release of an employee from his/her competitive level by separation, demotion, furlough for more than thirty (30) days, or reassignment of an employee requiring the displacement of another employee when it is for lack of work or shortage of funds, insufficient personnel ceiling, reorganization, reclassification due to an erosion of duties only if action shall take affect after the RIF has been formally announced in the employee's competitive area and when the RIF shall take effect within one hundred and eighty (180) days, or the need to replace a person exercising reemployment or restoration rights requires Management to release the employee from his/her competitive level.
- (2) **Transfer of Function** - means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.
- (3) **Reorganization** - means the planned elimination, addition, or redistribution of functions or duties in an organization or activity. Reorganization comes under this Article only if there are employees affected under Article 15, Section 15.02 (1) or (2).
- (4) **Excepted Service Employee** - is an employee whose position is excepted from the competitive service. These persons are appointed in the Federal personnel system under various authorities including "Schedule A," "Schedule B," and "Schedule C."

- (5) **Undue Interruption** - is a degree of interruption that would prevent the completion of required work within the allowable limits of time and quality. Depending upon the pressures of priorities, deadlines, and other demands, the ordinary work program probably would not be unduly interrupted if the optimum quality and quantity of work were not regained within ninety (90) days after a reduction-in-force. Lower priority programs might tolerate even longer interruption.

Section 15.03 - Union Notification.

- (1) When it is determined that any of the actions stated in this Article are necessary and the scope of the action affects fifty (50) or more bargaining unit employees or more than one (1) Local, Management shall inform the Union at the National level and in the affected offices. If less than fifty (50) bargaining unit employees are affected, then Management shall notify the designated Local Union representatives.
- (2) Formal written notification shall be given to the appropriate Union representatives at least five (5) days in advance of the general notice to employees as contained in Section 15.04. If a general notice is not given, then the Union shall receive notification forty-five (45) days in advance of the effective date of the RIF.
- (3) Management shall provide the Union with specific information concerning the matter, to include:
- (a) The reasons for the reduction-in-force, reorganization, or transfer of function;
 - (b) The approximate number, types, and geographic locations of positions affected; and
 - (c) Approximate date of the action.

Section 15.04 - Employee Notification. An individual employee who is adversely affected by actions stated in this Article (geographically transferred, demoted, or separated because of reduction-in-force) shall, as a minimum, be given specific notice not less than thirty (30) days in advance of the effective date. General notices may be issued to an employee when Management has a basis to believe that a RIF action may be necessary for the employee but has not determined a specific action in his/her case. Such general notices shall not be issued less than forty-five (45) days, nor more than ninety (90) days, preceding the effective date of the planned RIF. All such notices shall contain the information required by the Office of Personnel Management (OPM) and the Federal Personnel Manual (FPM) regulations, in addition to that required by this Agreement.

- (1) **General Notices.** General notices shall inform employees of the following:
 - (a) That a reduction-in-force action may be necessary but that the Department has determined no specific action in this case.
 - (b) That as soon as the Department determines what action, if any, shall be taken under reduction-in-force procedures, that the employee shall receive specific notice of the action to be taken.
 - (c) Expiration date of the general notice, and that it shall expire as stated therein unless, on or before the expiration date, it is renewed or supplemented by a specific notice.

- (2) **Content of Specific Reduction-In-Force Notices.** The combined content of the general and specific reduction-in-force notices includes the following information:
 - (a) The specific reduction-in-force action to be taken;
 - (b) The effective date of the action;
 - (c) The employee's competitive area, competitive level, subgroup and service date, and annual performance ratings of record received during the last three (3) years;
 - (d) The place where the employee may inspect the regulations and records pertinent to his/her case;
 - (e) The reasons for retaining a lower standing employee in the same competitive level because of a continuing exception;
 - (f) The reasons for retaining a lower standing employee in the same competitive level for more than thirty (30) days because of a temporary or continuing exception;
 - (g) Grade and pay retention information;
 - (h) The employee's grievance or appeal right; and
 - (i) Reemployment rights.

Section 15.05 - Employee Information. Management shall provide complete information needed by employees to fully understand the reduction-in-force and why they are affected. Specifically, Management shall:

- (1) Inform all employees as fully and as soon as possible of plans or requirements for reduction-in-force in accordance with applicable rules and regulations.
- (2) Inform all employees of the extent of the affected competitive area, the regulations governing reduction-in-force and the kinds of assistance provided for affected employees.
- (3) The servicing personnel office shall maintain and publicize a list of vacancies, Department-wide, and maintain a copy of the Governmentwide job bulletins, such as Federal Jobs or Federal Research Service. This information shall also be provided to the Union.
- (3) The servicing personnel office shall provide each Local with a copy of specific RIF notices for offices in the Local's jurisdiction.

Section 15.06 - Competitive Area. The competitive area for offices shall be the local commuting area except for those identified below:

- (1) In Headquarters the competitive areas are:
 - (a) Office of the Secretary (includes Office of Legislation and Congressional Relations (LCR), and Public Affairs).
 - (b) Office of Community Planning and Development (CPD).
 - (c) Office of Housing.
 - (d) Office of Policy Development and Research (PD&R).
 - (e) Government National Mortgage Association (GNMA).
 - (f) Office of Fair Housing and Equal Opportunity (FHEO).
 - (g) Office of General Counsel (OGC).
 - (h) Office of Administration.
 - (i) Office of Public and Indian Housing (PIH).
- (2) Employees stationed in the Washington, D.C. metropolitan area, but assigned to field organizations, are separate from employees assigned to Headquarters.

- (3) Headquarters employees stationed in Field Offices are in the same competitive area as their Headquarters principal staff function.
- (4) Employees in Camden, New Jersey (Region II), are separate from employees in Philadelphia, Pennsylvania (Region III).
- (5) Regional Office employees outstationed to Field Offices are in the same competitive area as their Regional Office function.

Section 15.07 - Competitive Level. Competitive levels are established in accordance with applicable OPM regulations. An employee is assigned to a position in a competitive level in accordance with regulations. Factors considered in the establishing of competitive levels are as follows:

- (1) A competitive level consists of all the positions in a competitive area that are in the same grade or occupational level and classification series and that are so alike in qualification requirements, duties, pay schedule, and working conditions, so that the incumbent of one position could successfully perform the critical elements of any other position upon entry into it without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.
- (2) **Qualification Considerations.** When an agency considers the effect of qualifications on the composition of a competitive level, the concern is not with the qualifications an employee possesses but with the qualifications required by the duties and responsibilities of the position as stated in the Official Position Description. Among competitive positions different competitive levels are indicated for positions with different examination requirements. However, positions are not necessarily placed in the same level because they are filled from the same examination without selective certification. Separate levels may be indicated because the knowledge, technique, and know-how acquired on the job may be distinctive enough to keep the agency from readily moving employees from one job to another.
- (3) **Separate Competitive Levels Prohibited.** An agency may not assign a position to a separate competitive level based only on:
 - (a) The employee's sex, except as covered under 4(b) below;
 - (b) The fact that the employee is serving a probationary period required by 5 CFR 315, Subpart I, upon initial assignment to a supervisory or managerial position; and

- (c) Differences in work schedules among other than full-time employees who would otherwise be assigned to the same competitive level.
- (4) **Separate Competitive Levels Required.**
- (a) Each agency establishes separate competitive levels for positions according to the following categories:
 - 1. **By Service.** Separate levels shall be established for positions in the competitive service and the excepted service;
 - 2. **By Appointment Authority.** Separate levels shall be established for excepted service positions filled under different appointment authorities;
 - 3. **By Pay Schedule;**
 - 4. **By Work Schedule.** Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis;
 - 5. **By Supervisory or Nonsupervisory Status.** Separate levels shall be established for positions filled by a supervisor or Management official as defined in 5 U.S.C. 7103(a) (10) and (11); and
 - 6. **By Trainee Status.** Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all the characteristics covered in paragraph 4-6a of FPM Chapter 351.
 - (b) A position for which the Office of Personnel Management has found that restricting the certification of eligibles by sex is justified may be placed in a separate competitive level.

Section 15.08 - Use of Vacancies to Satisfy Assignment Right.

- (1) **Within the Competitive Area.** Whenever consistent with the needs of the Department, Management may use vacancies to satisfy the employee's assignment right.
- (2) **Outside the Competitive Area.** If a bargaining unit employee's assignment right determined in accordance with the Federal Personnel Manual and this Agreement results in an offer at a lower grade or if the bargaining unit employee has no assignment right and is identified for separation, Management may utilize available positions in areas outside

the employee's competitive area if such an offer is in the best interest of the Department and the offer shall not adversely affect the assignment rights of bargaining unit employees in the other competitive area. If such an offer is accepted, a bargaining unit employee shall be entitled to a reasonable amount of official time in order to obtain housing and to facilitate other aspects of his/her relocation.

Section 15.09 - Waiver of Qualifications. The Department may assign an employee without regard to OPM's standards and requirements for the position if:

- (1) The employee meets any minimum education requirement for the position; and
- (2) The Department determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

All waivers of qualification(s) must be properly documented; this documentation must be maintained by the servicing personnel office subject to Union review.

Section 15.10 - Training for Displaced Employees. If Management waives qualification standards to place an employee into a vacant position under RIF, then Management shall develop a training plan and assure training is provided in accordance with the plan.

Section 15.11 - Exceptions to the Order of Release.

(1) **Temporary Exceptions.**

- (a) Management may allow temporary exceptions, not to exceed ninety (90) days, to the RIF order of release to continue an employee on duties that a higher standing employee cannot take over within ninety (90) days:
 1. Without undue interruption to the Department.
 2. To satisfy a HUD obligation to the retained employee; for example, to delay the effective date of the employee's release long enough to allow at least a thirty (30) day specific notice period required by this Article, as when he/she is absent from his/her duty station on leave and cannot receive his/her notice the same day as a higher ranking employee.

3. To help an employee administratively when the temporary exception does not adversely affect the rights of any other employee released ahead of the excepted employee.
- (2) **Continuing Exceptions.** HUD may allow continuing exceptions to the RIF order of release to continue an employee in duties that a higher standing employee cannot take over within ninety (90) days without undue interruption to the Department.
- (3) **Employee Representation.** Employee representatives designated pursuant to Article 7 of the HUD/AFGE Agreement, who are scheduled for separation due to a reduction-in-force, may be temporarily excepted from the reduction-in-force order of release for up to ninety (90) days upon the recommendation of the Highest Ranking National Representative provided that the affected employee has been a designated employee representative for the three (3) months preceding the scheduled separation.
- (4) **Documentation.** All exceptions to the RIF order of release shall be documented and the documentation maintained with other required RIF records. Documentation of continuing exceptions must clearly demonstrate that no higher standing employee could take over the duties of the position without undue disruption to the Department and must explain the consequences of not permitting the exception. The reasons should be consistent with the criteria for justifying a temporary exception and the reasons why a temporary exception not to exceed ninety (90) days is not sufficient, must also be included.

Section 15.12 - Tie Breaking. It is possible, in releasing an employee from a competitive level, to reach two (2) employees with identical retention standing. In such cases, the decision to retain one or the other employee in the competitive level shall be made by the manager or managers responsible for the type of positions in the competitive level. This determination shall be made on the basis of the following criteria in the following order:

- First: Comparative overall performance appraisal ratings of employees concerned;
- Second: Length of service within the Department; and
- Third: Comparative number of RIF displacements resulting from release.

The decision must be documented in writing and retained with RIF files. The Union shall be notified in such cases.

Section 15.13 - Offer of Assignment.

- (1) When an employee is released from his/her competitive level, the operating personnel office must determine whether that employee is entitled to a job offer and, if so, at what grade level. It is possible that a released employee may be qualified and able to displace (by bump or retreat) several other employees at the grade level of entitlement. This offer shall be made on the basis of the following criteria in the following order:

The comparative overall performance rating of the vulnerable employee; and

Qualification match and comparative RIF disruption.

The decision shall be fully documented and this documentation shall be made available to the Union.

- (2) The operating personnel office, using job-related criteria and in consultation with Management, as necessary, shall determine the appropriate offer. The decision shall be fully documented and reported to the Union.

Section 15.14 - Excepted Service. In reduction-in-force, employees in the excepted service shall compete within competitive levels, in order of retention standing, on a separate retention register from competitive positions as specified in OPM regulation. However, the Department shall not provide for bumping or retreat rights for its excepted service employees when they cannot be retained in their competitive levels.

Section 15.15 - Other Provisions.

- (1) Management may, at its election:
 - (a) Use subgroup superiority in displacing tenure Group III employees.
 - (b) Allow employees in the same subgroup with more service to displace those with less service in order to make a better assignment offer.
 - (c) Allow a continuing exception to the reduction-in-force order of release to avoid the interruption of untimely termination of an Intergovernmental Personnel Assignment that shall last ninety (90) days or longer.
- (2) Documentation of these actions shall be made available to the Union.

Section 15.16 - HUD Reemployment - Repromotion Priority List.

- (1) Any career or career-conditional employee who is separated because of reduction-in-force shall be placed on a HUD Reemployment Priority List, and such employees may be given priority consideration for rehiring in temporary and permanent positions for which they are qualified. The acceptance of temporary employment shall not alter an employee's right to be considered for permanent employment.
- (2) If Management fills a vacancy with an individual who is not on the Reemployment Priority List, documentation of this action must be made by the selecting official, kept by the servicing personnel office, and made available to the Union.

Section 15.17 - Counseling and Benefits Assistance.

- (1) In the event of a reduction-in-force effecting separation of employees, Management shall determine from the appropriate State employment service or other appropriate assistance program whether any of the affected employees may be eligible for training or benefits at Government expense, and, if so, shall inform the employees how to apply for such training and benefits.
- (2) In order to expedite implementation of this Section, the Department shall transfer necessary data, in keeping with the Privacy Act, to the Office of Personnel Management and appropriate State employment and benefits agencies. Employees shall be provided an opportunity to waive privacy rights to aid in this transfer of data.
- (3) Management agrees to assist and refer any Group I or II displaced employees to the Office of Personnel Management (OPM) for consideration for employment under the Displaced Employee Program (DEP).

Section 15.18 - Federal Outplacement Assistance.

- (1) Management shall make every effort to place employees with other Federal agencies within the employee's commuting area.
- (2) Management shall counsel employees for whom no positions are located, on the basis of information obtained from the local State employment service agency, on any benefits that may be available to them.

Section 15.19 - Personnel Files. The Union may review any bargaining unit employee's official personnel file at the employee's request if that employee reasonably believes that the information used to place him/her on the retention register is

inaccurate, incomplete, or not in accordance with law, rule, regulation, and provisions of this Agreement.

Section 15.20 - Records. Management shall maintain all lists, records, and information pertaining to the reduction-in-force for at least one (1) year in accordance with applicable rules and regulations.

Section 15.21 - Retention Register. Management shall certify the accuracy of all retention registers which are to be used to conduct a reduction-in-force. A copy of the certified retention registers shall be made available to the Union immediately prior to RIF. An uncertified, preliminary retention register shall be made available to the Union at the time of the general notice.

Section 15.22 - Training for Union Representatives. Management shall provide opportunity to all Union representatives in each office for RIF training prior to the briefing of the employees. Management sponsored training shall be equivalent to the training provided to supervisors. All training shall be on official time.

Section 15.23 - Early Retirement Authorization. Management shall, when an opportunity is available, request from OPM authorization for early optional retirement for any segment or component of the Department when the minimum eligibility requirements established by regulation are met.

Section 15.24 - Employee Use of Facilities. Employees who are identified for separation or change to a lower grade shall be entitled to reasonable and responsible use of the following facilities and/or services for the purpose of locating suitable employment:

- (1) Telephone/FTS;
- (2) Reproduction equipment;
- (3) Pouch mail (but not involving franking privileges); and
- (4) Word processing equipment.

Section 15.25 - Employee Use of Official Time. Employees who are identified for separation or change to a lower grade shall be entitled to reasonable time, while otherwise in a duty status, without charge to leave for:

- (1) Preparing, revising, and reproducing job resumes and/or job application forms;
- (2) Participating in employment interviews; and
- (3) Using the telephone to locate suitable employment.

Section 15.26 - Performance Appraisals. Annual performance appraisals shall be frozen at the time of the general RIF notice and shall be the evaluations used to determine eligibility for additional credit toward an employee's service computation date. This provision does not determine the date on which Management shall freeze other personnel actions.

An employee's last three (3) approved performance appraisals on the date of issuance of a specific reduction-in-force notice are the appraisals that determine retention standing.

Section 15.27 - Grade and Pay Retention. Grade and pay retention for affected employees shall be in accordance with applicable law and regulations.

Section 15.28 - Details. Employees on detail shall not be released during a reduction-in-force from the position to which they are detailed but, rather, from the affected employee's permanent position.

Section 15.29 - Transfer of Function. When a transfer of function results in a reduction-in-force, RIF procedures, as outlined in regulations and this Agreement, shall be used.

Section 15.30 - Personnel Freezes. The Union shall be notified prior to implementation of any Management decisions to freeze personnel actions in conjunction with RIFs, reorganizations, or transfers of function.

ARTICLE 16
FURLOUGHS FOR THIRTY (30) DAYS OR LESS

Section 16.01 - Purpose. This Article sets forth procedures which shall be followed if Management determines it is necessary to furlough employees for thirty (30) days or less due to:

- (1) Lack of work;
- (2) Lack of funds; and/or
- (3) Unforeseeable circumstances such as a sudden breakdown of equipment, acts of God or sudden emergencies requiring immediate curtailment of activities including a lapse of appropriations. Unforeseeable circumstances, in addition to meeting the definition of emergency, also include the inability of Management to continue operations to a practical extent.

These procedures shall be carried out in accordance with law and Governmentwide regulations. Furloughs of thirty (30) days or more must be carried out according to reduction-in-force procedures.

Section 16.02 - Notification to Union and Impact Bargaining.

- (1) Before Management furloughs employees, except where an unforeseeable circumstance arises, Management shall provide written notification to the Council President of:
 - (a) The reason for the furlough(s);
 - (b) The organizational segments affected by the furlough(s); and
 - (c) The estimated number of employees to be furloughed.

This notice shall also be provided simultaneously to the Local representative in the affected office.

- (2) Impact and implementation bargaining which is necessitated by a Management decision to furlough employees shall take place at the local or National level as appropriate. If differences arise, the procedure for handling an impasse shall be resolved during impact bargaining.

Section 16.03 - Volunteers. Once Management determines the number, types, and grades of employees necessary to accomplish the work, Management shall notify employees at the work site and shall solicit volunteers for furlough. If a sufficient number of volunteers do not come forth, then Management shall select

employees for furlough on a fair and equitable basis. Any employees not furloughed must be qualified to perform the functions that are to continue to be performed during the period of furlough.

Section 16.04 - Scheduling Furlough Days. When Management has made a decision to furlough employees for a specified number of days during a specified period of time, employees shall be provided an opportunity to submit a schedule identifying their preferences in accomplishing the necessary number of days off. These schedules shall be accommodated as much as practicable giving due consideration to workload and staffing and office coverage requirements.

Section 16.05 - Notice to Employees. Except in cases of unforeseeable circumstances, Management shall provide written, individual notices to those employees who are to be furloughed thirty (30) days prior to the effective date of the furlough.

Section 16.06 - Employee Benefits During a Furlough.

- (1) **Continuous Furlough.** Life insurance and health benefits enrollment shall continue without cost to the employee on consecutive and continuous furlough of thirty (30) days or less.
- (2) **Discontinuous Furlough.** Life insurance and health benefits enrollment shall continue. Contributions by the employee shall continue if the salary in the pay period is sufficient to cover the full deduction.

Section 16.07 - Employee Compensation During Lapse of Appropriation.

- (1) Employees who are required to report for duty during a lapse of appropriations shall be fully compensated in accordance with law and regulation.
- (2) Employees who are furloughed because of lapse of appropriations shall be retroactively paid and otherwise compensated in accordance with law and regulation and the availability of funds.

Section 16.08 - Leave During Lapse of Appropriation.

- (1) When a furlough is required due to a lapse in appropriation, employees on approved annual leave shall be permitted to complete the approved leave. Upon expiration of the approved leave, if the absence of an appropriation persists, the employee shall be furloughed. Under no circumstance shall an employee be allowed to take unaccrued annual leave during a lapse of appropriation.

- (2) When a furlough is required due to a lapse in appropriation, employees on sick leave which commenced prior to the furlough may continue on sick leave to the extent of the employee's accrued sick leave and as long as the employee remains sick.

ARTICLE 17
HOURS OF DUTY - ALTERNATE WORK SCHEDULES

Section 17.01 - Introduction. All employees are covered by this program and shall be governed by the provisions set forth in this Article.

Section 17.02 - Definitions.

- (1) **Official Business Hours.** The period each day when a HUD office is officially open for business.
- (2) **Flexitime.** A method of establishing individual work schedules that allows employees some discretion with respect to their arrival/departure times. The "Gliding Tour Flexitime" work schedule provided under this Agreement allows employees to vary their arrival and departure times each day, so long as they are on duty during the office's established core hours.
- (3) **Compressed Work Schedule.** A method of establishing individual work schedules that allows employees to work eighty (80) hours in a biweekly pay period in fewer than ten (10) days. The "5-4/9 Compressed Work Schedule" provided under this Agreement allows employees to work eight (8) nine-hour work shifts and one (1) eight-hour work shift during each biweekly pay period, with one (1) workday off.
- (4) **Core Hours.** The hours each day that a full-time employee must be present for work (except for an employee's scheduled day off under a compressed work schedule).
- (5) **Credit Hours.** Credit for work performed by an employee in excess of his/her regularly scheduled eight-hour tour of duty on any workday in order to vary the length of a subsequent workday. Such work is compensated by an equal amount of time off (i.e., one (1) hour of work in excess of the employee's regularly scheduled eight-hour tour of duty is compensated by one (1) hour off on a subsequent workday). Work performed for credit hours is differentiated from overtime work, which is ordered or directed by Management. Work performed for credit hours is not compensated as, nor is it subject to the rules and regulations governing, overtime work.

Section 17.03 - Core Hours.

- (1) **Standard Core Hours.** Core hours for employees stationed in all HUD offices shall be 9:30 a.m. - 3:30 p.m., on all scheduled workdays.

- (2) **Changes in Core Hours.** The parties at the local level may negotiate different core hours within the local office's official business hours, provided that they are at least six (6) hours in length.

Section 17.04 - Tours of Duty.

- (1) **Flexitime.** Full-time employees, including those working compressed work schedules, shall be permitted to vary their daily work hours, subject to the following limitations:
- (a) The standard workweek shall be Monday through Friday.
 - (b) Except for employees working a compressed work schedule and employees participating in the credit hour program, full-time employees shall account for forty (40) work hours during each workweek, consisting of five (5) eight-hour workdays, plus the office's established lunch period each day. The hours worked each day shall be consecutive, except for the lunch period.
 - (c) Employees working a compressed work schedule shall account for eighty (80) work hours during each biweekly pay period, consisting of the following:
 - - During one (1) of the two (2) workweeks of the pay period, four (4) nine-hour workdays and one (1) eight-hour workday, plus the office's established lunch period each day. The hours worked each day shall be consecutive, except for the lunch period.
 - - During the other workweek of the pay period, four (4) nine-hour workdays, plus the office's established lunch period each day. The hours worked each day shall be consecutive, except for the lunch period.
 - (d) Employees shall not begin work before 7:00 a.m. local time nor complete work after 6:30 p.m. local time.
 - (e) Employees shall not take a lunch period in excess of the time established for the lunch period in their office without using earned credit hours or compensatory time off or charging such time to the appropriate leave category.
- (2) **Credit Hours.**
- (a) Full-time employees not working compressed work schedules shall be permitted to earn credit hours, subject to the following limitations:

1. Employees shall notify their supervisors in advance of their intention to work longer than their regularly scheduled work hours and of the specific date(s) and time(s) they plan to perform such work. The supervisor may disapprove circumstances including those listed in paragraph 17.07(5) below.
 2. Employees may earn up to one (1) credit hour on any workday and up to five (5) credit hours during any biweekly pay period. Credit hours shall not be earned on a nonworkday. Credit hours shall be earned in one (1) hour increments.
 3. Work performed in order to earn credit hours shall not begin prior to 7:00 a.m. local time nor extend past 6:30 p.m. local time.
 4. An employee shall accumulate no more than eight (8) unused credit hours at any time.
 5. An employee with prior written approval of his or her supervisor may earn credit hours while in training and/or travel status. The training and/or travel must be to an office whose schedule would support the employee working an hour per day in excess of eight (8) hours.
- (b) Employees may carry over up to eight (8) credit hours from one biweekly pay period to the next biweekly pay period.
- (c) Employees who have earned credit hours may use these credit hours to take time off during their regularly scheduled work hours, subject to the following limitations:
1. Use of credit hours shall be subject to advance supervisory approval, in the same manner as leave, and shall be scheduled so as to avoid disruption to the work of the Department and to minimize the number of employees in a work unit who are off on any given workday (e.g., supervisors shall take into account scheduled leave of other employees in the work unit and scheduled days off for employees in the work unit working compressed work schedules in considering an employee's request to use accumulated credit hours).

2. Credit hours may be used in combination with approved leave and/or compensatory time off. Credit hours shall be used in one (1) hour increments.
 3. Credit hours shall not be used on the same workday that they are earned.
 4. An employee shall not be permitted to take time off in anticipation of credit hours being earned, i.e., credit hours must be earned prior to time off being granted.
- (d) An employee shall not be given time off or otherwise compensated for work performed for credit hours in excess of the limits set forth in this Section.
 - (e) When an employee is performing additional work on a given workday in order to earn credit hours, overtime work on that day shall be defined as work that has been ordered or approved by Management in excess of the employee's basic eight-hour work requirement plus the additional work time approved in order to permit the employee to earn credit hours (i.e., if an employee is approved to work one (1) additional hour beyond his/her scheduled eight-hour tour of duty in order to earn one (1) credit hour, overtime work is work ordered or approved by Management in excess of nine (9) work hours on that workday). Time worked to earn credit hours shall not be subsequently converted to or compensated as overtime work.
 - (f) Employees working after 6:00 p.m. in order to earn credit hours shall not be entitled to night differential or other premium pay for such work.
 - (g) Unused credit hours accumulated by an employee shall be forfeited when the employee retires, transfers to another agency, or otherwise terminates his/her employment with the Department. They shall not be transferred or compensated in any manner.
- (3) **Compressed Work Schedules.** Full-time employees shall be permitted to work compressed work schedules, as defined in Section 17.02, subject to the following limitations:
 - (a) Employees who elect to work a compressed work schedule, (or who desire to change their existing compressed work schedule--e.g., their scheduled day off or eight-hour workday) shall notify their first-line supervisor in

writing of their intention at least two (2) weeks prior to the start of the pay period in which the compressed work schedule (or change) is to begin. The written notification shall include:

1. The proposed effective date of the compressed work schedule (or change).
 2. The day during each pay period (e.g., first Tuesday, second Thursday) on which the employee plans to work the eight-hour work shift required under the compressed work schedule.
 3. The employee's proposed day off during each pay period.
- (b) Prior to an employee beginning to work a compressed work schedule, his/her supervisor shall provide the employee with a written determination regarding their scheduled day off and their planned eight-hour day. Management shall determine the scheduled day off for all employees working compressed work schedules, using the following guidelines:
1. Days off shall be scheduled so as to minimize the number of employees in a work unit who are off on the same day (e.g., if a work unit has four (4) employees working a compressed work schedule, none of these employees should have the same day off).
 2. In scheduling days off, supervisors shall give due consideration to work requirements and the preferences of individual employees.
 3. In the event of a conflict among employees in a work unit regarding the scheduling of days off, supervisors may, if appropriate, give the affected employees an opportunity to resolve such conflicts among themselves.
- (c) Employees may make changes in their compressed work schedules (e.g., their scheduled day off or eight-hour workday) or may change from a compressed work schedule to a five-day-per-week flexitime work schedule (or vice versa), subject to the following limitations:
1. No change shall be made in the middle of a pay period.
 2. An employee shall make no more than one (1) such change during any calendar quarter (e.g., January-March).

3. An employee must notify his/her supervisor in writing of the planned change at least two (2) weeks prior to the start of the pay period in which the change is to take place. For changes in a compressed work schedule, or from a five-day-per-week flexitime work schedule to a compressed work schedule, the supervisor shall give the employee a written determination regarding the scheduled day off prior to beginning work under the new work schedule.
- (d) Management may, at its discretion, temporarily suspend an employee's compressed work schedule for any biweekly pay period(s) during which the employee is, for all or part of the pay period, in travel and/or training status, if it determines that such action is in the best interests of the Department. The employee's work schedule during the affected pay period(s) shall be within the discretion of Management. Such temporary suspensions shall not be implemented for a partial pay period; they must cover the full pay period(s) in which the travel and/or training occurs. The employee shall return to his/her compressed work schedule at the beginning of the pay period following completion of the travel and/or training.
 - (e) Overtime work under a compressed work schedule shall be defined as work which has been ordered or approved by Management in excess of nine (9) hours, on those days when the employee is scheduled to work a nine-hour tour of duty, and in excess of eight (8) hours, on those days when the employee is scheduled to work an eight-hour tour of duty.
 - (f) Employees working after 6:00 p.m. as part of a scheduled nine-hour tour of duty under a compressed work schedule shall not be entitled to night differential or other premium pay for such work.
- (4) **Crediting and Use of Leave Under Flexitime/Credit Hours/Compressed Work Schedules.**
 - (a) When excused absences (e.g., voting leave; delayed arrival or early departure due to inclement weather) are granted, determinations regarding entitlement to an excused absence, the amount of excused absence to be granted, and/or the time period during which an excused absence is granted shall be based upon each employee's daily arrival times during the preceding biweekly pay period (or the last pay period in which the employee worked at least five (5) days, if the employee did not work at least five (5) days in the preceding pay

period). Each employee's daily arrival times during that pay period shall be rounded to the nearest quarter-hour (e.g., 7:22 a.m. shall be rounded to 7:15 a.m.; 7:23 a.m. shall be rounded to 7:30 a.m.), and the most frequent of these rounded arrival times for each employee shall be used as the basis for all determinations regarding excused absence for that employee. If there is a tie with respect to an employee's most frequent arrival time (including those situations in which each arrival time is different), the earliest of the tied arrival times (rounded) shall be used to make such determinations.

- (b) Employees shall not extend their work hours to account for absences during the day on a scheduled workday, nor shall employees working a compressed work schedule change their scheduled day off or eight-hour work shift to account for absences on another scheduled workday during the pay period. Any such absences must be charged to the appropriate leave category.
- (c) The following additional provisions shall apply to employees working compressed work schedules:
 - 1. An employee who is on annual, sick, or other leave for the full workday on one of his/her scheduled nine-hour workdays shall be charged nine (9) hours of leave for that day. An employee who is on annual, sick, or other leave for the full workday on one of his/her scheduled eight-hour workdays shall be charged eight (8) hours of leave for that day.
 - 2. When an employee's scheduled day off falls on a holiday, the employee shall be entitled to an in-lieu-of holiday. For employees whose scheduled day off is Monday, the in-lieu-of holiday shall be the next scheduled workday (ordinarily Tuesday). For other employees, the in-lieu-of holiday shall be the immediately preceding workday.
 - 3. An employee shall be credited with nine (9) hours of holiday leave on those days when a holiday (or an in-lieu-of holiday) falls on one of the employee's scheduled nine-hour workdays; and with eight (8) hours of holiday leave on those days when a holiday (or an in-lieu-of holiday) falls on one of the employee's scheduled eight-hour workdays.
 - 4. The amount of excused absence to be granted to an employee working a compressed work schedule shall

be based on the employee's scheduled tour of duty on the day on which the excused absence is granted. The employee may be granted, as appropriate under the provisions of Article 24 of this Agreement, up to nine (9) hours for an excused absence on his/her scheduled nine-hour workdays and up to eight (8) hours for an excused absence on his/her scheduled eight-hour workdays. An employee shall not be entitled to an excused absence on his/her scheduled day off, regardless of whether excused absences are granted to other employees in the same work unit on that day.

- (d) Any other necessary determinations with respect to the crediting or use of leave under flexitime, credit hours, and/or a compressed work schedule shall be made by Management in accordance with HUD and OPM regulations.
- (5) **Part-Time Employees.** The work schedules of part-time employees shall be within the discretion of Management. Part-time employees may participate in the flexitime provisions of this Section, with the approval of Management. Part-time employees shall not earn credit hours or work a compressed work schedule, i.e., they shall not work a regular tour of duty in excess of eight (8) work hours on any workday.
- (6) **Overtime Work.** The parties explicitly recognize Management's right to order or approve overtime work by any employee on any work schedule/tour of duty.

Section 17.05 - Timekeeping.

- (1) Employees shall, on a daily basis, use the Attendance Record Sheet in Appendix F (hereinafter referred to as the sign in/sign out register) to record their arrival and departure times. This form cannot be modified at the local level.
- (2) Employees shall sign in immediately prior to beginning work. They shall sign out immediately upon completion of their workday. All sign in and sign out shall be sequential. Employees shall not be required to sign in or out for the lunch period.
- (3) Employees who are on leave for a portion of the workday or who perform overtime work or work additional time in order to earn credit hours shall note the specific times and the reason(s) for such variations from the regularly scheduled

workday in the appropriate space(s) on the sign in/sign out register, in accordance with instructions prescribed by Management.

- (4) Supervisors shall be responsible for signing in and/or out for employees who are on travel status or who are off-site at the beginning and/or end of their scheduled tour of duty.
- (5) An employee shall not account for, on the sign in/sign out register, more than eight (8) work hours (or nine (9) work hours, for an employee on a compressed work schedule working a scheduled nine-hour tour of duty or an employee approved to work additional time in order to earn credit hours) on any workday, unless overtime work has been properly approved and authorized by his/her supervisor.
- (6) Management, in consultation with the Union, shall determine the location of sign in/sign out registers and to designate the number and location of official clocks (not mechanical recording devices) to be used to determine arrival and departure times for each sign in/sign out register. Registers shall be located so as to be within the visual oversight of the principal supervisor(s) responsible for monitoring these registers.
- (7) The location of sign in/sign out registers and/or the location of official clocks may be the subject of negotiations if agreement cannot be reached.
- (8) Local Labor-Management Relations Committees may identify concerns and provide recommendations to the parties for supplemental procedures governing the sign in/sign out process, as necessary, in order to ensure that the time and attendance of employees is adequately documented.

Section 17.06 - Employee Responsibilities.

- (1) Each employee shall be responsible for ensuring that his/her alternate work schedule does not interfere with the continuing responsibility to carry out his/her assigned duties and to complete assigned work on schedule.
- (2) Each employee shall be responsible for recording and certifying his/her arrival and departure times each day on the sign in/sign out register referred to in Section 17.05(1).
- (3) Each employee shall be responsible for his/her own compliance with the rules governing this alternate work schedules program. Any employee who willfully falsifies time and attendance information on the sign in/sign out register or fails to comply fully with the rules governing

this alternate work schedules program may, at Management's discretion, be prohibited from varying their daily work hours from the official business hours of their office for a period of not less than six (6) months. In addition, they shall be subject to appropriate disciplinary action, in accordance with the Federal Personnel Manual, published HUD policies, and this Agreement.

Section 17.07 - Management Responsibilities. Management is responsible for ensuring that the mission of the Department is carried out effectively and efficiently and for determining the operational requirements of the Department. Accordingly, Management shall have the following specific responsibilities with respect to administering this alternate work schedules program:

- (1) Management shall be responsible for promulgating rules and procedures (including forms to be used and instructions for their use) to implement the provisions of this Article. Such materials shall be provided to the Union for review or negotiation as appropriate prior to their implementation.
- (2) Management shall be responsible for conducting employee training and orientation programs to ensure that all employees understand the rules and procedures governing this alternate work schedules program.
- (3) Management shall be responsible for ensuring that offices are adequately covered and for determining office coverage requirements, in terms of both the numbers and types of employees needed and skills required, during all official business hours. These official business hours shall be not less than eight and one-half (8 1/2) hours in duration for each office.

"Official coverage" includes but is not limited to the following:

- (a) Answering phones;
- (b) Expeditious handling of inquiries from the public;
- (c) Maintaining clerical, technical, and professional support of the office functions;
- (d) Providing official representation at essential meetings;
- (e) Handling occasional or recurring peak workload periods;
- (f) Meeting deadlines; and

- (g) Meeting other program needs.
- (4) Management may designate certain positions or entire organizational units for which flexitime work schedules, credit hours, and/or compressed work schedules are not permitted, because of office coverage requirements or specific, job-related requirements of those positions or organizations. These designations shall be made by Management and discussed with the Union at the local level.
- (5) Upon demonstrated need, Management may override, either temporarily or permanently, the work schedule choices, including work to earn credit hours, of individual employees in order to maintain adequate office coverage, to meet other operational needs of the Department or because of lack of work. The determination of who shall be required to work particular tours of duty in order to meet coverage or other operational requirements shall be within the discretion of Management. To the extent possible, however, personal scheduling preferences shall be considered in making such decisions. When an employee's work schedule is changed, Management shall, where work requirements permit, give the employee and the Union notice of such change at least five (5) days in advance of its effective date.
- (6) If at any time during the period of this Agreement, the Department determines that the operations of the Department or any of its organizational components have been substantially disrupted; that the productivity of the Department or the level of services which it provides to the public have been significantly diminished; or that the Department's operating costs have increased as a result of this alternate work schedules program, the Department may suspend or terminate this program. The Union shall be notified of such action not less than ten (10) days prior to its effective date.

Section 17.08 - Implementation of Alternate Work Schedules Program.

- (1) Management shall implement the alternate work schedules program in this Article within one hundred and fifty (150) days of the effective date of this Agreement. Until this program is implemented, the flexible work schedules program in Article 17 of the HUD/AFGE Agreement, dated November 7, 1983, shall remain in effect.
- (2) When the alternate work schedules program in this Article is implemented, Management at the local level may, in consultation or negotiation as appropriate, with the Local

Union, establish such supplemental procedures as are necessary to ensure that this program is properly carried out.

- (3) Local Labor-Management Relations Committees may review and make recommendations to Management, as appropriate, to resolve any problems which arise in the administration of this program.

Section 17.09 - Rest Breaks.

- (1) Employees who work a full eight- or nine-hour workday shall be entitled to two (2) authorized rest breaks, not to exceed fifteen (15) minutes, on that workday, one (1) to be taken before the lunch period and one (1) to be taken after it. Employees who work at least four (4) hours but less than eight (8) hours on a workday shall be entitled to one (1) authorized rest break, not to exceed fifteen (15) minutes on that workday.
- (2) Rest periods may not be taken either within one (1) hour of the employee's arrival or departure times or within one (1) hour of the beginning or ending of the employee's lunch periods; they may not be taken in any combination nor accumulated or accrued for future use.
- (3) Rest breaks shall be taken so as not to unduly interrupt the work of the Department.

ARTICLE 18
OVERTIME

Section 18.01 - Types of Overtime Work. Generally, this Article refers to two (2) types of overtime work:

- (1) Regular and recurring overtime work scheduled in advance of the administrative workweek as part of the employee's regularly scheduled tour of duty; and
- (2) Irregular or occasional overtime which is intermittent and usually ordered on short notice.

Section 18.02 - Approval. All overtime and compensatory time must be approved in advance by the appropriate official, except where employees are entitled to overtime within the meaning of the Fair Labor Standards Act.

Section 18.03 - Compensation for Overtime Work. Consistent with governing law, and existing Governmentwide regulation, nonexempt employees under the Fair Labor Standards Act and exempt employees whose salary is equal to or less than the maximum rate of grade GS-10 shall receive overtime pay for irregular or occasional overtime work. Exempt employees whose salary is in excess of the maximum rate of GS-10 shall be given the option to receive overtime pay or compensatory time for irregular or occasional overtime. All regular overtime for both exempt and nonexempt employees must be paid.

Section 18.04 - Accumulation of Compensatory Time. Compensatory time credits shall be used by the end of the leave year in which it is earned; except that unused compensatory time which is earned during the last five (5) pay periods of the leave year may be carried over for use during the first five (5) pay periods of the following year. Management and the employee are responsible for assuring that earned compensatory time credits are used within the above time frame. If compensatory time is not used within the above time periods, an employee loses his/her right to compensatory time off, unless the failure is due to an exigency of the service beyond his/her control, in which case the employee shall be granted a final extension of five (5) pay periods, after which time any unused compensatory time is forfeited.

Section 18.05 - Overtime Aggregation.

- (1) **Regular and Recurring Overtime Scheduled in Advance.** Management agrees that in the scheduling of overtime in advance, such work shall be scheduled in quarter hour increments. Such increments shall be aggregated into hours

or portions thereof at the end of each pay period for compensation. Any portion of a quarter hour shall be rounded off to the next higher increment.

- (2) **Irregular or Occasional Overtime.** When employees work irregular or occasional overtime, Management shall aggregate time as follows:
- (a) It shall round down to the next lower quarter hour those odd minutes of work that are less than fifty (50) percent of a quarter hour; and
 - (b) Shall round up to the next higher increment those odd minutes of work that equal or exceed fifty (50) percent of a quarter hour.

Section 18.06 - Rest Breaks on Overtime. Each employee who works overtime shall be entitled to a rest break of fifteen (15) minutes for each four (4) hours of overtime. A rest break may be taken after the first two (2) hours of the overtime period. However, no rest break is intended at the end of the overtime period, nor is it intended that a rest break shall replace or be added to the normal lunch break after a four (4) hour segment of overtime worked.

Section 18.07 - Assignment to Overtime Work. Management shall advise employees that those who desire to volunteer for overtime work may indicate their preference by signing up on a volunteer overtime list which shall be made readily available for inspection. Management shall first consider the assignment of overtime to volunteers who perform work of the same nature during the time falling within their basic workweek, as well as to other qualified employees having the requisite skills and personal qualifications for the work to be performed. Assignments of overtime shall be made on a fair and equitable basis in accordance with Management's need to accomplish the work.

Section 18.08 - Excusal. Upon request and a reasonable showing that a requirement to work overtime shall work a hardship on the employee, Management shall excuse employees from overtime work provided that a comparably qualified employee is available for the assignment.

Section 18.09 - Election. The election of an employee to request either compensatory time or overtime pay shall not be a factor in the assignment of overtime work.

Section 18.10 - Notice. Management shall, to the extent practicable, provide employees with two (2) days' advance notice of overtime assignments.

Section 18.11 - Call-Back Time. Employees called back to work outside of and unconnected with their regular hours of work shall be paid for at least two (2) hours of work. Management, to the extent practicable, shall schedule such work for at least four (4) hours on said occasions, if appropriate work is available.

Section 18.12 - Official Vehicle Breakdown. When a vehicle used on official Government business breaks down or is otherwise inoperable, the employee shall, within an hour of the breakdown (or as soon thereafter as practical), provide the supervisor with an estimate of the situation and request instructions. The supervisor shall approve a reasonable amount of official time for the purpose of obtaining emergency repairs. Anytime beyond the end of the employee's tour of duty which constitutes overtime may be approved by the appropriate official, provided the employee presents a brief written explanation and, where available, documentation relating to the emergency.

ARTICLE 19
EQUAL EMPLOYMENT OPPORTUNITY

Section 19.01 - Policy. Management and the Union agree that pursuant to Federal Statutes and EEOC regulations in all matters concerning employment, no discrimination shall be tolerated on the basis of age, sex, race, religion, qualified disabling condition, color, national origin, marital status or political affiliation in any matter relating to employment. Management shall provide Affirmative Action Programs where there is a manifested imbalance or conspicuous absence in protected EEO groups and promote full realization of equal employment opportunity through a positive and continuing effort. Such efforts shall include the eradication of offensive remarks in the workplace relating to age, sex, race, religion, qualified disabling condition, color, and/or national origin.

Employees who allege discrimination or anyone who participates in the presentation of such complaints, such as the EEO Counselor, shall be free from restraint, interference, coercion, discrimination, or reprisal.

Section 19.02 - Affirmative Action. Management shall conduct a continuing campaign to eliminate discrimination and/or prejudice from its personnel practices and policies, and employment conditions consistent with this Agreement. Programs shall include, but not be limited to, implementation of the following objectives and goals:

- (1) Overcoming manifest imbalances and conspicuous absences of minority groups and women in grade levels, occupations, and organizational units within the work force;
- (2) Providing upward mobility opportunities for clerical and other support personnel into occupations with greater potential for career advancement;
and
- (3) Where applicable, providing reasonable accommodations for qualified disabled employees pursuant to Article 32 of this Agreement.

Management shall develop an Affirmative Action Plan in accordance with law and regulation. A complete copy of the adopted plan shall be provided to affected Locals.

Section 19.03 - Local Equal Employment Opportunity Committees.

- (1) An Equal Employment Opportunity (EEO) Advisory Committee shall be established at every office with total employment of fifty (50) or more. In offices with employment of less than fifty (50), the Labor-Management Relations Committee shall also perform EEO Committee functions.
- (2) Membership shall consist of one (1) Union representative and two (2) Management representatives who are knowledgeable about Affirmative Action and EEO Programs. The local parties may, through mutual agreement, expand the number of members: for every Union representative added, there shall be a Management representative added. However, the Committee shall be no larger than seven (7) members. Any Committee member shall be afforded the opportunity to provide a dissenting statement to be included in any issuances from the Committee.
- (3) Equal Employment Opportunity Committees shall meet quarterly at the local level. Each local Committee shall prepare written reports containing recommendations as necessary.

Section 19.04 - Purpose of Committees. The EEO Committees shall provide advice and recommendations in the following areas:

- (1) **Affirmative Action Plan.** The development of the plan, review of progress in achieving the goals of the plan, and make recommendations for assuring that plan goals are achieved. The local EEO Committees shall review and comment on the Affirmative Action Plan prior to its transmittal to the Regional/HQ EEO Officer for approval. This review process shall not exceed fourteen (14) calendar days.
- (2) **Equal Employment Opportunity Counselors.** Review nominations for EEO Counselors and make recommendations to the appropriate EEO Officer(s) regarding the selection and appointment of EEO Counselors.
- (3) **Discrimination Complaints.** Review status reports of discrimination complaints and make recommendations to improve the timeliness and effectiveness of the complaint resolution processes, and ensure effective remedial processes exist where merit has been found.
- (4) **Special Awards.** The Committee may recommend to Management, EEO Counselors or others for monetary Special Achievement Awards for special acts or services contributing to the goals of affirmative action and equal employment opportunity.

Section 19.05 - Equal Employment Opportunity Counselors. The statutory appeals system for resolving EEO complaints involves the use of EEO Counselors prior to the filing of a complaint. Therefore, EEO Counselors are an important and integral part of the program. Management shall assure that an adequate number of trained EEO Counselors shall be available and accessible to all employees. In the appointment of EEO Counselors, the following procedures shall apply:

- (1) All bargaining unit and nonbargaining unit employees shall be given the opportunity once a year to self-nominate themselves for consideration to be EEO Counselors.
- (2) Management shall formally solicit nominations from the Union at least once a year or as Counselor vacancies occur. The parties may submit EEO Counselor nominations for appointment consideration at any time.
- (3) The EEO Committees shall review the nominations and make recommendations to the appropriate EEO Officer regarding appointment of EEO Counselors.
- (4) One (1) Union representative from each Region shall be invited to attend EEO Counselor training in their respective Region.
- (5) EEO Counselors may have their position descriptions amended to include these collateral duties.

Section 19.06 - Conflict of Interest. Equal Employment Opportunity Counselors shall not be appointed where such appointment would be, or appear to be, an actual or apparent conflict of interest.

- (1) It is understood that where Union officials are nominated to serve as EEO Counselors, the Committee shall first determine whether such officials are willing to set aside Union representational duties for the duration of their appointment as EEO Counselors.
- (2) It is also understood that no person shall serve as an EEO Counselor who has been found to be a discriminating official.

Section 19.07 - Third Party Settlements. Section 7106 of the Civil Service Reform Act excludes substantial personnel decisions from participation on the part of the Union; particularly in the areas of hiring, training, selections, promotions, and similar matters. The settlement of discrimination complaints may, therefore, require modification to certain personnel policies and practices contained in this Agreement. Where the Department is a respondent in EEOC or judicial appeals, Management agrees to

provide the Union with an opportunity to negotiate on any proposed waivers or changes to this Agreement prior to entering into a voluntary settlement. As appropriate, Management shall continue to consult the Union during the resolution process. In accordance with Statute and regulation, the Union shall be offered the opportunity to negotiate, under the provisions of the "Mid-Term Bargaining" Article of this Agreement, changes in the Agreement brought about by the settlement of a discrimination complaint.

Section 19.08 - Equal Employment Opportunity Reports.

- (1) Management shall furnish, semiannually to the Council President, two (2) copies of EEO/AA statistical reports.
- (2) Management shall furnish to the Union an annual summary of the number and types of discrimination complaints received and their disposition and/or status.
- (3) Upon request, copies of the current Affirmative Action Plan shall be made available to the EEO Committee.
- (4) Upon request, Management shall brief the Union on the status of EEO programs at labor-management relations meetings.
- (5) As appropriate, additional EEO data shall be made available to the Union or the EEO Committee upon request and where available.

Section 19.09 - Discrimination Complaint Procedures. The parties acknowledge that employees who have discrimination complaints can opt to have their complaints resolved by either of the following, but not both, procedures:

- (1) The negotiated grievance procedure as provided in this Agreement; or
- (2) The statutory appeal process which begins with the engaging of an EEO Counselor and, if the matter is not resolved, the filing of a formal Title VII complaint with referral to the Assistant Secretary for Fair Housing and Equal Opportunity for investigation and disposition.

An employee shall be deemed to have made an election to raise a complaint under either the statutory procedure or the grievance procedure at such time as he/she timely files a grievance in writing or files a formal written complaint under the statutory EEO complaint procedure, whichever comes first. Discussions with an EEO Counselor in no way preclude the filing of a grievance that is otherwise timely.

If the employee has contacted the Equal Employment Opportunity Counselor about his/her complaint, the Equal Employment Opportunity Counselor shall be responsible for informing the employee of his/her options in relation to alternative procedures. The inadvertent failure of the Counselor to inform the employee of his/her options, in no way diminishes the employee's responsibility to make an election of procedures or extends the time limits for filing a grievance or a complaint.

ARTICLE 20
DISCIPLINE

Section 20.01 - General.

- (1) At times, it is necessary to take disciplinary action against an employee for misconduct.
- (2) The grievance procedure for disciplinary actions is set forth in this Article and is in lieu of the procedures identified in Article 22 (Grievance Procedure) except as provided in Section 20.03.
- (3) The objective of discipline is to correct and improve employee behavior so as to promote the efficiency of the service. The parties agree to the concept of private, progressive discipline designed primarily to correct and improve employee behavior. However, major offenses may be cause for severe action, including removal, regardless of whether previous discipline has been taken against the offending employee. Bargaining unit employees shall be the subject of disciplinary action only for just and sufficient cause.
- (4) Actions shall be fair and equitable, i.e., Management shall consider the relevant factors given the circumstances of each individual case and similar cases, if any, to make a fair decision.
- (5) Investigations and disciplinary actions shall be timely. Timeliness shall be based upon the circumstances and complexity of each case.
- (6) The term "days" as used in this Article shall mean calendar days.
- (7) For purposes of this Article, disciplinary action definitions are as follows:
 - (a) **Oral Admonishments Confirmed in Writing.** Oral admonishments which have been recorded and issued to an employee.
 - (b) **Reprimand.** An official written notice which sets forth specific actions of misconduct of such a serious nature that routine discussions and/or counseling sessions are not sufficient.
 - (c) **Suspension.** The temporary placement of an employee in nonduty, nonpay status for disciplinary reasons.

- (d) **Reduction in Grade.** The involuntary assignment of an employee to a position at a lower classification or job grading level.
 - (e) **Removal.** The involuntary separation of an employee from employment with the Department for misconduct reasons.
- (8) This Article applies to:
- (a) An action based solely on misconduct reasons; or
 - (b) An action that involves both performance and misconduct related reasons.
- (9) This Article does not apply to:
- (a) Actions based solely on unacceptable performance; or
 - (b) Termination of employees serving on temporary or probationary appointments; or
 - (c) Nonpreference eligibles in the excepted service who are suspended for more than fourteen (14) days, reduced in grade, or removed.

Section 20.02 - Oral Admonishments. Oral admonishments which are not recorded are not considered disciplinary actions. Where practicable, they must be conducted in private. They can neither be grieved by the employee nor be relied upon by Management in any disciplinary action subsequently taken against the employee.

Section 20.03 - Oral Admonishments Confirmed in Writing and Reprimands.

- (1) Oral admonishments which are recorded must be shown to the employee if they are to be relied upon by Management in any subsequent disciplinary or adverse action against the employee. A copy of the record shall be given to the employee.
- (2) Letters of reprimand shall be placed in an employee's Official Personnel Folder for a period specified in the letter, but not to exceed two (2) years.
- (3) If the employee is dissatisfied with such written admonishment, he/she may file a grievance pursuant to Article 22 of this Agreement.

Section 20.04 - Suspensions of Fourteen (14) Days or Less for Misconduct Reasons.

- (1) Management shall provide the employee with at least fifteen (15) days advance written notice, stating the specific reasons for the proposed action with sufficient specificity so as to enable the employee to prepare a response (response times may result in delays beyond thirty (30) days). Management shall provide the employee one (1) copy of the documentation relied upon to support the proposed action, which may include the names of witnesses involved in supporting the charges.
- (2) Upon receipt of the official notice of proposed suspension action, an employee shall have fourteen (14) days to respond to the proposed action. The response may be made orally or in writing, or both. The employee's response may include any statement or material the employee believes is relevant to defending against the proposed action. Upon a reasonable written demonstration of need, the employee may be granted sufficient additional time to respond. This request must be made within the fourteen (14) day period.
- (3) Management shall issue a final written decision within twenty-five (25) days of the receipt of the employee's response, or after the expiration of the fourteen (14) day response period if the employee does not respond, stating the specific reasons, including a statement of the employee's appeal rights.

If Management determines that further investigation is necessary, the time limit for issuance of the decision shall be extended. The employee shall be notified of such an extension and shall continue to be notified at thirty (30) day intervals thereafter. Such a decision shall be made by a higher level official in the Department than the official who proposed the action. For example, the deciding official is at the Division Director level if a Branch Chief proposed the action.

- (4) The employee may be represented by an attorney or other representative which includes the right to Union representation.
- (5) If arbitration is not invoked by the Union, the matter is closed for purpose of the grievance/arbitration procedure.

Section 20.05 - Suspensions of Fifteen (15) Days or More, Reduction in Grade or Pay. (Except for an indefinite suspension, as provided in Office of Personnel Management regulations, 5 CFR 752.404(d)) an employee shall be entitled to:

- (1) At least thirty (30) days advance written notice of the proposed action with sufficient specificity so as to enable the employee to prepare a response. Upon the employee's request, Management shall provide one (1) copy of the documentation relied upon to support the proposed action, which may include the names of witnesses involved in supporting the charges.
- (2) Upon receipt of the official notice of proposed disciplinary action, an employee shall have twenty-one (21) days to respond to the proposed action. The response may be made orally or in writing, or both. The employee's response may include any statement or material the employee believes is relevant to defending against the proposed action. Upon a reasonable written demonstration of need, the employee may be granted sufficient additional time to respond. This request for additional time must be made within the twenty-one (21) day period.
- (3) Be represented by an attorney or other representative, which includes the right to Union representation.
- (4) Sixteen (16) hours of official time, if needed, within the period in (1) above, for preparing the oral and/or written response(s). The supervisor may grant additional time based on demonstrated need.
- (5) A written decision, which includes the specific reasons at the earliest practicable date. Such a decision, including a statement of the employee's appeal rights, shall be made within thirty-five (35) days of the receipt of the employee's response, or after the expiration of the twenty-one (21) day response period if the employee does not respond, and shall be issued by a higher level official in the Department than the official who proposed the action. For example, the deciding official is at the Division Director level if a Branch Chief proposed the action. If Management determines that further investigation is necessary, the time limit for issuance of the decision shall be extended. The employee shall be notified of such an extension and shall continue to be notified at thirty (30) day intervals thereafter.
- (6) Within twenty (20) calendar days of the effective date of the action, the employee may appeal the matter to the Merit Systems Protection Board (MSPB).
- (7) If the employee elects not to appeal the matter to the Merit Systems Protection Board, then the Union may invoke arbitration within twenty (20) calendar days of the effective date of the action.

- (8) If an employee believes the action to be based in whole or in part on prohibited discrimination (race, age, sex, national origin, etc.), he/she may utilize the EEO complaint procedure in lieu of paragraphs 6 and 7 above by either filing a grievance at Step 1 of the grievance procedure (see Section 22.12) or by filing an EEO complaint in accordance with the statutory appeals process (see Section 19.09(2)).

Section 20.06 - Union Notification. When Management issues a notice of proposal and/or decision to suspend, reduce-in-grade, or remove an employee in the unit, Management shall provide to the Union a general statement of the charges, proposed action, and subsequent decision.

Section 20.07 - Evidence. Management shall produce all evidence, including the names of witnesses that were relied upon to support the proposed action, to facilitate preparation of the oral and/or written reply.

ARTICLE 21
UNACCEPTABLE PERFORMANCE ACTIONS

Section 21.01 - General.

- (1) **Applicability.** If, after being given the opportunity to demonstrate acceptable performance and assistance to improve, the employee's performance continues to be unacceptable on one (1) or more critical elements, Management must initiate reduction in grade or removal, subject to the provisions of 5 U.S.C. 4303. Management may consider reassignment in lieu of initiating action under 5 U.S.C. 4303.

This Article does not apply to:

- (a) Actions based in whole or in part on misconduct;
 - (b) A reduction in the grade previously held by a supervisor or manager;
 - (c) A reduction in grade or removal of an employee who is serving a probationary period or trial period under an initial appointment;
 - (d) Discharge of employees serving on temporary appointments; or
 - (e) Nonpreference eligibles in the excepted service.
- (2) **Applicable Grievance Procedure.** The grievance procedure for employees who have been reduced in grade or removed for unacceptable performance under Chapter 43 is set forth in this Article and is in lieu of the procedures identified in Article 22 (Grievance Procedure).
- (3) **Definitions.**
- (a) **Critical Element.** A component of an employee's job that is of sufficient importance that performance below the minimum standard established by Management requires remedial action and may be the basis for removing or reducing the grade level of that employee. Such action may be taken without regard to performance on other components of the job.
 - (b) **Days.** Calendar days.

- (c) **Opportunity to Demonstrate Acceptable Performance.** A chance for the employee to show that he/she can meet the established minimum performance standards for the critical elements of the job.
- (d) **Performance Standards.** The expressed measure of the level of achievement established by Management for the duties and responsibilities of a position or group of positions. Performance standards may include, but are not limited to, elements such as quantity, quality, and timeliness.
- (e) **Reasonable Time To Demonstrate Acceptable Performance.** An amount of time commensurate with the duties and responsibilities of the employee's job which is sufficient to allow the employee to show whether he/she can meet minimum performance standards.
- (f) **Reduction in Grade.** The involuntary assignment of an employee to a position at a lower classification or job rating level.
- (g) **Removal.** The involuntary separation of an employee from employment with an agency except when taken as a reduction-in-force action.
- (h) **Unacceptable Performance.** Performance of an employee which fails to meet established minimum performance standards in one (1) or more critical elements of such employee's position.

Section 21.02 - Procedures.

- (1) **Failure To Meet Minimum Performance Standards.** If an employee fails to meet the minimum performance standards, Management shall identify in writing for the employee the critical element(s) for which performance is unacceptable and specific examples illustrating the performance which is deficient. The employee shall be provided a reasonable time and opportunity to demonstrate acceptable performance. Management shall assist the employee to the maximum extent feasible to improve the performance to the required level.
- (2) **Proposed Notice of an Unacceptable Performance Action.** Normally, the notice of proposed action must be consistent with the most recent performance rating or progress review. An employee for whom reduction in grade or removal for unacceptable performance is proposed is entitled to: Advance, written, thirty (30) day notice which identifies the specific instances of unsatisfactory performance within the last twelve (12) months and the critical element or elements of the employee's position involved in each

instance. Management shall provide one (1) copy of the documentation relied upon to support the proposed action. Only instances of unacceptable performance which occurred during the one (1) year period ending on the date of the proposed notice may be used as the basis for an action.

- (3) **Response.** The employee has the right to reply to the proposal orally and/or in writing within twenty-one (21) days.
- (4) **Decision.** The deciding official shall issue a final written decision, including a statement of the employee's appeal rights, within thirty-five (35) days of the receipt of the employee's response, or after the expiration of time limits for the employee to respond if the employee fails to respond.

If Management determines that further investigation is necessary, the time limit for issuance of the decision shall be extended. The employee shall be notified of such an extension and shall continue to be notified at thirty (30) day intervals thereafter.

Any improvement in the employee's performance during the notice period shall be considered when the final decision is made.

- (5) **Representation.** The employee has the right to be represented by an attorney or other representative, which includes the right to Union representation.
- (6) **Appeals.**
 - (a) **Merit Systems Protection Board (MSPB).** Within twenty (20) calendar days of the effective date of the action, the employee may appeal the matter to MSPB.
 - (b) **Arbitration.** If the employee elects not to appeal the matter to the Merit Systems Protection Board, then the Union may invoke arbitration within twenty (20) calendar days of the effective date of the action.
 - (c) **Equal Employment Opportunity (EEO).** If an employee believes the action to be based in whole or in part on prohibited discrimination (race, age, sex, national origin, etc.), he/she may file an EEO complaint in accordance with the statutory appeals process.

Section 21.03 - Union Notification. When Management issues a notice of proposal and/or a decision to reduce in grade or remove an employee in the unit for unacceptable performance, Management

shall provide to the Union a general statement of the unacceptable performance, proposed action, and subsequent decision.

Section 21.04 - Standard of Evidence. The standard of evidence required for unacceptable performance action is "substantial evidence."

Section 21.05 - Evidence. Management shall produce all evidence, including the names of witnesses that were relied upon to support the proposed action, to facilitate preparation of the oral and/or written reply.

ARTICLE 22
GRIEVANCE PROCEDURES

Section 22.01 - Definition and Scope. This Article constitutes the sole and exclusive procedure for the resolution of grievances by employees of the bargaining unit and between the parties. This grievance procedure replaces Management's administrative procedure for employees in the bargaining unit only to the extent of those matters which are grievable and arbitrable under this negotiated Agreement. A grievance means any complaint by:

- (1) Any employee concerning any matter relating to his/her employment; or
- (2) The Union concerning any matter relating to the employment of any employee; or
- (3) Any employee, the Union, or Management concerning:
 - (a) The effects or interpretation, or claim of breach, of this collective bargaining agreement; or
 - (b) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 22.02 - Statutory Appeals. Adverse actions consist of:

- (1) Reduction in grade or removal for unacceptable performance;
- (2) Removals for misconduct;
- (3) Suspensions for more than fourteen (14) days; and
- (4) Furloughs for thirty (30) days or less.

Adverse actions may, in the discretion of the aggrieved employee, be raised under either:

- (1) The appropriate statutory procedures; or
- (2) Under the negotiated grievance procedure, but not both.

Specific procedures for grieving adverse actions are found in Article 20, Discipline, and Article 21, Unacceptable Performance.

Section 22.03 - Prohibited Personnel Practices. Prohibited personnel practices include the discrimination for or against any employee on the basis of:

- (1) race
- (2) color
- (3) religion
- (4) sex
- (5) national origin
- (6) age
- (7) handicapping condition
- (8) marital status
- (9) political affiliation.

For a more complete definition of prohibited personnel practices, see Article 4, Employee Rights/Standards of Conduct.

In accordance with Section 7121(d) of the Statute, an aggrieved employee affected by a prohibited personnel practice under Section 2302(d) (1) of the Civil Service Reform Act may raise the matter under a statutory procedure or the grievance procedure, but not both.

Section 22.04 - Choosing an Appeals Procedure. Nothing in this procedure shall prejudice the right of the employee to appeal to the Merit Systems Protection Board or the Equal Employment Opportunity Commission pursuant to Section 7121 of the Statute, or file an unfair labor practice or other appeal under the rules of the Federal Labor Relations Authority. Any employee shall have exercised his/her choice to raise a matter under an applicable statutory procedure or the negotiated procedure when the employee:

- (1) timely files a notice of appeal under the applicable statutory procedure or elects to use the statutory Equal Employment Opportunity complaint process (see Section 19.09 (2)); or
- (2) timely files a grievance in writing (see Section 22.12), whichever occurs first.

An employee shall have exercised his/her option concerning EEO discrimination matters at such time as he/she timely files a grievance in writing or files a formal written complaint under the statutory EEO complaint procedure, whichever occurs first. Discussions with an EEO Counselor in no way precludes the filing of a grievance that is otherwise timely.

Section 22.05 - Exclusions. Excepted from these negotiated procedures coverage are the following:

- (1) Any claimed violation of Subchapter III of Chapter 73 of Title 5 (relating to prohibited political activities);
- (2) Retirement, life insurance, or health insurance;

- (3) A suspension or removal under Section 7532 of Title 5 (relating to national security matters);
- (4) Any pre-employment examination, certification, or appointment;
- (5) The classification of any position which does not result in the reduction in grade or pay of an employee;
- (6) Matters already filed with the Merit Systems Protection Board as an adverse action which are, therefore, statutorily precluded from duplicate filing under this procedure;
- (7) Matters already filed with the Equal Employment Opportunity Commission concerning discrimination complaints which are, therefore, statutorily precluded from duplicate filing under this procedure or raised under the Department's statutory Equal Employment Opportunity complaint resolution process;
- (8) Mere nonselection for a promotion from a group of properly ranked and certified candidates where there is no allegation of a violation of this Agreement, law, or regulation;
- (9) The separation of a probationary employee;
- (10) The mere termination of a temporary promotion where there is no allegation of a violation of this Agreement, law, or regulation;
- (11) The mere termination of a temporary appointment where the Standard Form-50 states that the termination was based on a lack of work or lack of funds;
- (12) Complaints by employees with temporary appointments not to exceed six (6) months;
- (13) Oral admonishments which were not recorded (see Section 20.02);
- (14) Progress reports on employee performance including opportunity to improve notices/performance improvement plans;
- (15) The filling of any position outside the bargaining unit;
- (16) The removal, suspension of more than fourteen (14) days, reduction in grade or furlough of nonpreference eligible employees in the excepted service; and
- (17) The filing of a parties grievance which involves the same individual and factual situation as contained in an individual grievance.

Section 22.06 - Time Limits.

- (1) Time limits for the filing of a grievance under this procedure, unless mutually waived by the parties, shall begin to run from the next workday after the grievant became aware or should have become aware of the matter being grieved. The date of expiration of a time limit shall be close of business hours the last day of the stated period, unless that day falls on a Saturday, Sunday, or nonworkday, in which case the following full workday shall be considered the last day.
- (2) Where a grievant fails to meet a time limit, unless extended by mutual consent, the matter shall be considered resolved according to the last Management response.
- (3) Where Management fails to meet a time limit, unless extended by mutual consent, the grievance shall be advanced to the next step of the grievance procedure.
- (4) Management shall serve all grievance responses, and all other communications concerning the grievance, upon the Union representative and to the employee. No time limit for responding or appealing shall begin to run until the grievant has received his/her copy of the Management response or communication.
- (5) Management shall send all grievance responses to the grievant and the appropriate Union representative. The Union's copy of the grievance responses shall be delivered to the Union office. If there is no Union office, the grievance response shall be delivered to the designated Union mailing address. Where the response is mailed, receipt shall be confirmed by using certified mail, return receipt requested.
- (6) In the case of nonpersonal delivery, if Management disputes the date of actual receipt by the employee or the representative, Management shall bear the burden of proving the date of actual receipt. The burden of proof shall be deemed to have been met by production of a signed receipt, a witnessed statement indicating the date and time of delivery or deposit, or any other evidence indicating delivery.
- (7) For purposes of timeliness, the grievance shall be considered filed when it is personally delivered to the office which is to receive it or when it is postmarked, if the grievant is not in the same location as the grievance control officer or the designated deciding officials.

- (8) Minor errors or omissions in completing the grievance form shall not be used as a basis to reject any grievance.

Section 22.07 - Self-Representation. Nothing shall preclude an employee from presenting a grievance to Management without representation by the Union; however, such an employee may not receive any better or worse treatment than other employees who elect Union representation, and any resolution must be consistent with the terms of this Agreement. Employees who elect to represent themselves shall receive a reasonable amount of official time to prepare and present their grievances. Only the Union can invoke arbitration.

If any employee represents himself/herself in a grievance filed under the grievance procedure contained in this Agreement, the Union shall be notified no less than twenty-four (24) hours in advance of any meetings between Management and the grievant concerning the grievance. The Union may attend any such meetings. The Union shall be provided a copy of any grievance decisions that are issued.

Section 22.08 - Right to Representation.

- (1) The Union shall have the right to represent employees at any stage of this procedure. Management shall pay reasonable travel and per diem for the grievant and shall consider the payment of travel and per diem for the grievant's Union representative to attend any meetings with deciding officials required by this Article. To be eligible for travel and per diem, the Union representative must be a designated Union representative under Article 7 of this Agreement.
- (2) Once an employee has designated a Union representative, Management shall not discuss the grievance with the grievant unless the Union is given an opportunity to attend.
- (3) Only the Union, or a person designated in writing by the Union to act for the Union, may represent an employee under this negotiated procedure.

Section 22.09 - Informal Resolution. Many grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. Employees are encouraged to discuss issues of concern to them, informally, with their supervisors at any time. Every appropriate effort shall be made by the parties to settle grievances at the lowest possible level.

Section 22.10 - Protection of Grievants. The filing of a grievance shall not be construed as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the Department.

Section 22.11 - Official Time for Grievants. Management shall grant reasonable official time for an employee to prepare and present a grievance or appeal, including group grievances and arbitration.

Section 22.12 - Employee Grievances. Employees are encouraged to discuss issues of concern to them, informally, with their supervisors at any time. Likewise, employees may request to talk with other appropriate officials about items of concern without filing a formal grievance if they choose. Normally, all informal attempts to resolve an issue shall be assumed to have been completed before the filing of a grievance in writing. Time limits may be extended by mutual consent of the parties.

STEP 1

- (1) If informal attempts do not resolve the grievance, on or before thirty (30) workdays from the date when the employee became aware of or should have become aware of the matter being grieved, the concerned employee shall advise the immediate supervisor of the matter in writing on the Employee Grievance Form (Appendix C).
- (2) The supervisor shall respond in writing to the grievant and the representative within five (5) workdays.
- (3) If the matter is not satisfactorily settled following the supervisor's response, the employee and representative (if any) may, within five (5) workdays of the response, submit the grievance form to the Management representative who is designated grievance officer, who shall identify the Step 2 Management representative and forward the grievance to that official.
- (4) The Step 2 Management representative shall have the full authority to resolve the grievance. The grievance officer is responsible for monitoring the timely and proper processing of the grievances. In those instances where the Management official who initiated the action which resulted in the grievance is other than the employee's immediate supervisor, the concerned employee shall submit the matter in writing on the grievance form to the grievance officer.

STEP 2

The Management representative designated to handle the grievance shall meet the aggrieved employee and representative, if any,

within seven (7) workdays after receipt of the grievance by the grievance officer. Management shall send the employee(s) and Union representative a written reply within ten (10) workdays of the meeting. The reply shall state the grievance findings and action taken, if any, to settle the matter, and the designated official in Step 3 to whom the employee may escalate the grievance.

STEP 3

If the grievance is not settled at Step 2, the employee or Union representative, if any, may, within five (5) workdays of receipt of the written reply, forward the grievance to the designated Director of a Headquarters office, Regional Administrator, or Area Manager. That person shall review and take appropriate action to attempt to settle the grievance and issue a final written decision within fifteen (15) workdays after receipt of the matter from Step 2. By mutual agreement of the parties, a meeting may be held at Step 3.

Section 22.13 - Arbitration. Any matter not resolved in the prior steps of this procedure may be referred to arbitration by the grieving party (Union or Management only) in accordance with Article 23. Where the parties mutually agree, mediation may be requested from the Federal Mediation Conciliation Service, prior to invoking arbitration.

Section 22.14 - Questions of Arbitrability. Either party having objection to the appropriateness of a matter for consideration under the grievance procedure shall make the matter known prior to or at Step 3 of this procedure. Grievability/arbitrability determinations shall be contained in one (1) or more of the decisions issued at the various steps of the grievance procedure. Such determinations shall not be issued by the grievance control officer. Such objection shall state the specific grounds as to why the matter is not grievable. Failure to raise the question at this point shall preclude raising the issue at a later time, unless:

- (1) The question of arbitrability is generated by an occurrence happening after Step 3; or
- (2) The failure to give notification is due to an act or omission on the part of the other party.

Any unresolved question shall be considered as a threshold issue should the grievance go to arbitration. Questions of arbitrability shall be submitted to the arbitrator in writing and be decided prior to any hearing unless mutually agreed otherwise. The moving party shall have the affirmative in going forward with the demonstration that the matter is not grievable.

Section 22.15 - Grievance of the Parties.

- (1) Should either party have a grievance over any matter covered by this procedure, it shall inform the designated representative of the other party of the specific nature of the complaint in writing within thirty (30) workdays of the date or when the party became aware or should have become aware of the matter being grieved. Either party may grieve a continuing condition at any time.
- (2) Upon request, the parties shall meet within fifteen (15) workdays to discuss informal resolution of the grievance after notice is given.
- (3) Within twenty (20) workdays after receipt of the written grievance, the receiving party shall send a written response stating its position regarding the grievance. If the response is not satisfactory, the grieving party may refer the matter to arbitration.

Section 22.16 - Group Grievances. Either party may propose to the other party the combining of grievances which are before the same deciding official and which concern issues so similar that they can be efficiently and effectively treated as a group grievance. If the representatives handling the grievances do not agree as to whether the grievances should be combined, the grievances shall be treated individually through the grievance procedure to arbitration. If arbitration is invoked and either party seeks to combine the grievances, the arbitrator shall be asked to determine, as a threshold issue, whether they can be efficiently and effectively treated as a group grievance.

ARTICLE 23
ARBITRATION

Section 23.01 - General. If a grievance remains unresolved despite efforts to resolve the matter under the negotiated grievance procedure, arbitration may be invoked by the grieving party, i.e., the Union or Management. A disciplinary action or unacceptable performance action may be referred directly to arbitration.

Section 23.02 - Notice. Either the Union or Management shall notify the other party of its submission of a matter to arbitration by giving written notice within twenty (20) calendar days of a final rejection at the last step of the grievance procedure, or Management's final notice of decision in a disciplinary action or performance based action. Such notice shall identify the specific grievance or disciplinary action involved and the designated representative who shall handle the case.

Section 23.03 - Selection. When an established panel is used as the source of arbitrators, the parties shall meet to select an arbitrator within five (5) workdays from the date of the notice of arbitration.

When an established panel is not utilized, the parties shall meet to select an arbitrator within ten (10) workdays from receipt of the list of arbitrators.

The source of arbitrators shall be the FMCS unless the parties at the local level negotiate an agreement to use a comparable source, such as the New York State mediation and conciliation service. If the parties cannot mutually agree upon one (1) of the listed arbitrators, Management and the Union shall each strike one (1) arbitrator's name from the list, and then repeat this procedure until one (1) person remains who shall be the duly selected arbitrator. The party making the first strike shall be determined by the flip of a coin.

Section 23.04 - Arbitration Fees and Expenses. The losing party shall pay the arbitrator's fees and expenses. The arbitrator should indicate which party is the losing party. If, in the arbitrator's judgment, neither party is the clear losing party, costs shall be shared equally.

The party cancelling arbitration after the arbitrator is engaged shall pay the attendant's expenses, if any.

Section 23.05 - Arrangements. Upon selection of an arbitrator in a particular case, the respective representatives shall communicate with the arbitrator and each other in order to

finalize arrangements. No ex parte communications shall be permitted on the merits of the case, but both parties may discuss procedural arrangements as necessary. Any disputes on procedures shall be settled by the arbitrator consistent with this Agreement.

Section 23.06 - Direct Designation. Upon request of the grieving party (i.e., Management or the Union), the Federal Mediation Conciliation Service (FMCS) or other service shall be empowered to make a direct designation of an arbitrator to hear the case in the event:

- (1) Either party refuses to participate in the selection of an arbitrator; or
- (2) Upon inaction or undue delay on the part of either party.

Section 23.07 - Location. Normally, the arbitration hearings shall be held at Management's premises at the grievant's duty station; however, an alternate, mutually acceptable site may be used. National level hearings shall normally be held in Washington, D.C. Management shall pay reasonable travel and per diem for one (1) Union representative for National level hearings.

Section 23.08 - Stipulations. If the parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate statement and the arbitrator shall determine the issue to be heard.

The parties shall endeavor, whenever possible, to stipulate the facts involved in a case prior to the opening of the arbitration hearing.

Section 23.09 - Witnesses.

- (1) The parties shall exchange witness lists, if known, no less than five (5) days in advance of the hearing.
- (2) If witnesses are reasonably available, the witnesses must be produced at the hearing.
- (3) All employees who are called as witnesses shall receive official time, to the extent necessary or reasonable, to participate in the arbitration hearing. Reasonable travel and per diem shall be paid for one (1) witness if the incident giving rise to the grievance occurs at a location other than the location of the hearing.
- (4) Either party may request the sequestration of any witness or witnesses during the testimony of other witnesses.

- (5) Either party may purchase a stenographic record. If such transcript is agreed by the parties to be, or in appropriate cases determined by the arbitrator to be, the official record of the proceeding, it must be made available to the arbitrator. The total cost of such a record shall be shared equally by those parties that order copies. If only one (1) party orders and purchases a copy of the transcript, it shall be provided to the arbitrator. However, the transcript shall be made available to the other party for inspection for accuracy following the submission of post-hearing briefs.

Section 23.10 - Authority of the Arbitrator.

- (1) The parties agree that the jurisdiction and authority of the arbitrator shall be confined to the issue(s) presented in the grievance.
- (2) The arbitrator shall not have authority to add to, subtract from, or modify any of the terms of this Agreement, or any supplement thereto. In the case of a back-pay award based on an employee having been affected by an unjustified or unwarranted personnel action, the arbitrator may authorize reasonable attorney's fees in accordance with standards contained in the Back-Pay Act, as amended by the Civil Service Reform Act of 1978, and as interpreted by the Merit Systems Protection Board (MSPB).
- (3) Except for decisions to discipline, an arbitrator shall lack authority to determine the appropriateness of a Management decision to exercise any of the rights set forth in Article 3, Section 3.07, which do not amount to a violation of applicable law, regulation, or this Agreement.
- (4) An arbitrator shall lack authority to determine the legality or regulatory correctness of any Management decision not impacting personnel policies, practices or matters affecting general conditions of employment.
- (5) The arbitrator shall resolve any arbitrability disputes consistent with this Agreement.

Section 23.11 - Exceptions. Where exception is taken to an arbitration award and the Federal Labor Relations Authority (FLRA) sets aside all or a portion of the award, the arbitrator shall have the jurisdiction to provide alternate relief, consistent with the FLRA decision. The arbitrator shall specifically retain jurisdiction where exceptions are taken and shall retain such jurisdiction until the exception is disposed.

Section 23.12 - Refusal to Participate. Should either party refuse to participate in an arbitration, the arbitrator shall continue to hear the case and base his/her decision solely on the record.

Section 23.13 - Merit. Where a grievance is taken to arbitration and is found to be patently without merit and/or frivolous, and without any reasonable basis, the arbitrator, notwithstanding any other provision of this Agreement, shall charge all arbitrator's fees and representation fees to the losing party. In all other cases, fees shall be assessed in accordance with Section 23.04.

Section 23.14 - National HUD-AFGE Arbitration Panel. The previously established Washington, D.C. area National Arbitration Panel shall continue to hear grievances between the National Council of HUD Locals and the Department at the Headquarters level.

Section 23.15 - Use of the Panel. When notice is given to arbitrate a grievance with potential unit-wide impact (for example, the interpretation of this Agreement), the parties at the National level shall confer as to whether the grievance is properly a National grievance. If it is agreed that it is a National level grievance, an arbitrator shall be selected within ten (10) workdays. Failing mutual agreement on a particular arbitrator, the arbitrator shall be selected by rotation. If the parties agree that it is a National grievance, the hearing normally shall be held in Washington, D.C., and the arbitrator shall be selected from the standing panel. In extenuating circumstances, the parties may agree to hold a National grievance hearing at the site of the incident which caused the grievance (for example, where there are several witnesses). Should a panelist be unavailable to fulfill his or her obligations under this Agreement, his or her name shall go to the bottom of the list. New arbitrators shall be added to the bottom of the list. The term of appointment to the panel shall coincide with the term of the Agreement, including extensions.

Section 23.16 - Removal of Panelists. Any arbitrator may be removed from the list unilaterally by either party during the life of this Agreement, without cause. The party removing the arbitrator shall give notice to the other party and to the arbitrator. Upon receipt of written notice, the parties shall meet to select a replacement arbitrator. No further case shall be assigned to that arbitrator after a replacement has been effected, but the former arbitrator on the panel shall hear and decide any cases already assigned to him/her.

Section 23.17 - Conditions. To be considered for selection to the panels, arbitrators must agree to hear a case within forty-five (45) days of referral and render their decision within

thirty (30) days of the closing of the record. Where post-hearing briefs are submitted, the record shall not be closed until briefs are timely submitted.

Section 23.18 - Forty-Five (45)-Day Requirement. Where, due to circumstances beyond the control of the arbitrator and the parties, a panel arbitrator cannot hear a case within forty-five (45) days, the parties shall select another arbitrator.

Section 23.19 - Expedited Arbitration. The parties agree that certain arbitrations are properly handled more expeditiously. To that end, the parties agree to Expedited Arbitration. Expedited Arbitration procedures shall be used for the following issues unless the grievance/appeal alleges discrimination based on race, color, sex, sexual preference/orientation, national origin, religion, age, marital status, political affiliation, or physical or mental disability:

- (1) Oral reprimands, of which a record is maintained and a copy furnished to the employee;
- (2) Dues withholding;
- (3) Bulletin board postings;
- (4) Union distributed material; and
- (5) Flexitime related disputes.

The parties may agree, on a case-by-case basis, to use expedited arbitration for other kinds of issues. When arbitration is invoked in accordance with Section 23.02, a request may be made in writing by the party invoking arbitration that the expedited procedure be used.

Section 23.20 - Expedited Arbitration Procedures. Procedures contained in this Section supplement the arbitration procedures covered elsewhere in this Agreement, and, when in conflict with other procedures, supersede them:

- (1) There shall be no post-hearing briefs. All documents to be considered by this arbitrator shall be filed at the hearing.
- (2) There shall be no verbatim transcript except upon mutual agreement.
- (3) The hearing must be held within fifteen (15) days of the notification to the arbitrator.
- (4) If the parties mutually conclude at the hearing that the issues are of such complexity or significance as to warrant further consideration, the hearing procedures may be

appropriately modified, or the hearing may be cancelled and the matter referred to regular arbitration.

- (5) The arbitrator may issue a bench decision at the hearing, but, in any event, the arbitrator shall render a decision within forty-eight (48) hours after the conclusion of the hearing. The decision shall be made on the record developed by the parties before and at the hearing and shall include a brief written explanation of the basis for the conclusion.

Section 23.21 - Extension of Time Limits. Time limits in this Article may be modified by mutual consent of the parties.

ARTICLE 24
LEAVE

Section 24.01 - General. All requests, except for unscheduled leave, must be made in writing using Standard Form-71. The request and any changes must be approved (signed) by the supervisor. The employee is responsible for obtaining approval for unscheduled leave within one (1) hour after the core hours begin. If the employee is unable to call personally, any responsible person may request the leave on behalf of the employee. If the supervisor or his/her designee is not available to receive the call, the person requesting the leave shall provide the employee's telephone number and address where the supervisor or his/her designee may contact the employee. If the employee requesting the unscheduled leave provides an estimate of the date when he/she shall return to work and the leave is approved by the supervisor, the employee need not be required to call again unless the date of his/her return changes. Requests for unscheduled emergency annual leave may be approved by the supervisor unless the employee's services are required to meet an operational requirement.

Section 24.02 - Annual Leave. Annual leave is a right of the employee and not a privilege. Annual leave requested in advance shall be acted on promptly. Annual leave must be requested in advance, and its approval by a supervisor shall be governed by the following:

- (1) The number of employees granted leave during any given period shall be governed by workload requirements and the number of employees required for necessary coverage.
- (2) Employees shall be responsible for making timely requests for their annual leave in accordance with their personal desire and the provisions stated below.
- (3) Supervisors shall schedule annual leave, to the extent practicable, in a manner which permits each employee to take at least two (2) consecutive weeks in each year.

Section 24.03 - Annual Leave Schedules. Except for requests for annual leave of five (5) days or less falling within an administrative workweek, all requests for annual leave shall be subject to the following:

- (1) Employees shall request leave sufficiently in advance of peak use periods (i.e., June, July, August, November, and December) to permit scheduling. Leave schedules shall be established and posted in a conspicuous place.

- (2) When it is impracticable to grant all requests for annual leave for a given period, including, in this case, leave for five (5) days or less, the supervisor shall provide the affected employees with the opportunity to work out leave conflicts prior to resolving the conflict. If it is necessary for the supervisor to resolve a conflict, the relative importance of each of the following criteria shall be considered:
 - (a) Employees with "use or lose" leave, especially in the cases where the period involved is at the end of the leave year.
 - (b) The amount of leave to employee's credit.
 - (c) Relative need of employees for taking leave at a specific time.
 - (d) Whether the employee had to reschedule or forego leave in a similar scheduling conflict.
- (3) If an employee wishes to change scheduled leave, his/her leave shall be approved if workload permits. If workload does not permit, he/she shall be provided an opportunity to interchange leave periods with an employee who has similar skills and duties, with the concurrence of the supervisor.

Section 24.04 - Annual Leave Disapproval or Cancellation.

- (1) When requests for annual leave are disapproved or cancelled, the supervisor shall document the reasons on Standard Form-71.
- (2) It is the responsibility of the supervisor, in consultation with the employee, to reschedule annual leave which is cancelled or denied due to workload considerations and to ensure that the leave shall not be forfeited.
- (3) In no case shall any particular time of the year or season, such as Christmas or the New Year, be excluded from consideration for the granting of annual leave for reasons other than workload requirements or office coverage.

Section 24.05 - Advanced Annual Leave. Advanced annual leave may be approved at the discretion of the approving official. The amount of annual leave advanced may not exceed the number of hours that the employee would accrue during the remainder of the leave year.

Section 24.06 - Sick Leave. For sick leave periods of not more than three (3) consecutive workdays, the employee shall be required to submit Standard Form-71, but not with medical

certification unless the employee is on leave restriction. Sick leave in excess of three (3) days shall be reported on Standard Form-71, including a medical certificate or a statement of the nature of the illness and why a medical certificate is not furnished.

- (1) Requests for approval of sick leave for nonemergency medical, dental, or optical examinations or treatments shall be submitted, where practicable, at least one (1) workday in advance to the supervisor on Standard Form-71.
- (2) In cases where it is not practicable to submit a written request in advance, the employee shall, upon return to duty, submit a written request on Standard Form-71 (and medical certification as appropriate) to document the sick leave previously requested and approved.
- (3) Sick leave may be used for the following purposes:
 - (a) Receiving medical, dental, or optical examination or treatment;
 - (b) Incapacitation for the performance of duties by sickness, injury, or pregnancy and confinement;
 - (c) Providing care and attendance to a member of his/her immediate family who is afflicted with a contagious disease;
 - (d) When the employee's exposure to a contagious disease would jeopardize the health of others by his/her presence at the post of duty;
 - (e) When an employee is disabled and depends on an aid or device, e.g., wheel chair, seeing-eye dog or a prosthetic device, to perform his or her duties, and the employee is without that aid or device; or
 - (f) Leave is needed for occupational rehabilitation training or therapy.
- (4) **Leave Restriction.** In those cases where the supervisor has sound reasons to support his/her belief that an employee is abusing his/her sick leave, that employee shall be counseled concerning such abuse.
 - (a) Abuse of sick leave shall not be determined solely on the basis of leave balance.
 - (b) If such counseling is unsuccessful and the employee continues to abuse his/her sick leave, the supervisor shall issue a written notice to the employee that all

subsequent sick leave absences must be supported by a medical certificate which states the period of medical care and certifies, from a medical standpoint, that the employee's condition during the absence was such that the doctor or authorized practitioner considered the employee incapacitated for work.

- (c) All written notices of sick leave restrictions shall describe the frequency, pattern, and circumstances which led to its issuance.
 - (d) The notice shall be reviewed by the supervisor at the end of the notice period, not to exceed six (6) months, and shall be cancelled if there is not just and sufficient cause to continue the leave restriction.
- (5) If an employee suffers from a chronic condition which does not necessarily require medical treatment, although absence from work is necessary, the employee shall not be required to furnish a medical certificate for each absence if a medical certificate of the chronic condition has been previously furnished. However, the supervisor may periodically require that such documentation be updated.
- (6) Employees who, because of illness, are released from duty shall not be required to furnish a medical certificate to substantiate sick leave for the day released from duty. Subsequent days of absence may be subject to medical certification.
- (7) An approved absence which would otherwise be chargeable to sick leave may be charged to earned annual leave if requested by the employee and approved by Management. However, this does not apply to leave which has been approved and used as sick leave, nor may this provision be applied retroactively to avoid forfeiture of annual leave.

Section 24.07 - Advanced Sick Leave.

- (1) An employee who is ill or injured without sick leave to his/her credit may be advanced a maximum of thirty (30) days (two hundred and forty (240) hours) sick leave. Application for advance sick leave must be supported by a medical certificate and signed by a physician or authorized practitioner. The advance sick leave provision does not apply to employees with probationary appointments. If intermittent use of advanced sick leave immediately following an absence due to injury or illness is anticipated, it must be requested when the advance sick leave is requested and approved in writing. The request

must specify the frequency of use, otherwise, the remaining advanced sick leave is forfeited when the employee returns to work.

- (2) Requests for advance sick leave may be approved at the discretion of the approving official, based on the above, except in the following situations:
 - (a) It is known or reasonably expected that the employee shall apply for disability retirement or voluntarily retire for health reasons;
 - (b) The employee is absent for maternity reasons after the delivery of her child and the request is for a period of adjustment and/or to make arrangements for the care of the child;
 - (c) The remaining time on a limited appointment would be insufficient to liquidate the advance by future accruals;
 - (d) The employee is terminally ill;
 - (e) Chronic ailments have necessitated the employee's absences in the past, and are expected to continue; or
 - (f) The total illness lasts less than two (2) consecutive days (sixteen (16) hours).

Section 24.08 - Continuation of Pay (COP). An employee who sustains a disabling job related injury or other condition of the body caused by external forces, including physical stress or strain, is entitled to a period of not to exceed forty-five (45) calendar days, including nonworkdays and holidays, of continuation of pay (COP).

Section 24.09 - Excused Absences. An excused absence is an absence from duty, administratively authorized, without loss of pay and without charge to leave.

- (1) **Voting.** An employee may be excused to vote as follows:
 - (a) If the polls are not open at least three (3) hours, either before or after an employee's hours of duty, he/she may be allowed to report for work three (3) hours after the polls open or to leave work three (3) hours before the polls close, whichever is the lesser (see also Section 17.04(4)).
 - (b) If an employee's voting place is beyond normal commuting distance and voting by absentee ballot is not permitted, sufficient time off may be granted to enable

the employee to make the trip to the voting place. Where more than one (1) day is required, a liberal leave policy shall be observed, and time off in excess of one (1) day shall be charged to annual leave, if available, or to leave without pay.

- (c) An employee may be excused for such additional time as may be needed by him/her to vote depending upon the particular circumstance in his/her individual case, but not to exceed one (1) full day.
- (2) **Registration.** A reasonable amount of administrative leave, normally not to exceed up to two (2) hours, shall be granted for voter registration, except when it can be done by mail or on a nonworkday.
- (3) **Blood Donation.** Upon advance request to his/her supervisor, employees may be granted four (4) hours of excused absence to donate blood.

Such absences shall include the amount of time necessary to travel to the donation site, donate blood, recuperate at the donation site, if needed, and return to work if the employee's tour of duty is not over.

- (4) **Tardiness and Brief Absences.** Brief absences from duty of less than one (1) hour and occasional tardiness up to one (1) hour may be excused when reasons are justifiable to the supervisor.

Section 24.10 - Court Leave. Employees shall be granted necessary time off without charge to leave or loss of pay to serve as a juror or as a witness when one of the parties is the United States, a State, a municipality, or the District of Columbia. If the employee receives compensation and the court defines the compensation as "expense," the employee may retain the monies. If the court defines the compensation as "fee," the employee must remit the monies to the Department.

Section 24.11 - Familial Leave. Management recognizes that employees may need leave to aid, assist, or care for family members, as a result of an incapacitation. Family member means spouse or spouse's parents; children, including adopted children and their spouses; parents; brothers and sisters, and their spouses; and any individual related by blood.

In such instances, Management may grant annual leave, or if annual leave is exhausted, advance annual leave or leave without pay if workload permits.

Section 24.12 - Leave and Administrative Leave Dismissals During Emergency Situations. Where practicable, the designated Union representative shall be notified when a decision is made regarding any emergency administrative leave under this Section. The following policies shall be followed unless superseded by directives of the Office of Personnel Management:

- (1) **Emergency Occurs During Working Hours.** Leave shall be charged as follows based on the employee's duty or leave status as of the time set for dismissal:
 - (a) **On Duty.** The remainder of the day shall be charged to excused absence.
 - (b) **Departed Before Time Set for Dismissal, but after Notification.** The appropriate type of approved leave shall be charged from the time of departure to the time set for the dismissal. Excused absence shall be charged from the time set for the dismissal to the end of the day.
 - (c) **On Approved Leave, but Scheduled to Report to Work Later.** The appropriate type of approved leave as scheduled is charged up to the time set for dismissal. Excused absence shall be charged from the time set for the dismissal to the end of the day.
 - (d) **Approved Leave for the Entire Day.** The appropriate type of leave shall be charged up to the time of dismissal and the remainder of the day shall be charged to excused absence.
- (2) **Emergency Occurs During Nonwork Hours.** Subject to the criteria in (c) below, excused tardiness may be granted as follows:
 - (a) **Tardiness - Up to Two (2) Hours.** Upon request, the first line supervisor may excuse up to two (2) hours of tardiness without a charge to the employees leave. The absence shall be charged to excused absence.
 - (b) **Tardiness - More than Two (2) Hours.** The office head has the authority to excuse in excess of two (2) hours, upon receiving a request with appropriate justification from the employee through his/her supervisor.
 - (c) **Criteria for Granting Excused Tardiness.**
 1. Distance between employee's residence and place of work;
 2. Normal mode of transportation;

3. Efforts of employees to get to work; and
 4. Success of other employees getting to work under similar conditions.
- (3) **Liberal Leave Policy.** A liberal leave policy is instituted when the Office of Personnel Management, for Headquarters, or a Federal Executive Board, or its equivalent, for Field Offices, has determined that the emergency conditions do not warrant closing Government offices in the area. In such instances, employees may use annual leave or LWOP without advance approval or providing detailed justification.
- (4) **Federal Agency Closed by Administrative Order.**
- (a) **Pay Status.** Full-time and part-time employees who were in a pay status the last day immediately before the closing, including employees who were scheduled to be on approved, paid leave on the day(s) of the closing, shall not be charged leave or lose pay for the day(s) that the office did not open due to an emergency arising during the nonworking hours. The absence shall be charged to excused absence.
 - (b) **Nonpay Status.** Full-time and part-time employees who are in a nonpay status immediately before and after the day that the office is closed are not entitled to excused absence for the day(s) that the office is closed. The employee shall be charged leave without pay.

Section 24.13 - Military Leave. Any employee who is a member of the National Guard or a Reserve component of the Armed Forces shall be entitled to military leave as provided for in 5 U.S.C. 6323, as amended, and implementing regulations. Approval of the military leave provided in the foregoing shall be based on the copy of the orders directing the employee to active duty and certification of attendance by an appropriate military authority.

In addition, employees who are called for a period of training or a period of active duty beyond those provided for in the above may be granted annual leave or LWOP, pursuant to appropriate regulations.

Any employee contemplating the use of military leave shall advise the employer as soon as possible of the anticipated dates of such leave.

Section 24.14 - Leave Without Pay (LWOP). Leave without pay is normally approved leave, and it may be approved at the discretion

of the approving official in a fair and equitable manner. Extended LWOP may be approved in the following situations:

- (1) **Educational Leave.** For individual educational purposes, when the completion of the course shall contribute to the Department's best interest;
- (2) **Disability Retirement.** Upon request, and pending final action by the Office of Personnel Management on a claim for disability retirement, the employee shall be placed in a LWOP status.

Section 24.15 - Unauthorized Absences. An employee who fails to report for duty and has not received supervisory approval for leave shall be carried in an absent without leave (AWOL) status for timekeeping purposes and may be subject to disciplinary action.

Section 24.16 - Compensatory Time for Religious Observances. An employee may elect to work compensatory overtime for the purpose of taking time off without charge to leave or loss of pay when personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek. Any employee who elects to work compensatory overtime for this purpose may be granted (in lieu of overtime pay) an equal amount of compensatory time off (hour for hour) from his or her scheduled tour of duty. The compensatory overtime may be worked before or after the compensatory time off. A grant of advanced compensatory time off should be repaid by the appropriate amount of compensatory overtime, worked within a reasonable time, (i.e., normally four (4) pay periods). The employee's election to work compensatory overtime or take compensatory time off to meet religious obligations may be disapproved if such modifications in work schedules interfere with the efficient accomplishment of the Department's mission.

Section 24.17 - Voluntary Leave Transfer Program. This program permits employees to donate accrued annual leave to other employees who have insufficient leave available to cover absences from work because of a medical emergency involving the employee or a family member, in accordance with applicable law, regulations, and HUD Handbook 600.3, Voluntary Leave Transfer Program:

- (1) **Information to the Union.** The Council President shall be sent a quarterly statistical summary and any staff bulletins on the Voluntary Leave Transfer Program. Local Union Presidents shall be sent copies of the acceptance and rejection letters for unit employees in their jurisdiction.
- (2) **Inter-agency Transfers.** The Department shall accept leave donations from employees in other Federal agencies.

- (3) **Donor Criteria.** Employees are prohibited from donating leave to either their first or second-line supervisor.
- (4) **Certification.** The Department requires a certification from a physician, or other appropriate expert, with respect to the medical emergency. The employee may use the certification statement on the back of the SF-71, Application for Leave, to meet this requirement. If the Department requests the applicant to provide medical documentation of the emergency from more than one (1) source, the Department shall pay for the second certification.
- (5) **Information to Employees.** The names of approved leave recipients shall be maintained by the servicing personnel office coordinators. These names shall be provided to any potential leave donor upon request. The quarterly staff bulletin which includes information about the leave transfer program shall include the names of all current approved leave recipients and shall inform employees that the most current listing of names of approved leave recipients may be obtained from the coordinators. If the employee objects in writing, his/her name shall not be included in the staff bulletins or provided to potential donors by the coordinators. The names and telephone numbers of the coordinators shall be contained in the staff bulletin. A statement regarding the leave transfer program shall also be included in the reminder to all employees concerning the scheduling of use-or-lose leave. A copy of the most recent notice to all employees regarding the leave transfer program shall be included in the new employee orientation package.
- (6) **Restoration.** Restoration of donated leave is considered to be administratively infeasible when the donor is no longer employed by the Department and attempts to locate him or her at a last known address have failed or when the amount of leave to be restored is less than one (1) hour. At the time a leave donor becomes eligible for restoration of annual leave, the donor shall be informed in writing of the donor's right to donate such restored leave to another leave recipient or retrieve the leave.
- (7) **Crediting.** Donated leave shall normally be processed and credited to the recipient's account within two (2) pay periods.
- (8) **Grievance Rights.** The employee rejection letter shall include notification of his/her right to grieve the matter.

ARTICLE 25
TRAVEL AND PER DIEM

Section 25.01 - General. Management and the Union recognize that the nature of the mission of the Department requires bargaining unit employees to travel away from their official duty station. Employees designated by and acting in behalf of the Union are governed by Article 7. The Travel Handbook is available in each administrative office. A copy of the Handbook is also available from Supply and Forms Distribution in Headquarters. Management shall also provide a pocket travel guide that shall be available to all employees. The guide shall contain basic rules and tips for travel.

Section 25.02 - Scheduling Travel.

- (1) Management shall, to the maximum extent practicable, schedule administratively controllable travel to occur within each employee's standard weekly working hours.
- (2) Management shall give as much notice as practicable to employees selected for assignments involving travel which requires advance planning.
- (3) If circumstances require the employee to depart his or her permanent duty station prior to official business hours on Monday, the employee may receive appropriate travel and per diem not to exceed one and three-fourths (1 3/4) days by leaving during regular duty hours on Friday.
- (4) If circumstances require the employee to return to his or her permanent duty station outside of official business hours, the employee must return no later than the next regularly scheduled workday, and shall receive appropriate travel and per diem, not to exceed one and three-fourths (1 3/4) day by leaving during regular duty hours on Friday.
- (5) **Training.** Employees assigned to training courses shall not be required to share rooms.

Section 25.03 - Overtime Pay in Travel Status.

- (1) For FLSA exempt employees to receive overtime while in a travel status, the assignment must meet both of the following conditions:
 - (a) Hours of work officially ordered and approved in excess of forty (40) hours in an administrative workweek or in excess of eight (8) hours in one (1) day; and

- (b) The hours of work result from an event that could not be scheduled or controlled administratively.
- (2) FLSA nonexempt employees must either:
- (a) Perform work while traveling;
 - (b) Travel as a passenger to a temporary duty station and return during the same day; or
 - (c) Travel as a passenger on nonworkdays during hours that correspond to his/her regular working hours.

Section 25.04 - Travel Advances.

- (1) Travel advances requested on a timely basis shall be made available prior to departure. Travel advances which require issuance of a Treasury check must be requested ten (10) days before the travel period begins to ensure that the employee shall receive the check prior to departure. A cash advance from an imprest fund may be available prior to the trip when requested on a timely basis.
- (2) Management shall establish reasonable procedures designed to maintain and replenish the imprest fund as often as is necessary to accommodate the usual and emergency travel advance needs of employees.
- (3) The amount of travel advance shall equal eighty (80) percent of the minimum estimated expenses that the employee is expected to incur prior to reimbursement. When the Government charge card program is implemented, the eighty (80) percent travel advance shall be applied against the out-of-pocket expenses that cannot be charged to the card. The travel advance may be based on the full estimated cost of the trip when travel circumstances are expected to prevent the use of the charge card to charge transportation, lodging, car rental, or other travel expenses.
- (4) Employees utilizing a revolving travel advance shall be entitled to one and one-half (1 1/2) times their average monthly travel expenses for the preceding quarter. When the estimated cost for travel exceeds the advance by more than seventy-five dollars (\$75), the employee may obtain an additional travel advance.
- (5) Travel advances may be repaid using the employee's personal credit card provided the card is on the Treasury Department's list of approved cards.

Section 25.05 - Mode of Transportation.

- (1) Official travel shall be accomplished by the method of transportation that is considered most advantageous to the Government, cost, and other factors considered and is authorized on the travel order or approved on the travel voucher.
- (2) If an employee elects to travel by a means of transportation other than the means determined most advantageous to the Government, and the change is approved by Management either on the HUD-25 or the voucher, the traveler may be required to travel during some nonduty hours; or may be subject to reduced mileage reimbursement, as prescribed in GSA travel regulations.

Section 25.06 - Reimbursement of Official Travel.

- (1) **Rate.** Employees who are ordered by Management to perform official travel shall be reimbursed for all authorized expenses at the maximum standard rate allowed by law, rule, or Governmentwide regulation.
- (2) **Effective Date.** Increased travel allowances shall go into effect on the first day allowed by the revised GSA regulations. This provision in no way diminishes the Union's right to bargain on the impact and implementation of the revised regulations, and Management shall communicate their proposed implementation of GSA regulations to the Union in a timely manner.
- (3) **Reimbursement.** When the use of a privately-owned conveyance or Government-owned vehicle is authorized, reimbursement shall be in accordance with the Federal Travel regulations and the HUD Travel Handbook.
- (4) **Taxis.** Reimbursement shall be authorized and approved for the usual taxi cab fares, plus tip, to and from an employee's home and office/motor pool when official travel involves per diem/subsistence.

Section 25.07 - Use of Privately-Owned Vehicles and Government-Furnished Vehicles.

- (1) Employees who are required to use their privately-owned vehicle (POV) or a GSA car for official business shall be reimbursed in accordance with the Federal Travel regulations and the HUD Travel Handbook.
- (2) No employee shall be required to use their privately-owned vehicle (POV) in the course of business unless such use was

made a formal condition of employment when they accepted their current position.

- (3) Biennially Management shall solicit from high mileage drivers an indication in writing whether he/she shall use a Government-furnished vehicle (GFV) or a privately-owned conveyance for official travel. These commitments shall be used by Management to plan for the number of GFVs needed for the next biennium. If the employee is assigned to use a GFV and the vehicle is unavailable, an alternate mode of transportation shall be authorized in accordance with the Federal Travel regulations and the HUD Travel Handbook.

Section 25.08 - Vehicle Safety.

- (1) No employee shall be required or expected to travel in or operate a Government-furnished vehicle under conditions that are determined unsafe in accordance with Article 26.
- (2) A traffic citation for a moving violation in a GSA car does not necessarily constitute misconduct. The nature of the offense and the totality of the circumstances must be taken into consideration.

Section 25.09 - Periodic Return to Duty Station. If a temporary duty assignment requires a traveler to be away for thirty (30) or more calendar days, weekend return travel to the permanent duty station shall be authorized in accordance with the HUD Travel Handbook, Chapter 1, Part 7, paragraph 1-7.5.c. Approval shall be on a case-by-case basis.

Section 25.10 - Constructive Cost. When employees deviate from the travel authorized on the travel order, a cost comparison shall be computed in accordance with the HUD Travel Handbook.

Employees may take advantage of discount fares with the understanding that reimbursements for nonemergency cash payments for transportation must be approved by GSA before the voucher is processed.

Further, Management shall not be responsible for any penalties imposed on deep discount fares if the trip is canceled for personal reasons.

Section 25.11 - Illness. Employees who become ill or have personal emergency situations may be allowed transportation and subsistence to the extent provided in the Federal Travel regulations and the HUD Travel Handbook.

Section 25.12 - Use of Government Telephone Systems During Official Travel. An employee traveling overnight on official business may make a brief personal call each day.

- (1) The calls must be to the employee's permanent duty station or within the vicinity of the residence from which the employee reports for duty each day. All exceptions must be approved on a case-by-case basis.
- (2) Employees are encouraged to use the FTS. However, where an employee on official business is not able to utilize the FTS, e.g., work schedule, due to privacy consideration, or location does not provide adequate access to the FTS, use of a commercial telephone is authorized.
- (3) FTS telephones within the Department are to be made available to employees on official travel.
- (4) Payment for calls shall only be authorized when the travel period is more than one (1) night and within the U.S. or other places where the employee is authorized to travel on official Government business. The total number of calls claimed for each trip may not exceed an average of one (1) call per day.
- (5) The call must be brief, for an average cost of seven dollars (\$7.00) per day. A statement must be on the travel voucher designating the points between which service was rendered, the cost, and the date of each call.
- (6) Charges for official commercial telephone calls, telegrams, cablegrams, or radiograms on official business may be allowed provided a statement is furnished showing the points between which service was rendered, the date, and amount paid.

Section 25.13 - Travel Bonuses. Frequent Flyer Bonuses, awards, and promotional materials received by employees as a result of official travel belong to the Government. However, employees may keep items that are of no value to the Government, such as membership in a "Captain's Club", certificates entitling the employee to a free upgrade to first class, check cashing privileges, etc.

Section 25.14 - Denied Boarding Compensation. Employees are not entitled to payment offered for involuntarily denied boarding. Employees may retain compensation received for voluntarily vacating an airline seat provided the employee incurs no additional travel expenses beyond those which he or she would have normally incurred and vacating his/her seat does not interfere with the performance of official duties. To the extent an employee's travel is delayed during official duty hours by voluntarily vacating an airline seat, the employee shall be charged annual leave for the additional hours.

ARTICLE 26
SAFETY AND HEALTH

Section 26.01 - General. Management shall be responsible for furnishing and maintaining conditions of employment that are free of hazards that are causing, or are likely to cause, accident, injury, or illness to employees. The Department's Occupational Safety and Health Program shall comply with requirements of Executive Order 12196 and the basic program elements of the Department of Labor regulations (29 CFR 1960).

Section 26.02 - Employee Training. Management agrees to provide timely appropriate training to employees who are required to perform duties which involve potential hazards to safety and health.

Section 26.03 - Safety Equipment. Employees shall be provided with necessary personal protective equipment and other devices and procedures with which to protect themselves from hazards on the job.

Section 26.04 - Freedom from Reprisal. Employees shall be guaranteed protection from any restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful condition; or for any other participation in the safety program.

Section 26.05 - Management Safety and Health Representatives. Management agrees to notify the Local Union representative of the name and location of Management's local safety and health representative. The safety and health representative shall provide counseling and general information to employees upon request.

Section 26.06 - Committees.

- (1) The parties agree to continue Health and Safety Committees with equal numbers of Management and Union representatives in Headquarters and each local office with more than fifty (50) employees. In offices with less than fifty (50) employees, safety and health matters shall be addressed at Labor-Management Relations Committee meetings.
- (2) Duties of the Safety and Health Committee shall include, but not be limited to the following:
 - (a) Monitoring and assisting in the operation of the local safety and health program and making recommendations to the official in charge for improvement.

- (b) Monitoring findings and reports of workplace inspections to confirm that appropriate corrective measures are implemented.
- (c) Participating in inspections of the office when, in the judgment of the Committee, such activity is necessary for monitoring office inspections procedures.
- (d) Reviewing Management's plans for abating hazards.
- (e) Reviewing responses to reports concerned with allegations of hazardous conditions, alleged safety and health program deficiencies, and allegations of related discrimination. If half (1/2) of the members of record on the Committee are not substantially satisfied with a response, they may request an appropriate investigation to be conducted by the Occupational Safety and Health Administration (OSHA).
- (f) Reviewing procedures for handling safety and health suggestions and recommendations from employees.
- (g) Reviewing reports of unsafe and unhealthful conditions where the hazard has been disputed.

Section 26.07 - Training for Union Representatives on Safety and Health Committees. Consistent with Executive Order 12196, Management shall provide specialized training as necessary for Union-designated representatives on Safety and Health Committees.

Section 26.08 - Reporting and Abatement of Unsafe and Unhealthful Working Conditions.

- (1) Management agrees to make a timely response to employee reports of unsafe and/or unhealthful working conditions.
- (2) Where the designated Management safety representative determines that an unsafe or unhealthful condition exists, Management shall post notices prominently at or near the location until the cited condition has been corrected and shall make reasonable efforts toward prompt abatement.
- (3) Whenever Management cannot abate such conditions within thirty (30) calendar days, Management shall develop an abatement plan with a timetable of abatement and a summary of interim corrective steps. When abatement is dependent upon the General Services Administration (GSA), the abatement plan shall be prepared in conjunction with them. Employees exposed to such conditions shall be informed of the abatement plan and advised as to measures which should be taken to safeguard their health.

- (4) Whenever and as soon as it is concluded on the basis of an inspection that a danger exists which could reasonably be expected to cause death or serious physical harm, the Management safety representative shall immediately inform the affected employees and official in charge of the workplace of the danger. The official in charge of the workplace, or a person empowered to act for that official, shall undertake immediate abatement and the withdrawal of employees who are not necessary for abatement of the dangerous conditions.

Section 26.09 - Imminent Danger Situations. In the case of imminent danger situations, the persons reporting such situations shall make the reports in the most expeditious manner available. The employee has a right to decline to perform his or her assigned tasks because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm, and that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures.

Section 26.10 - Health Programs. Immunization, where available through existing Public Health Service facilities, shall be provided free to employees. Employee health examinations shall be offered to unit employees within the allocation, if any, made available by Management within that office. Selections for examinations shall be made from among the unit employees at a given office on a fair and equitable basis. Employee participation shall be voluntary. Management shall advise the Union in advance of such examinations so that eligible employees may apply. Management shall propose to the Union the criteria to be used for selection and such criteria may be the subject of supplemental bargaining during the initial period for such bargaining as provided in Article 34. If this issue is not bargained during the initial period provided in Article 34, it may not be bargained during the duration of this Agreement.

Section 26.11 - First-Aid. Unless there is a health unit on the premises, Management shall ensure that there is reasonable access to adequate first-aid kit(s) for each local office. The kit(s) shall be maintained in designated locations.

Section 26.12 - Safety and Health Records. Management shall provide the Union access to records maintained under the Occupational Safety and Health Act, consistent with the Privacy Act. Management shall give the Union President, or designee, a copy of the Department's annual reports to OSHA.

Section 26.13 - Inspections. When a workplace inspection is conducted by a Management safety representative, a Department of Labor Inspector, Fire Marshall, or GSA, a Union representative from the Safety and Health Committee, or if no representative is

available from the Committee, any other Union representative shall be allowed to accompany the inspector and participate in the inspection. During the course of any inspection, any employee may bring to the attention of the inspector or the participating representative any unsafe working conditions.

Section 26.14 - Union Notification. Management shall notify the Union of the report of any job-related injury or illness by forwarding a copy of the form 795 to the Union within three (3) days receipt by Management.

Section 26.15 - General Conditions. Management recognizes that matters of discomfort to employees which do not necessarily rise to the level of serious health or safety hazards are still important. Management shall make a reasonable effort to remedy matters such as uncomfortable temperatures, smells and similar negative environmental factors in the workplace. Remedies may include relocation of work station(s), reassignment of work and/or in extreme circumstances, temporary excusal from duty.

Section 26.16 - Information on Chemicals. Upon request, Management shall provide to the Union any and all available appropriate safety data regarding any specific chemical which Management provides to be used at the work site.

Section 26.17 - Environment. The Department's policy is to provide its employees a safe and healthful working environment. Therefore, the Department shall fully participate in the General Service Administration's (GSA) Indoor Air Quality Program, designed to protect Federal workers and visitors from unnecessary health risks.

ARTICLE 27
HEALTH BENEFITS WHEN IN A NONPAY STATUS

Section 27.01 - General. Employees may be in a nonpay status for a period of three hundred and sixty-five (365) calendar days and remain enrolled in the Federal Employee Health Benefits (FEHB) Program with the Government continuing to pay its share, provided the employee pays his/her share of the premium costs. The requirement to pay the employee's share of premiums while in a nonpay status shall be announced once a year to all employees. Employees may seek the advice of their Local Union representative.

Section 27.02 - Counseling of Employee. Prior to entering a nonpay status, the employee shall have the right to request and receive counseling from his/her servicing personnel office. The counseling shall include:

- (1) An explanation of the regulations;
- (2) An outline of the payment options available to the employee;
- (3) Estimation of the amount owed; and
- (4) An opportunity for the employee to continue or cancel health benefits coverage.

Section 27.03 - Notice. Employees who enter a nonpay status without having had a counseling session (i.e., following a period of annual or sick leave) shall be notified by certified mail, returned receipt requested, immediately following the pay period in which there is insufficient salary to cover FEHB premiums.

Section 27.04 - Notice Requirements. The notice to employees regarding FEHB entitlements while in an LWOP status shall contain the following:

- (1) The individual employee's name and the date of the notice;
- (2) An explanation of the purpose of the notice, including actions required by the Office of Personnel Management;
- (3) A clear statement of the employee's responsibility to choose to continue or cancel FEHB coverage;
- (4) If coverage is to be continued, a statement that the premiums may be paid while the employee is in a leave without pay status or through payroll withholdings after the employee returns to a pay status;

- (5) If coverage is to be continued, a clear statement that, upon return to a pay status, the employee shall contact the payroll office to establish a biweekly withholding amount. If no contact is made, an amount not to exceed twenty-five (25) percent of the employee's net pay shall be deducted;
- (6) If coverage is to be canceled, an explanation of the consequences of cancellation of benefits;
- (7) A statement that the employee may request and receive more information before making an election to continue or cancel benefits; and
- (8) A designated space for the employee to make an election to continue or cancel FEHB benefits and a space for the employee's signature and date of decision.

Section 27.05 - Cancellation. Cancellations are effective the end of the pay period following the pay period in which the notice of cancellation is received by Management.

ARTICLE 28
INJURY COMPENSATION

Section 28.01 - Reporting. When employees or their representatives report that an illness or injury has occurred in the performance of official duties, the involved employee shall be counseled by their servicing personnel office or supervisor as to their right to file for compensation benefits. The employee also shall be advised that compensation benefits can be used in lieu of sick or annual leave. Management shall also give appropriate assistance to the employee in filing a compensation claim.

Section 28.02 - Leave. Injury compensation cannot be paid for any period when an employee is on paid leave. If, at the time disability begins, the injured employee has sick or annual leave to his/her credit, the employee may decide whether to use all or part of it before applying for injury compensation. If the employee decides to be charged for sick or annual leave (or if so charged because the employee was not informed of the possibility of injury compensation benefits), the employee may repay the Government, in a lump sum or by any other plan acceptable to the servicing personnel office, the amount paid to the employee while on annual or sick leave.

Once the Department of Labor has approved his/her claim for compensation, an employee has the right to request a recredit of leave used during recovery from a job-related injury. Such a request for recredit of leave must be approved by the Department of Labor before the recredit of leave can be made. Before the Department can recredit the leave to an employee, the employee must repay the Department for the leave that has been used. The Department shall process the change into the payroll system within two (2) full pay periods from the receipt of the repayment.

Section 28.03 - Review of Documents. Employees shall be permitted to review documents relating to their claim which the Office of Workers' Compensation has authorized to be made available. Employees may be accompanied by their designated representative, if they so desire.

ARTICLE 29
EMPLOYEE ASSISTANCE PROGRAM

Section 29.01 - General. Management agrees to continue the Department's Employee Assistance Program for troubled individuals whose job performance is affected by alcoholism, drug abuse, emotional illness or other personal problems.

Section 29.02 - Relationship to Disciplinary Action. The parties recognize that the program is designed to be carried out as a nondisciplinary procedure aimed at rehabilitation of persons who suffer from a health or personal problem. If an employee requests assistance under the program and participates in the program, the responsible supervisory official shall give consideration to this fact in determining any appropriate disciplinary and adverse action based upon the employee's performance or conduct on the job.

Section 29.03 - Training. Upon request, Management shall include Local Union representatives in employee briefing sessions or training and orientation programs so that there shall be mutual understanding of policy, referral procedures, and other elements of the program.

Section 29.04 - Annual Reminder. Management shall advertise the program once a year. The notification shall include a statement of the purpose of the program and telephone numbers of the program Coordinators and Counselors. Although the existence and functions of counseling and referral programs shall be publicized to employees, no employee shall be required to participate or be penalized for merely declining referral to an available counseling service.

Section 29.05 - Leave. Should any counseling appointment or treatment require an absence from duty, the employee must obtain the appropriate leave approval in writing or make other appropriate arrangements with the supervisor.

Section 29.06 - Confidentiality. In every case when an employee is either referred to the program by a supervisor or when the employee voluntarily participates in the programs, the employee's problem shall be treated as confidential by the program staff and Management officials involved, notwithstanding whatever knowledge others may already have.

Section 29.07 - EAP Counselors. A qualified EAP Counselor shall be made available to all Departmental employees.

ARTICLE 30
MEDICAL QUALIFICATION DETERMINATIONS

Section 30.01 - Medical Examinations. Consistent with 5 CFR 339, Management may only direct an employee to undergo a medical examination under the following conditions:

- (1) A pre-appointment examination is appropriate only for a position which has specific medical standards, physical requirements, or is covered by a medical evaluation program established under OPM regulations.
- (2) An applicant has applied for or occupies a position which has medical standards or physical requirements or which is part of an established medical evaluation program.
- (3) An employee who has applied for or is receiving continuation of pay or compensation as a result of an on-the-job injury or disease to report for an examination to determine medical limitations that may affect placement decisions.
- (4) An employee who is released from his/her competitive level in a reduction-in-force to undergo a relevant medical evaluation if the position to which the employee has reassignment rights has medical standards or specific physical requirements which are different from those required in the employee's current position.
- (5) Psychiatric examination (including a psychological assessment) may be ordered only when:
 - (a) The result of a current general medical examination which the Department has the authority to order under this Article indicates no physical explanation for behavior or actions which may affect the safe and efficient performance of the individual or others; or
 - (b) A psychiatric examination is specifically called for in a position having medical standards or subject to a medical evaluation program.

A psychiatric examination or psychological assessment authorized under (a) or (b) above must be conducted in accordance with accepted professional standards, by a licensed practitioner or physician authorized to conduct such examinations, and may only be used to make legitimate inquiry into a person's mental fitness to successfully perform the duties of his/her position without undue hazard to the individual or others.

- (6) Management may, at its option, offer a medical examination (including psychiatric evaluation) in any situation where the agency needs additional medical documentation to make an informed Management decision. This may include situations where an employee requests, for medical reasons, a change in duty status, assignment, working conditions, or any other benefit or special treatment (including reasonable accommodation or reemployment on the basis of full or partial recovery from a medical condition), or where the individual has a performance or conduct problem which may require agency action. Reasons for offering an examination must be documented. An offer of an examination shall be carried out and used in accordance with 29 CFR.

Section 30.02 – Representation. Employees shall be advised that they have a right to have a representative present during proceedings for medical determination examination.

Section 30.03 – Examination Procedures. When Management orders or offers a medical examination under this Article it shall inform the employee in writing of its reasons for doing so and the consequences of failure to cooperate. (A single notification is sufficient to cover a series of regularly recurring or periodic examinations ordered under this Article).

Management shall designate the examining physician or other appropriate practitioner, but shall offer the employee an opportunity to submit medical documentation from his or her personal physician or practitioner. The agency must review and consider all such documentation supplied by the employee's personal physician or practitioner.

Section 30.04 – Payment for Examination. Management shall pay for all examinations ordered or offered under this Article, whether conducted by Management's physician or the employee's physician. The employee must pay for a medical examination conducted by a private physician (or practitioner) where the purpose of the examination is to secure a benefit sought by the employee.

Section 30.05 – Records, Reports, and Release of Information. Management shall receive and maintain all medical documentation and records of examination obtained under this Article and release to the employee or their representatives in accordance with OPM regulation 5 CFR 297.

Section 30.06 – Disability Retirement. Management shall assist an employee in filing an application for disability retirement if the employee requests such assistance while employed with the Department.

Section 30.07 – Management Initiated Medical Retirement. Management shall initiate an application for disability retirement for the affected employee if the following conditions are met:

- (1) Employee has five (5) years of civilian Federal service under the following conditions:
 - (a) Management has issued a decision to remove the employee:
 - (b) Management concludes, after its review of medical documentation, that cause for the unacceptable performance, conduct, or attendance is due to disease or injury;
 - (c) The employee is institutionalized, or based on the Department’s review of medical or other information, it concludes that the employee is incapable of making a decision to file an application for disability retirement;
 - (d) The employee has no personal representative or guardian; and
 - (e) The employee has no immediate family member who is willing to file an application on his or her behalf.
- (2) When Management issues a decision to remove and the conditions described in paragraph (a) of this Section have not been satisfied but the removal is based on reasons apparently caused by a medical condition, the Department shall advise the employee in writing of his or her possible eligibility for disability retirement.

ARTICLE 31
VIDEO DISPLAY TERMINALS

Section 31.01 - General. "Video Display Terminal" (VDT) refers to a word processor or computer terminal which displays information on a television-like screen (cathode ray tube or "CRT").

Section 31.02 - Service of Machines. Management agrees to have each VDT properly serviced at least yearly by authorized technicians. A record of maintenance on each machine shall be maintained and made available to the Union upon request.

Section 31.03 - Vision and Health Safeguards. If an employee is assigned to work on a VDT which he or she believes has an out-of-focus display screen, the employee shall report it to the supervisor. If the supervisor agrees that it is out of focus, the employee shall not be required to continue work on the machine. Management shall arrange for service personnel to evaluate the machine as soon as possible.

Upon request and subject to availability of funds, Management shall provide filters for personal computers used by employees. In selecting the filters to be used, Management shall consider the extent to which the filters reduce glare, x-radiation, ultraviolet radiation, and static electricity. Where two (2) or more employees use the same machine, filters shall only be installed by mutual consent.

Upon presentation of appropriate medical documentation, Management shall consider a change in duty status, assignment, working conditions, or any other benefit or special treatment for employees adversely affected by working on VDTs.

Section 31.04 - Noise. Management shall ensure that noise levels shall not exceed OSHA standards by the use of noise meters during inspections by the Safety and Health Committee when there are complaints that said levels exceed those standards. Noise levels determined to exceed OSHA standards shall be abated by the use of muffling devices such as equipment covers, carpet, acoustic partitions, and barriers or other means.

Section 31.05 - VDT Problems. Should a concern arise over the safety and health of VDT operators, including physical discomfort and physical or psychological stress, the matter may be referred to the parties' Safety and Health Committee. The Safety and Health Committee shall notify the parties of its findings, analysis, and recommendations for corrective action. Environment/ergonomic factors such as glare controls,

illumination, arrangement of the work station, insufficient work space, and potential radiation exposure are appropriate matters for review and recommendations by the Committee.

Section 31.06 - Breaks From VDTs. Employees shall not normally be required to work on a VDT continuously without interruption for more than two (2) hours without a break from the machine. Where practical, the employee and the supervisor should schedule the rest break authorized in Article 17 so as to break periods of continuous machine use which would extend past two (2) hours. Where the authorized break cannot serve this purpose, alternative work assignments or additional brief breaks shall be authorized.

Section 31.07 - Hardware Acquisition. In selecting future replacement or acquisitions of VDTs, Management shall consider available safety and health information related to VDTs. The Department shall develop and use procurement specifications for VDTs which conform to the provisions of this Section.

Section 31.08 - Visual Examinations. Employees assigned to work at VDTs for an average of four (4) hours or more per day may request and receive an initial and annual visual examination through the local Public Health Service facilities, where available.

Section 31.09 - Workers' Compensation Claims. Employees may request and receive treatment of on-the-job illness or injury they believe resulted from or during their assigned work on VDTs, printers, or other computer accessories by filing the appropriate CA-1 or CA-2 form.

Section 31.10 - Information and Education. Employees shall be instructed on health hazards associated with the use of VDTs; on work practices recommended for VDT operators; and assisted in the proper adjustment of their chairs and equipment in relationship to their posture and work surfaces.

ARTICLE 32
REASONABLE ACCOMMODATION

Section 32.01 - General. Management agrees to make reasonable accommodation to known physical or mental limitations of qualified disabled employees unless Management demonstrates that the accommodation would impose an undue hardship on its operations as defined in Section 1613.704 of Title 29, Code of Federal Regulations. Reasonable accommodation may include, but is not necessarily limited to:

- (1) Making facilities accessible to and usable by disabled persons;
- (2) Job restructuring;
- (3) Part-time or modified work schedules;
- (4) Acquisition or modification of equipment or devices;
- (5) Appropriate adjustment or modification of examinations; and
- (6) The provision of readers and interpreters.

Section 32.02 - Needs Determination. Where Management determines the need, specialized job-related training and career development shall be provided or Management shall refer qualified disabled employees to organizations which provide these services. The need determination process for qualified disabled employees shall be the same as for other employees.

Section 32.03 - Readers and Interpreters. Where offices employ persons who are able to make use of these services, Management shall maintain lists of qualified readers and interpreters who may be selected by a disabled employee and assigned by Management to interpret for hearing-impaired employees or to read or record job-related documents for vision-impaired employees. Bargaining unit employees who are qualified shall be considered for such work and, if assigned, shall be on official duty. When appropriate, Management shall consider workload adjustment for employees selected as readers and/or interpreters. Management shall include nominees submitted by the Union on these lists.

Section 32.04 - Equipment. Management agrees to provide equipment for qualified disabled employees based on need, job relatedness and cost.

Section 32.05 - Recording the Agreement. Management agrees to provide the use of equipment and tapes for the recording of this Agreement and the parties agree to solicit volunteers for the reading of this Agreement into tape.

ARTICLE 33
DUES WITHHOLDING

Section 33.01 - Definitions.

- (1) **Dues** - means dues, fees, and assessments as determined by the Union.
- (2) **SF-1187** - is a Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues.
- (3) **SF-1188** - is a Cancellation of Voluntary Allotment of Compensation for Payment of Employee Organization Dues.

Section 33.02 - Eligible Employees. To be eligible to make a voluntary allotment for the payment of Union dues, an employee must:

- (1) Be in one (1) of the units (see Appendix A) covered by this Agreement;
- (2) Be a member in good standing with the Union;
- (3) Have a regular net salary, after other legal and required deductions, sufficient to cover the amount of the authorized allotment for dues; and
- (4) Request the allotment on the prescribed form (SF-1187) which has been certified by the authorized Union official.

Section 33.03 - Responsibilities of the Union. The Union shall:

- (1) Inform and educate its members on the voluntary nature of the dues allotment program, including conditions governing institution of allotments;
- (2) Provide the SF-1187 form to employees;
- (3) State on the SF-1187 form the amount of dues to be withheld each biweekly pay period;
- (4) Promptly forward completed SF-1187 forms to the appropriate servicing personnel office;
- (5) Furnish written notification to the servicing personnel office concerning the names and titles of Local Union officials authorized to certify the SF-1187 form; and
- (6) Provide the appropriate servicing personnel office with written notification concerning:

- (a) Changes in the amount of Union dues;
- (b) The name of any employee who has been expelled or ceases to be a member in good standing in the Union within ten (10) days after the date of such determination; and
- (c) The name of any employee on check-off who transfers from one Local to another; the new Local to receive the dues deducted; and any change in the amount of dues to be deducted resulting from the transfer to a new Local.

Section 33.04 - Responsibilities of Management. Management shall effect the following:

- (1) **Accuracy.** The servicing personnel office shall honor and expeditiously implement each SF-1187 to ensure that only eligible employees are on the dues withholding listing. The servicing personnel office shall also screen each promotion and reassignment action to remove employees who are promoted or transferred out of the unit.
- (2) **Promptness.** Upon receipt in the appropriate servicing personnel office of the SF-1187 form from the Union, certify on the SF-1187 form that the employee is in the unit covered by this Agreement and promptly forward the SF-1187 form to the payroll office for processing.
- (3) **Privacy.** Copies of the SF-1187 shall not be filed in the employee's Official Personnel Folder.

Section 33.05 - Responsibility of the Employee. Management does not assume responsibility for the maintenance in good standing in the Union of the employee.

Section 33.06 - Procedures.

- (1) **Initiating the Withholding of Dues.**
 - (a) Upon receipt of a properly completed SF-1187 form from the servicing personnel office, the payroll office shall arrange to withhold the Union dues in accordance with existing pay periods (26 biweekly periods) and procedures under which employees are regularly compensated.
 - (b) The dues deduction shall be effective as soon as possible, but in no case shall it be later than one (1) pay period following receipt of the SF-1187 form by the payroll office.

- (c) Employees who meet the eligibility requirements for dues withholding and who have a current dues withholding agreement in effect on the date this Agreement is approved, need not execute a new SF-1187 form to come under the provision of this Agreement.
- (d) Any SF-1187 submitted to the servicing personnel office that Management does not process shall be returned to the Union with the reason why it was not accepted. The Union reserves the right to discuss the exclusions with Management.

(2) **Changes in Dues.**

- (a) The amount of dues certified on the original allotment form (SF-1187) shall remain unchanged until the authorized Union official provides written certification to the servicing personnel office that the amount of dues has changed. New SF-1187 forms shall not be required.
- (b) No more than four (4) levels of dues shall be withheld in any one (1) local office. Changes in the amount of the allotment by reason of changes in the Union dues structure may be made only twice a year by any one (1) local.
- (c) Change in the amount deducted for Union dues shall be effective as soon as possible but in no case shall it be later than one (1) pay period following receipt by the payroll office of the Union's certification of changes in its dues.

(3) **Termination of Dues Allotments.**

(a) **Automatically.**

Upon loss of exclusive recognition by the Union, effective at the beginning of the first full pay period after such loss of recognition;

When the dues withholding agreement is by mutual agreement terminated;

When an employee ceases to be eligible for inclusion in the unit covered by this Agreement for which the Union is the exclusive representative; and

When an employee is expelled or ceases to be member of the Union in good standing, effective with the first complete pay period after receipt of the payroll office of written notice from the authorized Union official.

(b) **Voluntarily.**

An employee may submit a written request, SF-1188, for the revocation of an allotment no more than two (2) weeks before, and no later than two (2) weeks after the anniversary date of the date on the form SF-1187. The request may be submitted, in duplicate, to the servicing personnel office. Revocations shall be effective the first full pay period following a timely filing of the form SF-1188, if the request is received in the servicing personnel office during the acceptance period.

Revocations by employees shall be in duplicate, preferably on the SF-1188 form, and shall be forwarded by the employee to the servicing personnel office. The personnel office shall forward a duplicate immediately to the designated Union official.

Requests for revocation of dues allotments which are not filed in a timely manner shall be returned to the employee with an explanation of the reason for the rejection. A copy of both the employee the SF-1188 and the explanatory letter shall be furnished to the Union.

The anniversary date of the authorization for dues withholding, SF-1187, shall be one (1) year from the first day (Sunday) of the first pay period that dues are initially withheld.

Section 33.07 - Remittance of Dues. Management shall remit, by check, the dues withheld after each pay period for which deductions are made within two (2) weeks. Checks in payment of dues shall be made payable to and forwarded to the American Federation of Government Employees (AFGE) National Secretary-Treasurer's Office.

Section 33.08 - Detailed Listings. The remittance checks shall be accompanied by listings of the following information:

- (1) Identification of the payroll office reporting the data and the Union Local to receive the dues;
- (2) Pay period ending date;
- (3) The name of each member whose dues were forwarded to the Union and the amount of dues withheld; and
- (4) The amount remitted to the Union.

Section 33.09 - No Cost for Withholding. The service of withholding the Union dues shall be provided by Management at no charge to the Union.

Section 33.10 - Details Outside the Unit. Employees temporarily dropped from dues withholding due to a detail outside the bargaining unit shall be automatically reinstated upon the conclusion of the detail.

Section 33.11 - Funds Transfer. Funds due the Council shall be electronically transferred on a current, biweekly basis if NFC has the capability and shall make this electronic transfer for the Department.

ARTICLE 34
LOCAL SUPPLEMENTS

Section 34.01 - Scope. The parties agree that any supplements to this Agreement shall not delete, modify, or otherwise nullify any provision, policy, or procedure in this Agreement; nor shall any provision in a supplement be in conflict with or duplicate any provision of this Agreement, Statute or regulation of the Department, Governmentwide regulation, or outside authority binding on Management. All supplements shall be a part of and subject to the terms and control of this Agreement and shall simultaneously terminate with this Agreement.

Section 34.02 - Ground Rules. The ground rules for negotiations contained in Article 5 apply.

Section 34.03 - Resolution of Bargaining Disputes. If the parties at the Local level disagree as to whether a subject is to be included in the supplement, or if they fail to reach agreement on a local issue, the parties shall refer the matter to the National level. When a dispute has been submitted to the parties at the National level, local level negotiations on that issue shall be suspended pending final resolution of the dispute. If the parties at the National level cannot resolve the dispute, the parties may submit the dispute to an arbitrator, or to the Federal Labor Relations Authority, in the case of a negotiability dispute.

Section 34.04 - Approval. Prior to implementation, local supplements must be forwarded to the parties at the National level for their approval. Within ten (10) workdays of receipt, Management, at the National level, shall inform the National Council President of any portions which are approved or disapproved as being inappropriate for inclusion in a supplement. Disputes may be submitted to arbitration (or to the Federal Labor Relations Authority, in the case of a negotiability dispute).

Section 34.05 - Enforcement. An alleged violation of the terms of a supplement to this Agreement shall be subject to the grievance procedure. A clear and patent breach of the supplement may be filed as a ULP.

ARTICLE 35
CONTRACTING OUT

Section 35.01. When Management makes a decision to do a cost comparison study or to contract out a function performed by bargaining unit employees, it shall notify the affected Local Union President(s). The Council President shall receive a copy of the notification if more than one (1) Local is affected.

Section 35.02. Upon request, Management shall provide to the Local President annually, a list of contractors and consultants who are occupying space in HUD buildings.

Section 35.03. Management agrees that, wherever practicable, to minimize adverse actions and reduce separations of employees affected by a contracting out decision, it shall consider attrition patterns and restricting new hires. Also, Management shall consider using existing vacancies to the extent possible to place affected employees in continuing positions.

Section 35.04. Management recognizes that applicable regulations prohibit bargaining unit employees from being supervised by consultants and contractor personnel.

ARTICLE 36
PROFESSIONAL EMPLOYEES

Section 36.01 - General. The parties recognize the special requirements and contributions of employees in the professional bargaining unit.

Section 36.02 - Membership Dues. Where membership in a professional organization is required by Management, Management agrees to pay membership dues related to that requirement. The employee must be instructed in writing by an authorized Management official to participate in an organization on behalf of, and in the name of, the Department. This does not include membership in any bar associations.

Section 36.03 - Attendance at Meetings. If an employee is directed to attend a meeting of a professional society or organization, whether during normal duty hours or not, such direction must be in writing from an authorized Management official, and, therefore, shall be considered official authorization to participate and shall be reimbursed accordingly. This written condition must be stated to the employee in advance of any commitment of funds.

Section 36.04 - Attorney Training. To the extent training funds are available and such training is consistent with the Government Employees Training Act, 5 U.S.C. Chapter 41, and OGC training needs, Management shall permit attorneys, upon request and approval, the opportunity to attend job related, continuing legal education courses, or job related portions thereof. A course, or portion of a course, shall be considered job related, within the meaning of 5 U.S.C. Section 4101(4), when it is directly related to the employee's performance of his/her official duties for the Government, i.e., it shall increase the knowledge, proficiency, ability, skill, and qualifications of the employee in the performance of the official duties of the employee's current position. Funds for this purpose, including tuition, supplies and, in Management's discretion, travel, must be requested, approved, and obligated before the training begins.

ARTICLE 37
PERFORMANCE APPRAISAL

Section 37.01 - Performance Appraisal System. The Department shall implement a performance appraisal system which conforms to Chapter 43 of Title 5, United States Code and Part 430 of the Code of Federal Regulations.

Section 37.02 - Definitions.

- (1) **Critical Element:** "Critical element" means a component of a position consisting of one (1) or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that unacceptable performance on the element would result in unacceptable performance in the position.
- (2) **Performance Standard:** "Performance standard" means a statement of the expectations or requirements established by Management for a critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance.
- (3) **Rating Official:** The Rating Official is usually the immediate supervisor.
- (4) **Reviewing Official:** The Reviewing Official is normally one (1) level above the Rating Official.

Section 37.03 - Function of the Appraisal System. The appraisal system shall:

- (1) Provide for periodic appraisals of job performance of employees;
- (2) Encourage employee participation in establishing performance standards; and
- (3) Use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.

Section 37.04 - Components of the Appraisal System. The performance appraisal system shall provide for:

- (1) Establishing performance standards which shall, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria (which

may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system;

- (2) Communicating critical elements and performance standards to each employee at the beginning of the appraisal period;
- (3) Evaluating each employee during the appraisal period on such standards;
- (4) Recognizing and rewarding employees whose performance so warrants;
- (5) Assisting employees in improving unacceptable performance; and
- (6) Reassigning, reducing in grade, or removing employees who continue to have unacceptable performance, but only after an opportunity to demonstrate acceptable performance.
- (7) Written justification of all elements rated other than fully successful on the annual rating of record.

Section 37.05 - Specific Provisions.

- (1) Management reserves the right to change the dates of the appraisal period. Any change shall maintain uniform appraisal periods Department-wide.
- (2) Employees shall have one (1) progress review meeting in the middle of the appraisal period. Employees shall be informed of the level of their performance on each critical element by comparison of their performance with the performance standards. If the employee's performance is less than fully successful, a written performance improvement plan must be prepared. There is no requirement for written documentation of progress review feedback.
- (3) Upon request, employees may receive informal feedback on their performance at other times during the performance period.
- (4) All tentative ratings shall be reviewed and approved by the appropriate Management official before being communicated to employees. This process shall be held in the last month of the appraisal period.
- (5) All HUD General Schedule and prevailing rate ratings issued during the official rating period shall be combined to arrive at the annual rating of record, regardless of bargaining unit status.

- (6) Employees have three (3) workdays to comment on their performance ratings.
- (7) There shall be six (6) reasons for delay of performance ratings:
 - (a) The employee has not worked under elements and standards for at least ninety (90) days.
 - (b) Sufficient performance information does not exist for a new supervisor who has not supervised an employee for at least ninety (90) days or for a Reviewing Official to make a rating. In this case, the rating is delayed for ninety (90) days.
 - (c) The employee has an unacceptable performance action pending. The rating is given after a decision is made on the unacceptable performance action. However, the rating is not necessary if the employee is removed.
 - (d) The employee's overall performance is temporarily unacceptable because of illness, alcoholism, drug abuse, or another similar reason when the supervisor expects the performance to become fully successful in the near future because the employee is expected to recover, has entered a rehabilitation program, or gives other indications of resolving the problem which led to the unacceptable performance.
 - (e) The employee has been demoted for unacceptable performance. If the employee's rating for the year would be unacceptable because he/she cannot be rated in the position to which demoted, he/she shall receive a delayed rating in the position to which demoted. This delayed rating shall be combined with the rating from the previous position(s) to arrive at the annual rating of record.
 - (f) The employee has been performing at the marginally successful or unacceptable level and has been reassigned to another position. If the employee's performance rating for the year would be marginally successful or unacceptable because the only performance that can be rated is in the previous position(s), then he/she shall receive a delayed rating in his/her current position. This delayed rating shall be combined with the rating from the previous position(s) to arrive at the annual rating of record.
- (8) An interim rating is a rating given when an employee has a permanent position change in HUD. The interim rating is not a rating of record. However, if an interim rating is the

only rating given during the appraisal period, it shall become the rating of record at rating time. Interim ratings shall be communicated in writing to the employee within thirty (30) workdays from the effective date of the permanent position change (promotion, demotion, reassignment, etc.) Such ratings shall be clearly identified as interim ratings. Interim ratings are grievable. However, when an interim rating is used to derive the rating of record, neither the interim rating nor its effect on the rating of record is grievable.

- (9) The minimum appraisal period is ninety (90) days. This applies to both permanent assignments and temporary assignments such as details and temporary promotions.
- (10) The rating is considered official when it is:
 - (a) Signed by the Rating Official and/or the Reviewing Official;
 - (b) Signed by the employee or held by the employee for the three (3) day comment period without being signed (the employee shall have the right to request additional time); and
 - (c) Received by the personnel office that maintains the Employee Performance File. For purposes of this Article, the personnel office that maintains the Employee Performance File is the Office of Personnel and Training, for Headquarters employees; and the Regional Personnel Office, for Field employees.

Section 37.06 - Matters Excluded from the Grievance Procedure.

- (1) Employees cannot grieve the results of progress review meetings.
- (2) Employees cannot grieve the substance of their critical elements and performance standards. They may grieve their application.
- (3) If an unacceptable rating results in a demotion, the employee cannot grieve the rating. The unacceptable rating cannot be grieved since it would be dealt with in any appeal or grievance involving the demotion decision.
- (4) Employees cannot grieve an opportunity to improve notice or a performance improvement plan.

Section 37.07 - Constructed Performance Ratings for Reduction-In-Force Purposes. In the event of a reduction-in-force (RIF), employees in the competitive area affected by the RIF who

received ratings of "satisfactory" under the bargaining unit three (3)-level appraisal system shall have their ratings evaluated for retention credit purposes. If the employee received a "satisfactory" rating, and that rating shall be used to compute overall retention standing for RIF purposes, the servicing personnel office shall determine if the rating is eligible to be changed to a constructed "highly successful" rating for RIF retention purposes. If the cover page of the rating indicates that a "satisfactory" rating would have been "highly successful" had "highly successful" been a rating level in the bargaining unit appraisal system, the employee shall receive retention credit for "highly successful" performance in the computation of retention standing. A constructed "highly successful" rating shall be determined using the same conversion formula for an overall rating as used for the nonbargaining unit GS performance appraisal system that was used in the year of the subject appraisal. Under no circumstances shall the constructed "highly successful" ratings be used for anything but RIF retention purposes; they shall not be considered ratings of record.

Section 37.08 - Summary Rating Data. The Union shall be provided with summary rating data for each appraisal period.

ARTICLE 38

PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

Section 38.01 - Purpose. The parties agree that personnel research programs, including quality circles and demonstration projects in the personnel management area, may result in more efficient operations, and thereby contribute to more effective accomplishment of the Department's missions.

Section 38.02 - Definitions.

- (1) **Research Program** - means a planned study of public personnel management policies and systems, the effects of these policies and systems, the possibilities for change, and comparisons among those policies and systems.
- (2) **Demonstration Projects** - means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management.
- (3) **Quality Circle** - is a participative process which directly involves employees, at the work level, in the identification, analysis, and solution of product quality and work process problems. It is a joint effort between Management and employees to develop ideas for improving the product of the organizational unit and implementing these improvements once approved by Management and concurred by the Union.

Section 38.03 - Employee Participation. Employees participating in any activity covered by this Article shall have a memorandum placed in their Official Personnel File recognizing their participation.

Section 38.04 - Obligation to Bargain. In accordance with statutory provisions, Management shall not enter into any personnel research or demonstration projects which affect the working conditions of unit employees without first affording the Union an opportunity to request appropriate negotiations.

If recommendations resulting from the above activities require a modification of this Agreement, they shall be subject to the provisions of the Mid-Term Bargaining Article of this Agreement.

Section 38.05 - Quality Circles.

- (1) Once management determines to start a quality circle, the program shall be presented to the Union and potential circle members. The Union shall designate employees to participate

on any quality circle planning committees that are established. Participation on individual quality circles shall be voluntary on the part of the employee.

- (2) Quality circles shall meet during regular duty hours and on official time. Additional topics or problems for study can be suggested by the Union or employees in the quality circles. Management shall consider these suggestions in determining whether additional efforts should be undertaken.
- (3) When feasible, a portion of any documentable savings which results from the implementation of quality circle recommendations may be utilized for special cash awards to all employee participants of the contributing circle.
- (4) Quality circles may be terminated at any time by Management, when the circle activity continuation is found to be completed, nonproductive or disruptive to the work of the unit.
- (5) Quality circles, by their nature, create an environment where supervisors or managers interact with their employees on improvements in work processes, organization, and procedures that shall hopefully improve the efficiency and effectiveness of the work unit. The Union may monitor the activities of these circles by keeping in touch with bargaining unit employees participating in the circles and/or by attending quality circle meetings where appropriate.
- (6) When changes in personnel policies, practices, working conditions, or general conditions of employment result from the quality circle activity, the Union shall be given an opportunity to review the results and request impact bargaining where appropriate.

ARTICLE 39
REST BREAK AREAS

Section 39.01. Management shall provide rest break areas for employees which are safe, clean and well lighted, if similar facilities are not conveniently available as part of the overall facility. They shall be maintained in a sanitary condition and shall be kept free of vermin infestations.

Section 39.02. When vending machines are provided in rest break areas in accordance with this Article, Management shall take appropriate steps within its authority to assure that the machines are maintained in good working condition, regularly resupplied, and that an adequate means of reimbursement for money lost in malfunctioning machines is provided. Each machine shall have posted on it in a conspicuous place a twenty-four (24) hour telephone number, where available, for reporting malfunctions.

Section 39.03. Where Management contracts for such services, Management shall have these requirements as a condition of this contract until such time as Management, at its sole discretion, determines to change or cancel a contract.

ARTICLE 40
DAY CARE

Section 40.01 - General. Management and the Union recognize that HUD employees need to have reliable and adequate day care services available to them so that they are free to devote their full energy and attention to their duties and responsibilities at the work site.

Section 40.02 - Parties' Commitment. The parties commitment to established day care facilities in Headquarters and at several multi-agency field day care centers shall continue subject to the availability of sufficient funds to support these facilities. Nothing in this Article shall be interpreted to mean that the Department is obligated to provide additional funds and/or space for the establishment and/or maintenance of new day care facilities. Future decisions concerning the Department's participation in new day care facilities shall be made solely by the Department based upon funds available, other competing demands for those funds, and in accordance with applicable laws, rules, and regulations in effect at that time.

Section 40.03 - Notification. Should the Department decide to participate in a new or existing multi-agency day care center, the Department shall promptly notify the appropriate designated Local Union representative and the Union Council President of that intention. The employees of the Department shall also be given proper and timely notice of such participation by the Department so that they can place themselves on registration and/or waiting lists for the day care slots available.

ARTICLE 41
DURATION AND DISTRIBUTION OF THE AGREEMENT

Section 41.01 - Duration. This Agreement supersedes the previous Contract (1983) and all Supplements to it, both National and local, and all other written Agreements or memoranda of understanding and conflicting past practices, between the parties. The terms of this Agreement shall remain in effect for three (3) years from the effective date. The provisions of this Agreement shall continue in full force and effect until a new Agreement goes into effect.

Section 41.02 - Severability. If any provision of this Contract is invalidated by existing or subsequent laws, decisions of the FLRA, the Comptroller General or Courts of competent jurisdiction, such provision shall be renegotiated for the purpose of an adequate replacement. All other provisions of the Agreement shall remain in full force and effect.

Section 41.03 - Renegotiations.

- (1) If either party subsequently desires to renegotiate this Contract, it shall furnish written notice to the other party not less than sixty (60) days but not more than ninety (90) days prior to the expiration date of this Agreement.
- (2) In the event notice (under Section 41.03(1) above) is given by either party, the parties shall begin ground rules negotiations within thirty (30) days from receipt of that notice.

Section 41.04 - Renewal. If neither party desires to renegotiate this Agreement, the parties shall execute new signatures, dates, and any changes required by law or Governmentwide regulation, and the Agreement shall be renewed for a one (1) year period.

Section 41.05 - Amendments. Any amendments to this Agreement shall become a part of this Agreement and subject to expiration on the same date as this Agreement.

Section 41.06 - Distribution.

- (1) **Employees.** Management shall distribute a copy of this Agreement and all supplements to each employee by the effective date.
- (2) **Union.** Management shall provide the Union with sufficient copies of the Agreement and all supplements, to meet its needs, e.g., orientation.

Section 41.07 - Publication. The expenses for publishing and distributing this Agreement shall be paid by the Department. The parties shall jointly edit and format the document, making such changes as shall promote clarity. Within fifteen (15) days of the conclusion of negotiations, the Union shall be provided with a copy of the Agreement on a 5 1/4" floppy disk in WordPerfect 5.0 format.

Section 41.08 - Review and Training. Reasonable official time shall be authorized for review and training on this Agreement in conjunction with the National LMR meetings.

ARTICLE 42
WITHIN-GRADE PAY INCREASES

Section 42.01 - Criteria. Within-grade increases are granted in accordance with applicable law and regulations which provide that the employee's supervisor determines that the employee's work is of an "acceptable level of competence," as demonstrated by an overall performance rating of fully successful or better and the employee has completed the required waiting period.

Section 42.02 - Appraisal. If the decision to grant, deny, or delay a within-grade increase is not supported by the most recent rating of record, the employee shall receive a new rating. If the last rating of record was given prior to the previous appraisal period, a new rating shall be issued.

Section 42.03 - Notification of Intent. At least sixty (60) days prior to the date that an employee is eligible to receive a within-grade increase, the employee's supervisor shall notify the employee as to his/her performance. If the employee's performance has not been at an acceptable level of competence, the agency shall notify the employee, (opportunity to improve notice or performance improvement plan), in writing, as to the following:

- (1) Those critical elements and standards of the employee's performance in which the employee is deficient and the measurable and demonstrable extent of the deficiency;
- (2) Any instances, specifically described, which support the alleged deficiencies;
- (3) Assistance which shall be offered so as to enable the employee to improve his/her performance so as to meet the requirements specified for the position; and
- (4) That the employee's within-grade increase may be denied unless sustained improvement to an acceptable level of competence is shown within sixty (60) days.

If the agency does not give sixty (60) days advance notice and the within-grade increase is denied, the agency shall make a redetermination of the employee's acceptable level of competence not later than sixty (60) days after the date on which the employee completed the required waiting period. If the redetermination indicates that the employee's performance is at an acceptable level of competence or higher, the within-grade increase is granted effective the first day of the first pay period beginning on or after the redetermination.

Section 42.04 - Delay of Within-Grade Increase. When a within-grade increase determination is delayed, the employee must be informed in writing of:

- (1) The fact that the decision of his/her within-grade increase is being postponed;
- (2) The reason for the postponement;
- (3) The date the determination will be made;
- (4) The fact that when the decision is made, it will be retroactive to the date it was originally due;
- (5) The specific requirements for performance at an acceptable level of competence. If the employee does not have a performance plan, he/she shall be given a plan; and
- (6) Advise that if a subsequent determination is made that the employee's performance is at an acceptable level of competence, the within-grade increase shall be granted retroactively to the beginning of the pay period following completion of the applicable waiting period.

If the employee does not have a performance plan, he/she must be given one immediately.

Section 42.05 - Denial of Within-Grade (Negative Determination). If at the end of the sixty (60) day period provided in Section 42.03, the employee's performance is not at an acceptable level of competence for the purpose of approving the within-grade increase, the employee shall be given a written notice which contains the following:

- (1) Statement of denial of within-grade increase;
- (2) Reasons for the negative determination;
- (3) Employee's right to request, in writing, a reconsideration of the negative determination within fifteen (15) days of receipt of the negative determination;
- (4) Name of reconsideration official to whom the request should be sent;
- (5) Employee's right to contest the basis for the negative determination in person and in writing;
- (6) Employee's right to a representative in presenting the request to the reconsideration official; and

- (7) Statement that the employee has the right to a reasonable amount of official time in preparing and presenting the request.

Section 42.06 - Reconsideration File. The reconsideration official shall establish a reconsideration file to include copies of:

- (1) Written negative determination and supporting documents;
- (2) Employee's request for reconsideration;
- (3) Report of investigation if one was made;
- (4) Written summary or transcript of any personal presentation; and
- (5) Decision of the reconsideration official.

The file shall be retained and made available to the employee and his/her representative.

Section 42.07 - Reconsideration Decision Official's Notice. On or before close of business on the tenth (10th) workday after the date of receipt of the employee's written presentation, or the date of the completion of a personal presentation, whichever is later, the reconsideration official shall issue a notice of decision to the employee.

Section 42.08 - Acceptable Level of Competence Waiver. The acceptable level of competence determination shall be waived when employees meet the criteria contained in 5 CFR 531.

Section 42.09 - Effective Dates.

- (1) When a determination is made that the employee's work is not of an acceptable level of competence and the determination is final (i.e., the determination has not been reversed on reconsideration or arbitration), the determining official shall make a redetermination within thirty-nine (39) calendar weeks following the original due date for the within-grade increase. Nothing, however, shall preclude the official from making such a redetermination at an earlier date.
- (2) When an acceptable level of competence is achieved after a negative determination, the effective date of the within-grade increase shall be the first pay period after an acceptable level of competence has been achieved.
- (3) A within-grade increase reconsideration favorable to the employee shall be made retroactive to the date it was

originally due and all records relating to the negative determination shall be destroyed.

- (4) If a within-grade increase is delayed due to insufficient information, e.g., has not had standards and elements for ninety (90) days and the employee subsequently achieves an acceptable level of competence or better, the within-grade increase shall be granted retroactively to the date it was originally due.

Section 42.10 - Application of Articles 21 and 22. The negative reconsideration procedure as set forth in this Article substitutes for and, is in lieu of, the grievance procedure, (Article 22). However, if a denial of a within-grade increase is coupled with any performance based action, the provisions of Article 21 are applicable.

Section 42.11 - Arbitration. If an employee's negative determination is sustained after reconsideration, the Union may invoke arbitration within twenty (20) calendar days of the employee's receipt of the reconsideration decision.

ARTICLE 43
SMOKING

Section 43.01 - Purpose. This Article establishes the Department's smoking policy, designed to protect the health and safety of employees and visitors.

Section 43.02 - Definition. Smoking is defined as a lighted cigar, cigarette, pipe, or any other lit tobacco product.

Section 43.03 - Scope. This policy shall apply to all HUD-occupied space and facilities with AFGE bargaining unit employees; however, it shall be implemented in individual offices through local negotiations. For purposes of this policy, an office is defined as Headquarters, a Regional Office, or a Field Office.

Section 43.04 - Policy. Smoking is prohibited in HUD-occupied space, except in designated smoking areas. Specifically, there shall be no smoking in:

- (1) Classrooms, training rooms (including contract training space), conference rooms, and auditoriums. Separate break rooms for smokers may be negotiated at the local level.
- (2) Elevators and stairways.
- (3) Corridors and rest rooms (except as negotiated locally by the parties. At least half of the number of rest rooms per sex shall be designated as nonsmoking. At least one (1) rest room per sex on each floor with facilities for the disabled shall be designated nonsmoking).
- (4) Health units and libraries.
- (5) General office space, defined as space occupied by personnel performing their daily work functions. This includes, but is not limited to, ADP areas, mail rooms, file rooms, duplicating areas, and office space (except as locally negotiated by the parties.) Where general office space has been negotiated locally as a designated smoking area, smoking shall be prohibited in such space when meetings are held which include nonsmokers.

Section 43.05 - Designated Smoking Areas. Smoking areas with appropriate ventilation, furnishings, smoke eliminators as necessary and ashtrays, may be negotiated by the parties at the local level, with the following guidance:

- (1) Smoking areas shall be clearly identified with signs.

- (2) HUD Management officials in multi-tenant buildings shall work with other agencies to identify appropriate smoking areas outside HUD-occupied space.
- (3) Management and the Union shall encourage users of the smoking area to keep it clean. Further, Management shall be responsible for monitoring the cleanliness of those areas that are designated smoking areas.

Section 43.06 - Smoking While on Government Travel. When smoking and nonsmoking employees share a vehicle on official travel, smoking shall be prohibited in that vehicle. In such situations, periodic smoke breaks outside the vehicle shall be authorized as necessary.

Section 43.07 - Smoking Transition. A transition period is established for employees who are no longer allowed to smoke at their work stations. The transition period is a ninety (90) calendar day period from the time smoking is prohibited at the work station. During this transition period, supervisors shall liberally allow smokers reasonable periods of time to use designated smoking areas and be sensitive to difficulties experienced by smokers in changing their habits.

Section 43.08 - Vacancy Announcements. All vacancy announcements shall include a statement that smoking is allowed only in designated areas.

Section 43.09 - Smoking Cessation Programs. The Department supports and encourages all efforts by employees to quit smoking. In this regard, the Department shall sponsor the American Cancer Society (ACS) Smoking Cessation Program (or comparable program in offices where this program is not available) and provide appropriate time and bear the cost for such HUD-sponsored programs. If Management is trained by ACS (or comparable program) to conduct future smoking cessation programs, the Union shall also be trained and joint training by Management and the Union shall be conducted. Participation in the smoking cessation program shall be voluntary. Smoking cessation programs shall not be negotiated at the local level.

Section 43.10 - Compliance. Employees may courteously remind others to refrain from smoking in nonsmoking areas. Normally, employees who believe that smoking regulations are being violated should report such violations to their immediate supervisor or, if he/she is not available, the nearest available supervisor. The exception is when the immediate supervisor has allegedly violated the regulations. Failure to abide by the Department's policy on smoking in the workplace shall be dealt with in the same manner as any other violation of an administrative directive or rule.

Section 43.11 - Local Negotiations. Those areas which may be negotiated at the local level are:

- (1) Location(s) of smoking areas.
- (2) The physical layout of the furniture, equipment, and space in the smoking areas.
- (3) Smoke eliminators, ashtrays, ventilation systems and actual furniture to be used in the smoking areas.
- (4) Methods of notifying employees of available programs.
- (5) Other related subjects appropriate to local negotiations on smoking.

Any resulting agreement must be in conformance with this Agreement and the Governmentwide regulations. Management and the Union shall consult and shall work out ways to resolve problems regarding implementation of the local agreements.

ARTICLE 44
PERSONAL PROPERTY MANAGEMENT

Section 44.01 - Credit Cards Issued by HUD.

- (1) **Nonapproved Purchases.** Credit cardholders shall not be held responsible for nonapproved purchases unless such purchases are made knowingly and willfully in violation of the regulations.
- (2) **False, Fictitious and Fraudulent Purchases.** The cardholder is prohibited through use of the card, from making any purchase knowing such purchase to be false, fictitious or fraudulent. If the cardholder knowingly and willfully makes a false, fictitious or fraudulent claim, he or she shall be subject to a fine of not more than ten thousand dollars (\$10,000) or imprisonment of not more than five (5) years, or both.
- (3) **Lost or Stolen Cards.** The cardholder may be responsible to the Federal Government for charges on a lost or stolen card only if the cardholder knowingly and willfully fails to report it in accordance with procedures outlined in Instructions For Use of U.S. Government Bankcard for the Cardholder. These procedures shall be explained to all new bankcard holders prior to the issuance of the card. The cardholder shall not be held financially responsible for charges on a lost or stolen card unless the Government is held accountable by RMBCS.
- (4) **Agency Review.** Any determination as to financial liability based upon these provisions shall be made jointly by the proposing official and OAMS/HQ or Regional Administrative Services Division, as appropriate.
- (5) **Card Security.** Upon request, cardholder shall be provided a secure place to safeguard the card.
- (6) **Card Destruct Notice.** Cardholders no longer authorized to use the card shall cut the card in half and shall return the card with the completed card destruct notice to his/her approving official.

Section 44.02 - Employee Responsibilities for Government Property Issued for Official Use.

- (1) Employees who are issued Government-owned property that requires a custody receipt shall be instructed as to that property's proper use, maintenance, security, and disposition. At the time such property is issued, the

receiving employee shall be advised how to obtain maintenance services for such items.

- (2) Employees responsible for sensitive property shall be afforded appropriate security arrangements for such property. They shall also have access to such property in order to perform the duties of their assigned position in conjunction with taking appropriate measures to insure that property is secured.
- (3) Membership in the bargaining unit shall not be a factor in determining the priority of property issuance, repair, or replacement.
- (4) The HUD acquisition, repair and/or replacement process for remedial equipment and devices for qualified handicapped employees shall be accomplished without undue delay.
- (5) Employees shall promptly notify their supervisors of the need to replace, repair, or acquire personal property. They shall also notify their supervisors of possible hazards (fire, theft, deterioration, improper or insecure storage) to expendable items.
- (6) Forms for reporting loss, theft, or damage to Government-owned personal property, as well as forms needed to identify and remove privately-owned personal property from the premises, shall be readily available to employees through administrative officers.
- (7) In accordance with GSA regulations, surplus property may not be purchased directly from the Department. Employees interested in acquiring surplus Government property may purchase such property at public GSA auctions.
- (8) Management shall annually notify the Union of the month and location for all scheduled property inventories.
- (9) Unit employees who are subject to inquiry before the Property Board of Survey shall be allowed to be represented by the Union. Any request to a unit employee to appear before the Property Board of Survey shall include the following:
 - (a) Statement of the Property Board of Survey functions;
 - (b) Alleged incident(s) which gives rise to Property Board of Survey meeting;
 - (c) The time and place of the meeting; and

- (d) Notification that the employee is allowed Union representation, if he or she so chooses.
 - (e) The right to a copy of all documents relating to the inquiry to the extent such disclosure is not inconsistent with law and existing Governmentwide regulations.
- (10) Management agrees to issue an annual staff bulletin to all employees similar to Staff Bulletin #84-95, Employees Personal Property Management Responsibilities. This bulletin shall enumerate Management and employee responsibilities for complying with this supplement and Handbook 2235.7 REV-1, Personal Property Management.
- (11) When the reviewing official determines that an employee is liable for loss of, or damage to, Government property, he or she shall send a notice to the employee stating the following:
- (a) The date upon which the loss of, or damage to, Government property was discovered;
 - (b) The estimated cost of repair or replacement with substantially equivalent or identical Government property;
 - (c) The specific reasons why the employee is believed to be liable for the loss of, or damage to, Government property; and
 - (d) A statement that the employee shall have the right to appeal any decision made for loss of, or damage to, Government property by both internal review and the negotiated arbitration procedure.
- (12) In order for the Department to find an employee monetarily liable for any loss of, or damage to, Government property, it must prove the loss of, or damage to, Government property was caused by the employee's negligence in safeguarding the property or equipment.
- (13) If the employee is determined to be monetarily liable, the indebtedness must be paid within thirty (30) days to avoid interest. If the employee does not or cannot liquidate the debt, the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the employee's salary. The amount deducted shall not exceed fifteen (15) percent of disposable pay except with the affected employee's written consent.

- (14) Any collections under this Article shall be done under the procedures set forth in the Delinquent Debt Collection Handbook, 1900.25 Rev 3A, and 4 CFR 102.2, 102.3, and 102.11.
- (15) Use of privately-owned personal property that requires the use of utility services must be approved by Management.

ARTICLE 45
SPACE MANAGEMENT

Section 45.01 - Coverage. The provisions of this Article are supplemental to the HUD Space Management Handbook, and applicable Federal Property Management regulations in effect on the effective date of this Agreement.

Section 45.02 - Provisions for Handicapped Employees. Management agrees to abide by the provisions of HUD Handbook 2216.1, dated November 30, 1983, which provides compliance with the standards for handicapped employees as defined in the Architectural Barriers Act of 1968, Sections 501 and 504 of the Rehabilitation Act of 1973, including OPM's Guidelines on Reasonable Accommodation to Disabled Employees and Applicants and HHS regulations on Accessibility to the Handicapped.

Section 45.03 - Office Space.

- (1) **Allocation of Space.** Space shall be provided for all allocated positions (one hundred (100) percent) to include Regional and Headquarters positions outstationed in the Field, and part-time and temporary positions, requiring a work station.

Part-time employees requiring a work station shall be counted the same as full-time when computing allowable office space.

- (2) **Adequate Space.** Management agrees that the allocation of space and furnishings for the space, such as file cabinets, desks, bookcases, etc., shall be adequate to maintain an efficient work environment and for performance of assigned duties.
- (3) **Space for Employee Fitness Activities.** Upon written request, Management may provide available space, such as conference rooms, training rooms, etc., for use by employees for exercise classes, aerobics, and other organized physical fitness activities. This space may be made available during normal operating hours for use by employees during their lunch hours or nonworking hours, to the extent that the employee activities do not cause a disruption to the office. Where convenient facilities exist in other buildings, and upon written request by the Union, the parties shall explore a joint use program provided there is no cost incurred by the Department.
- (4) **Consideration of Public Access and Confidentiality.** Consideration of potential problems caused by public access to open work areas shall be given when office layouts are

being planned. The workflow of employees performing work which is confidential in nature shall be considered before space plans are developed.

- (5) **Moveable Partitions.** Positions located in open space areas shall have free-standing acoustic screens (area dividers) used to:
 - (a) Partition large areas;
 - (b) Provide a degree of visual privacy;
 - (c) Reduce noise levels; and
 - (d) Regulate traffic.

The number, type, and location of screens shall be determined by the parties at the local level. Where job related requirements are a factor, workflow and work assignments shall be the major criteria in determining the placement of acoustic screens.

- (6) **Existing Walls.** Full consideration shall be given to the costs of renovations and the adverse impact on working conditions, in determining the prospective benefits of eliminating or moving existing floor to ceiling partitions.
- (7) **Decorations.** Employees have the right to decorate their working areas with plants, prints, photographs, awards, posters and artistic or symbolic representations appropriate to the working environment. The display of these items must not be inconsistent with GSA governing regulations. Both the employee and Management have a responsibility not to deface Government property or impair its function.
- (8) **Conference Rooms.** Changes in workload and in the mission of the Department may create a need for adjustments in space allocations. This may require the conversion of conference rooms to office space. The conversion of conference rooms to office space shall be consistent with the needs and requirements of the organization.

Section 45.04 - Parking.

- (1) **Requests for Space.** The cost, availability, and convenience of parking shall be included in any HUD request for space. The Department shall request GSA to use this criteria as a major consideration in the analysis of bids.
- (2) **Existing Carpool Parking.** Existing carpool spaces under the Department's control shall be retained as long as there are

qualified and interested employees, and the HUD office remains at its present location.

- (3) **Release of Carpool Parking.** If the work force at a given office decreases, the Department may release excess parking spaces. If the spaces have not been determined to be excess and there are qualified and interested employees, the Department shall attempt to maintain the spaces for these employees.
- (4) **Two (2)-Wheeled Vehicles.** Subject to the availability of satisfactory and secure space and facilities, and where there is an expressed need, the Department shall request GSA to reserve areas for the parking of bicycles and other two (2)-wheeled vehicles. Bicycles shall not be transported on stairs or elevators, or parked in offices.

Section 45.05 - Facilities.

- (1) **Heating, Ventilation, and Air Conditioning (HVAC).** The Department shall coordinate with GSA in providing an adequate HVAC system and in maintaining HVAC at an acceptable working environment within the temperature and ventilation range outlined in GSA regulations and specifications in offices under GSA's jurisdiction.
- (2) **Rest Rooms and Water Fountains.** The Department shall coordinate with GSA to ensure that rest rooms are adequate in size and number and properly equipped in accordance with Government specifications as they may be amended. The Department shall coordinate with GSA to assure that water fountains operate and are located in accordance with Government specifications as they may be amended. The Department shall request that GSA check water quality when a complaint is received on the taste, color, or smell of the water. In addition, the Department shall request GSA to spot check the water for contaminants prior to the initial occupancy of new space and to spot check all space biennially.
- (3) **Compliance with Building Codes.** The Department shall coordinate with GSA to assure that: (1) office space, whether leased or Government-owned, complies with the Government's fire and building codes, as determined by GSA; (2) lease agreements require compliance with applicable Government building and fire codes, as determined by GSA; and (3) the lessor is to comply with State and local codes and ordinances, as appropriate, applicable to the ownership and operation of the building in which the leased space is situated.

- (4) **Lighting.** Lighting shall be adequate for its intended purpose in accordance with Government regulations.
- (5) **Routine Maintenance.** Management shall request from GSA a copy of its routine and scheduled maintenance schedule and upon receipt, a copy of the schedule shall be posted on Management's bulletin board. Management shall carefully monitor the landlords compliance with the provision of routine and scheduled maintenance services in accordance with the GSA schedule. If scheduled services are not provided, Management shall bring it to GSA's attention and request that GSA take corrective action.
- (6) **Local Negotiations.** The parties shall negotiate at the local level on the operation and placement of vending machines and concessions, subject to provisions of the Randolph-Shephard Act.

Section 45.06 - Safety.

- (1) **Existence of Hazards.** The Department shall coordinate with GSA to assure that the Department does not knowingly move employees into areas which have been assessed by the Department and GSA to be hazardous to health in accordance with OSHA standards and EPA guidelines, where applicable. If a hazard is determined, based upon the assessment, the Department shall coordinate with GSA to develop a comprehensive abatement plan.
- (2) **Correcting Hazards.** When safety or health hazards are identified within space occupied by the Department, the Department shall request corrective action by GSA in accordance with Section 26.08 of the HUD/AFGE National Agreement. If GSA does not take action to correct the safety or health hazard within an appropriate time, the Department shall correct the hazard using alternative means.
- (3) **Responsibility for Safety and Health of Employees.** The parties recognize that the cooperation of GSA, lessors, contractors, and others are necessary in order to assure a safe, healthful working environment. Nevertheless, the ultimate responsibility for safety and health rests with Management.
- (4) **Security.** The Department shall coordinate with GSA to assure that Government-owned or leased buildings are provided appropriate security.
- (5) **Floor Loading Certifications.** Floor loading certifications shall be executed by a properly licensed engineer and shall, upon request, be requested from GSA and furnished to the Union.

Section 45.07 - Moving of Employee Work Stations.

- (1) **Minimizing Disruptions.** Space adjustments shall be implemented in such a way as to minimize disruption to employees.

Section 45.08 - Notification to Union of Space Change. When Management makes a decision to implement a space change, it shall notify the Union in accordance with Article 5 of the HUD/AFGE Agreement. The Union shall be advised of the implementation schedule and, upon request, shall be informed of Management's plans for the implementation of the move. The Union shall be advised throughout the planning and implementation process after a decision has been made. Local mid-term bargaining relating to space changes shall not conflict with the Statute or the provisions of this Agreement.

Section 45.09 - Information Requested by the Union. Upon written request, management shall provide the Union with:

- (1) Copies of the Building Lease Agreement and all Addenda, if available.
- (2) HUD's Request for Space, SF-81, and floor plans with detailed specifications.
- (3) A copy of the Quarterly Building Services Report and the Consolidated Regional Report on Building Services. These reports shall be provided to the Union's Principal Regional representatives, rather than to each Local.
- (4) Any other material necessary to provide the Union with complete information on a space move.

ARTICLE 46
PAY ADMINISTRATION AND SAVINGS BONDS

Section 46.01 - Timely and Proper Compensation. Employees are entitled to timely receipt of all wages earned by them for the applicable pay period.

Section 46.02 - Delivery of Pay Checks.

- (1) The Union and Management endorse the use of direct deposit/electronic funds transfer which is the safest and timeliest method for delivery of pay checks.
- (2) No sooner than sixty (60) days from the effective date of this Agreement, delivery of pay checks to the office shall be discontinued. Employees must utilize direct deposit/electronic transfer or have their pay checks mailed to a nonwork address.

Section 46.03 - Annual Statement of Benefits. Employees shall receive an annual statement of benefits, including information on retirement benefits at the time of issuance, by NFC.

Section 46.04 - Withholding. Management shall continue the current practice of communicating Federal tax changes to employees.

Section 46.05 - Debt Collection. Collection of salary overpayments by offset shall require no less than thirty (30) days notice. Disputes shall continue to be handled through existing appeals procedures. No action to collect alleged overpayments shall be taken pending the exhaustion of the appeal procedures. Notice to employees of overpayment shall include a statement of the collection policy and the policy for waiver of salary overpayments. Management shall cooperate in the collection of indebtedness to the Union in the same manner as it does with other commercial debts due by employees in accordance with applicable laws and regulations. If the Union asks a servicing personnel office whether a bargaining unit employee received a pay check during a particular pay period and whether a replacement check has been requested or received, the Union shall be provided that information, if it is available.

Section 46.06 - Probationary or Trial Period Report. A blank copy of the revised Probationary or Trial Period Report form shall be provided to new employees as part of their orientation package.

Section 46.07 - Information to the Union.

- (1) A code for bargaining/nonbargaining unit employee shall be included in the NFC data base. In accordance with law, upon request, but not to exceed twice a year, the following information on bargaining unit employees shall be provided to the Union, if it is available from NFC, in either hard copy or, if available, electronic format:
 - (a) Name
 - (b) Home address
 - (c) Title, series, grade, and step
 - (d) Date of last promotion
 - (e) Service computation date
 - (f) Beginning date of dues deduction
 - (g) Amount of Union dues deduction
 - (h) Organization code
 - (i) Organization title

The data shall be provided on a 5 1/4 floppy disk or 1600 BPI tape, shall be in a format that shall allow loading into D-Base III; and shall include information on where the fields are.

- (2) Upon request, Regional personnel offices and Headquarters shall provide Locals, subject to the limitations and capabilities of the NFC system, the following information:
 - (a) Employee name
 - (b) Working title
 - (c) Position title
 - (d) Pay plan, series, and grade
 - (e) Salary
 - (f) Work schedule
 - (g) Organizational code and position number
 - (h) Promotions, QSIs, reassignments, details, resignations, removals, appointments, and similar personnel actions and the effective date, if readily available.

Section 46.08 - Delayed Pay.

- (1) **Check Not Issued.**

As soon as the National Finance Center (NFC) identifies an employee who shall not be receiving a check on time, the employee shall be notified immediately of the expected receipt date. Imprest funds shall be made available to partially cover missing checks when applicable procedures apply.

(2) **Check Missing or Lost.**

If the employee has not received his/her check on payday, the employee shall certify this to Management. As expeditiously as possible, Management shall notify NFC and order a replacement check. This check shall normally be received by the employee within five (5) workdays of the date NFC is notified.

Upon request from an employee, Management shall issue a written statement to banks, creditors, and payees in regards to nonreceipt of salary check.

Section 46.09 - Savings Bonds. Savings Bonds must be mailed to a nonwork address.

ARTICLE 47
TEMPORARY EMPLOYEES

Section 47.01 - Applicability. This Article applies only to employees with temporary appointments of more than six (6) months. These employees are in the bargaining unit and have all the rights under the Contract afforded to other bargaining unit employees, unless specifically excluded by law, regulation, or this Agreement.

Section 47.02 - Terminations.

- (1) Whenever possible, a temporary employee shall be given a two (2) week notice of the termination of his/her appointment. Some conditions that may require the release of an employee earlier than two (2) weeks include, but are not limited to:
 - (a) The protection of the health and safety of other employees;
 - (b) The disruption of the office environment or the work processes;
 - (c) The possibility of sabotage by the employee being dismissed;
 - (d) The impact of the employee's performance on the general public's perception of the Department, or the service provided to the public; or
 - (e) A financial emergency which requires an immediate reduction of staff.
- (2) The Union shall be notified when a temporary employee is terminated.

Section 47.03 - Use of the Grievance Procedure. Employees with temporary appointments may not grieve the mere termination of a temporary appointment where the Standard Form-50 states that the termination was based upon a lack of work or funds.

NATIONAL SUPPLEMENT

Between

Department of Housing and Urban Development
and

American Federation of Government Employees Council #222

SUBJECT: GOVERNMENT CHARGE CARD PROGRAM FOR OFFICIAL TRAVEL EXPENSES

1. **SCOPE.** This supplement to the Master Agreement results from negotiations on the impact and implementation of HUD's proposal to issue a Government charge card to eligible employees for payment of official travel expenses.

2. **PURPOSE.** Implementation of the Government employee individual charge card program will improve service to HUD employees traveling on official Government business away from the permanent duty station. This will also limit the amount of cash advance for travel expenses.

3. **CENTRALLY BILLED.** Charges for airline tickets will be centrally billed through Travel Management Centers (TMC). Other charges will be individually billed to individual cardholders. HUD will give future consideration to central billing of lodging and rental car charges when GSA indicates that such billing is recommended.

4. **CARD ISSUANCE.** Diners Club Charge cards will be issued to permanent HUD employees who submit an application and (a) make two or more trips a year, and (b) who request a card when authorized to travel. Employees who decline to apply for the card will not suffer any sort of reprisal or discriminatory treatment for nonparticipation in the credit card program. Also, employees will not be promised or receive any benefit, beyond that established by the program, as an inducement to apply for the Diners Credit card.

5. **TRAINING.** Following completion of HUD briefings designed to fully acquaint employees with the program, to inform them of their rights and responsibilities, and to give them the opportunity to raise questions and concerns about program operations, employees applying for the credit card will sign form HUD-21017, Employee Acknowledgement.

6. **AUTOMATIC TELLER MACHINE (ATM).** As soon as ATM service is available from Diners Club, and within a reasonable period of time after the service is available, HUD will seriously consider providing this service for cardholders.

7. **LATE PAYMENT.** Management will not consider charge card payments past due if the late payment of the bill results from an untimely reimbursement by HUD of an employee's properly completed claim which was submitted on time. In the event of an emergency and the employee is unable to file a claim for reimbursement within 30 days after returning from the trip, she/he shall notify the Program Coordinator who may assist the employee in avoiding suspension/cancellation of the card.

8. **OUT-OF-POCKET EXPENSES.** Out-of-pocket expenses are those which cannot be charged to the card and must be paid with cash. Meals and incidental expenses, and miscellaneous expenses for taxis, tolls, parking, etc. will be considered out-of-pocket expenses.

A travel advance will be issued to any employee for out-of-pocket expenses in accordance with HUD Notice, Travel and Transportation Expense Payment System Government Charge Card Program for Official Travel Expenses. Should an employee decide not to use a Diners Club Government charge card for official travel, an advance cannot exceed the out-of-pocket expenses shown on the travel authorization. Employees will be provided a full travel advance when they meet the criteria contained in Section 17C, Parts 1 and 2 in the HUD Notice on Travel and Transportation Expense Payment System Government Charge Card Program for official Travel Expenses.

9. **TELEPHONE CHARGING.** The Diners Club card may be used to pay for telephone calls made in connection with official travel while away from the permanent duty station.

10. **EMERGENCY CHARGING.** Emergency circumstances, such as an official vehicle breakdown, may justify the use of the charge card for food, lodging, and other expenses covered under the Federal Travel Regulations while the employee is away from his/her permanent duty station in an official travel status.

11. **CREDIT CHECKS.** The parties understand that Diners Club credit checks will only be made when an employee requests reinstatement of a cancelled Diners Club card. HUD's involvement in the program will not be a basis for any cardholder's credit checks by HUD.

12. **CARD USE INFORMATION.** Monthly charge card reports are considered highly confidential material, subject to the privacy act, and must be secured from observation by any party other than persons who have a need to know.

13. **USE OF THE CHARGE CARD.** Use of the charge card does not relieve Management or the employee from observance of rules and regulations governing official travel as set forth in the Federal Travel Regulations and HUD Handbook 2300.2 REV-3, Travel, or successor.

14. **CARD SECURITY.** Each participant in the contractor-issued charge card program is responsible for safeguarding his/her card. This does not preclude cardholders from securing the card at their work stations.

15. **BLACKING OUT CARD NUMBERS.** Blacking out the account number from a receipt is a suggested precaution every traveler may observe.

16. **CUMULATIVE REPORTS.** Cumulative 9-month charge activity reports will be utilized for the purposes of determining whether or not employees meet program eligibility criteria, the level of participation and for establishing budget estimates for travel.

17. **REVOLVING ADVANCE.** Employees holding a revolving advance must liquidate the revolving advance within 30 days of receipt of the charge card or obtain a written certification from the appropriate Assistant Secretary/Regional Administrator that a legitimate need exists for continuing a revolving travel advance.

18. **TIMELY REIMBURSEMENT.** In order to facilitate reimbursement of the travel voucher under the credit card program, all travel vouchers for temporary duty (not relocation) will be processed in the following manner:

Vouchers for temporary duty travel (not relocation) will normally be processed and submitted to Treasury for payment within 18 workdays or less, after receipt by the immediate supervisor. This 18 workday period allows 3 workdays for the supervisor to approve the voucher and 15 workdays for the finance office to process the voucher to Treasury, after receipt of a proper voucher. In the event there is a delay in reimbursement, the accounting office will assist the employee to resolve the matter. Compliance with this provision will be monitored on a monthly basis and the Union will be provided with the results, office by office.

19. **DELAYED REIMBURSEMENT.** In the event of unanticipated delays in HUD processing of the voucher for reimbursement, and upon notification by the employee, the Program Coordinator may assist the employee in avoiding suspension/cancellation of the card.

20. **UNION INFORMATION.** HUD will provide the Union with a disk copy of the final version of the HUD Notice regarding the Government charge card program for official travel expenses. The

HUD Council President will be provided a quarterly statistical analysis on the processing time for the travel voucher.

21. **OBTAINING TICKETS.** Travelers will be informed that charging tickets more than a week in advance may result in employee receipt of the bill prior to HUD reimbursement.

22. **UNUSED TRANSPORTATION TICKETS.** Management will coordinate with Travel Management Centers (TMC) to develop a system which allows employees to attach unused tickets to the travel vouchers for forwarding to the Travel Management Centers for appropriate crediting.

23. **LOST/STOLEN TICKETS.** When a ticket is lost/stolen through no fault of the traveler, the refund application service charge shall be reimbursed. When a replacement ticket cannot be provided, the employee may, with supervisory concurrence, postpone or reschedule the trip.

24. **GRIEVANCE RIGHTS.** Employees may grieve HUD actions relative to the charge card program that fall within the scope of the negotiated grievance procedure.

25. **DEBT COLLECTION.** HUD shall provide no more "assistance" with the collection of Diners Club debts than is currently available regarding the collection of privately owed debts. Unpaid card debts will be treated as any non-work related debt.

26. **ACCOUNTING OFFICE PROCEDURES.** Travelers who use Diners Club charge card must submit all vouchers for reimbursement that include Diners Club charges to the appropriate accounting office for payment.

27. **LOCAL SUPPLEMENTS.** In accordance with Article 5, mid-term bargaining may be conducted at the local/Regional level concerning appropriate local/Regional issues.

28. **DISTRIBUTION.** This supplement will be distributed to employees during the briefing sessions on the Government contractor-issued charge card program for official travel.

29. **EFFECTIVE DATE.** The provisions of this supplement will become effective 30 days from the date of signing. This supplement will be incorporated in the forthcoming Master Agreement.

For the Union:

James K. Harrell
James K. Harrell, Chief Negotiator

Joyce Adams
Joyce Adams

James McGay
James McGay

Joan Ladesh
Joan Ladesh

Approved: David Dalton
David Dalton, President
National Council of HUD
Locals, #222

Date: April 13, 1990

For Management:

Barbara J. Edwards
Barbara J. Edwards, Chief Negotiator

Edwin B. Banks
Edwin B. Banks

Lena Jones
Lena Jones

Priscilla Lewis
Priscilla Lewis

Approved: Matthew Raphael
Matthew Raphael, Chief
Labor Relations Branch

Date: April 13, 1990

NATIONAL SUPPLEMENT

Between

Department of Housing and Urban Development
and

American Federation of Government Employees Council #222

Subject: Drug-Free Workplace Program

Section 1 - General.

The employer agrees that the establishment and administration of its Drug-Free Workplace Program will be done in accordance with E.O. 12564, the Department of Health and Human Services (HHS) Mandatory Guidelines for Federal Workplace Testing Programs, and any subsequent changes thereto, other relevant laws, rules and Governmentwide regulations. For the purposes of this agreement, the term "rules or regulations" shall mean those rules or regulations of authorities outside the agency, such as the Office of Personnel Management, HHS, and other Governmentwide regulations. The parties agree that any subsequent proposed changes to these procedures that impact bargaining unit employees will be implemented subject to the procedures contained in applicable law and the parties existing negotiated agreement. By entering into this agreement, the parties recognize that the Union is not authorized to waive and does not waive any legal challenge, or Constitutional or legal rights employees may have regarding any facet of drug testing.

Section 2 - Employees Subject to Testing.

Testing will be conducted in accordance with law, rule and regulation. E.O. 12564 provides for the following types of drug testing:

"Test for the use of illegal drugs by employees in sensitive positions;

Voluntary employee drug testing;

Reasonable Suspicion testing;

Accident and unsafe practice testing;

Follow-up to counseling or rehabilitation for illegal drug use through the EAP;

Applicant testing;

An employee who voluntarily identifies himself as a user of illegal drugs."

Section 3 - Positions Designated as Sensitive.

- A. The designation of sensitive positions will be done in accordance with applicable laws, rules and regulations. Executive Order 12564 states that "the head of each Executive agency shall establish a program to test for the use of illegal drugs by employees in sensitive positions. The extent to which such employees are tested and the criteria for such testing shall be determined by the head of each agency, based upon the nature of the agency's mission and its employees' duties, the efficient use of agency resources, and the danger to the public health and safety or national security that could result from the failure of an employee adequately to discharge his or her position."
- B. HUD will provide the appropriate local Union President with any amendments to Appendix A of the Plan (Positions Subject to Random Testing). The Amendments contain the justification in support of the position designation. The appropriate local Union President will also be provided a copy of the position description. If the position is encumbered at the time of notification, the appropriate local Union President will be provided the name and duty station of the employee in the position. This information will be sent to the appropriate local Union President at the same time it is sent to the employee. The Union will provide Management with the names and addresses of all local Union Presidents.

Section 4 - Reasonable Suspicion.

- A. FPM Letter 792-19 states, "Reasonable suspicion is an articulable belief that an employee uses illegal drugs drawn from specific and particularized facts and reasonable inferences from those facts."
- B. Reasonable suspicion testing will be conducted in accordance with applicable laws, rules and regulations.

Section 5 - Accident or Unsafe Practice Testing.

The Department is committed to providing a work environment that is safe and secure. Employees involved in accidents while operating agency motor vehicles, or who engage in unsafe practices that are job-related and that pose a danger to staff, the public, or the overall operation of the organization may be

subject to drug testing under the provision of E.O. 12564. This testing will be conducted in accordance with applicable law, rule, or regulation.

Section 6 - Volunteer Testing.

HUD will not coerce or require employees to participate in voluntary programs established under Section 3(b) of E.O. 12564, or any other voluntary program. Participation or non-participation in these programs will neither advantage nor disadvantage employees in any aspect of their employment. To the extent that random testing may be conducted on volunteers, it must be conducted in accordance with applicable laws, rules and regulations.

Section 7 - Notification to Employees.

- A. HUD agrees to make every effort to fully inform employees about the goals, objectives, policies and procedures of any drug testing plan.
- B. Sixty (60) calendar days prior to the implementation of any drug testing plan, HUD will notify all employees that testing for use of illegal drugs may be conducted.
- C. HUD will give employees in Headquarters and Regional Office cities an opportunity to attend briefings on the Drug-Free Workplace Program prior to the implementation of the testing component of the program in each location. HUD will additionally provide briefings, awareness sessions and/or educational materials for all other employees prior to the implementation of the testing component in each locality. At briefings, employees shall have the opportunity to ask questions and get answers. Educational packages and any subsequent staff bulletins shall include the name and number of a contact person who will answer employees' questions. An annual staff bulletin will be issued to provide updates to employees on the status of the Drug-Free Workplace Program. Briefings, awareness sessions and educational materials shall include, but are not limited to the following:
 1. Participation in the program does not necessarily imply suspicion of drug use;
 2. Information about the MRO process as set forth in the HHS guidelines, including the procedures for submitting documentation that may support a justification for a positive test result;

3. The consequences of an unjustified positive test result or a negative test result;
 4. The reasons for the urinalysis test, and the circumstances under which testing may occur;
 5. Notice of the opportunity for and the consequences of an employee voluntarily identifying himself/herself as a user of illegal drugs and willing to undertake counseling and rehabilitation;
 6. Information about the test procedures and the HHS guidelines regarding quality assurance and control, and confidentiality;
 7. The availability of drug abuse counseling and referral services, including the name and telephone number of the local EAP Coordinator;
 8. The fact that the employee has a right to union representation as provided in the Master Agreement; and
 9. The consequences should they refuse counseling or rehabilitation.
- D. On the day of drug testing, the employee to be tested shall receive in writing the information set forth below. If the testing is to take place at a location other than the employee's duty station, the information shall be given prior to leaving the duty station. Otherwise, the information shall be given to the employee prior to the scheduled collection time. Inadvertent failure to provide this information will not invalidate the results of an employee's drug test.
1. Whether the test is voluntary or mandatory;
 2. The reasons for ordering the drug test;
 3. How the employee was selected for the test;
 4. The consequences of a positive result or refusal to cooperate, including adverse action;
 5. What drug(s) or class of drugs they are being tested for;
 6. The MRO process as set forth by the HHS guidelines, including the procedures relating to the submission of information to justify a

positive result caused by prescription medication, non-prescription medication or other substance;

7. The location of drug abuse counseling and referral services available through the Employee Assistance Program to which he/she can submit prior to testing. (However, the test will not be delayed to allow the employee to seek assistance);
8. The fact that the employee has a right to Union representation only as provided in the Master Agreement or the Labor Relations Statute;
9. The right to a split sample and a secondary laboratory test;
10. That employees may contact their Health Plan Representative to obtain information about possible cost reimbursement associated with a secondary laboratory test; and
11. The consequences should they refuse counseling or rehabilitation.

Section 8 - Methods and Procedures for Testing.

- A. The parties agree that methods and equipment used to test for abuse of drugs yield the best results when the most reliable are used. Therefore, HUD agrees to review the Federal Register expeditiously to ensure that its contractor remains an HHS certified laboratory. In the event that the contractor is decertified in accordance with HHS Guidelines, HUD shall order the cessation of any further testing at the decertified laboratory. HUD agrees to cease further collections until an HHS certified laboratory is available to accept Agency specimens.
- B. HUD agrees that the following procedure will be utilized subject to law, rule or regulations, to assure drug testing is reliable and employee concerns are recognized:
 1. The collection, handling, and transportation of all specimens will be strictly in accordance with HHS Chain of Custody Procedures, other HHS requirements, and any other pertinent laboratory requirements.
 2. The individual may provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy in accordance with the HHS guidelines. HUD will make every

reasonable effort to ensure that the specimen will be provided in a sanitary area.

3. At the employee's request, the urine sample will be split at the time of collection, and will be transmitted to an Agency contractor (SECONDARY LABORATORY) for storage in accordance with Chain of Custody procedures. The split sample will be retained in an appropriate, refrigerated, and secure storage facility in accordance with HHS Guidelines for a period of no longer than fifteen days. The cost of conducting the split sample, the materials, postage, and storage costs are the responsibility of the Agency.

Upon notification of a positive confirmatory test from the PRIMARY LABORATORY, the MRO will notify the employee and he/she will have the opportunity to provide any/all relevant information that will assist the MRO in determining whether the positive test result is justified. At the employee's request, the MRO will notify the SECONDARY LABORATORY to conduct a confirmatory test on the retained split sample. This confirmatory test will be conducted in accordance with HHS Guidelines regarding "Retesting of Specimens" and will not utilize cutoff levels. The cost of the confirmatory test will be billed to the employee by the agency if the results do not refute the results of the original test.

Should the employee requested confirmatory test conducted by the SECONDARY LABORATORY utilizing the split sample refute the original test conducted by the Agency PRIMARY LABORATORY, the original test result will be negated and the Agency will assume the cost of the laboratory test in addition to the other aforementioned costs.

4. If sufficient volume of urine is not able to be provided within a reasonable period of time in accordance with HHS Guidelines, the collection site person will contact an appropriate authority within HUD. Normally, "a reasonable period of time" should not extend beyond the employee's scheduled work day. Consideration will be given to re-scheduling the employee for testing at a later date.

5. The authorized collection agent will collect all drug testing specimens. HUD agrees to monitor the collection contract to assure compliance with applicable HHS Guidelines.
6. Employees will not be required to reveal legitimate use of legal or prescription drugs at the time of collection. Employees may, however, provide this information if they so desire. This information is confidential and will only be released to the MRO.
7. Any employee who tests positive will be afforded an opportunity to justify the test results in accordance with HHS guidelines, including the opportunity to present evidence of the legitimate use of prescription medication, non-prescription medication, or other substance.
8. If the test is positive and the employee provides evidence that Management concludes demonstrates a disabling drug dependency, Management will provide any appropriate reasonable accommodations in accordance with applicable laws, rules and regulations. Follow up testing conducted on employees who successfully complete a rehabilitation program will comply with applicable laws, rules and regulations.
9. Upon receipt of a positive test result resulting from the GC/MS (confirmatory test) conducted by the HHS certified laboratory, the MRO, in accordance with HHS guidelines will examine alternate medical explanations for the test results. If the MRO concludes that the employee's medical documentation does not provide a legitimate medical explanation for the positive test result, the MRO must explain the basis for his/her rejection of the documentation in writing for the benefit of the employee. If the MRO determines there is a legitimate medical explanation for the positive test result, he/she shall determine that the result is consistent with legal drug use and will take no further action. The test result reported back to the agency would be "negative."
10. When requesting that collection times be scheduled for drug testing under Reasonable Suspicion testing and Accident or Unsafe Practices testing, where appropriate, the Authorizing Management Official will take into consideration leave and

travel plans which have been scheduled and approved by the employee's supervisor. Management retains the right to cancel leave or travel orders as the circumstances warrant.

Section 9 - Confidentiality and Safeguarding of Information.

The parties recognize the responsibility to protect the confidentiality of employees under any drug testing plan. This process shall include the following:

- A. The collection, handling, and transportation of all specimens will be strictly in accordance with HHS Chain of Custody Procedures, and other HHS requirements. Confidentiality and safeguarding of information will be handled in accordance with Section 8.B.1.
- B. Employees will be assured confidentiality in all matters relating to drug testing. Information will only be released in accordance with law, rule or regulation.
- C. The agency shall destroy all agency records concerning non-confirmed or justified test results as required by law, rule, or regulation.
- D. In accordance with all applicable laws, rules, regulations, guidelines, and subsequent changes thereto, the employee who was subject to a drug test shall, upon written request, have copies of all records relating to his or her drug test within the control of the agency.

Section 10 - Counseling and Rehabilitation.

- A. Employees whose tests have been confirmed positive will be referred to an Employee Assistance Program Counselor for counseling and/or referral assistance for appropriate treatment and rehabilitation.
- B. To the extent feasible and to the extent of available HUD resources, counseling and rehabilitation services will be offered to employees and their family members with substance abuse problems, and also to employees who have family members with substance abuse problems.
- C. After successful completion of rehabilitation, Management will seriously consider returning the employee to the same or similar position as the one occupied before the drug problem was identified.

Section 11 - Acknowledgement Forms.

No employee shall be required to sign any document stating that he or she agrees with a drug testing program. Employees' signatures on any acknowledgement documents will merely signify notice of the terms of the document.

Section 12 - Employee Rights.

- A. Employees may grieve disputes or conflicts only as provided in the Master Agreement.
- B. Any travel and/or per diem required in connection with drug testing will be provided in accordance with Federal Travel Regulations and HUD's current travel policy.

Section 13 - Union Rights.

- A. Prior to implementation and upon request by local Union representatives, local Management will meet with Union representatives at the local level to discuss and answer questions on the planned implementation of the Drug-free Workplace Plan. Once requested, the meeting will be held as soon as reasonably possible. The sole purpose of the meeting will be to facilitate a smooth implementation process by ensuring that both Union and Management representatives have a common understanding of major components of the plan.
- B. Upon request, Management shall timely provide the Union copies of all statistical data pertaining to drug testing, sanitized copies of reasonable suspicion determination notices to employees, and pertinent parts of its annual report to Congress which pertains to the Drug-Free Workplace Program. The reasonable suspicion notice to the employee will be sanitized to guarantee total anonymity of the employee.

Section 14 - Savings Clause.

To the extent that any of the provisions of this agreement are inconsistent with the HHS guidelines, or any subsequent amendments thereto, such guidelines or amendments shall supersede this agreement.

For Management:

Matthew Raphael
Matthew Raphael, Chief
Negotiator

Barbara Edwards
Barbara Edwards

Maureen M. Hilleary
Maureen Hilleary

Jeffrey McArthur
Jeffrey McArthur

Approved:

Emmett Aldrich
Emmett Aldrich
Director
Management and Labor
Relations Division

Date:

4-27-90

For the Union:

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James Harrell, Chief
Negotiator

Carolyn Federoff
Carolyn Federoff

Joan Ladesh
Joan Ladesh

Robert Covell
Robert Covell

David Birt
David Birt

Approved:

David Dalton
David Dalton
President
National Council
of HUD Locals, #222

Date:

4-27-90

National Supplement
Between
Department of Housing and Urban Development
and
American Federation of Government Employees Council #222.

Subject: ADP Security Program

1. **Scope.** The scope of this agreement relates to the impact and implementation of Management's proposed Handbook 2400.23, ADP Security Handbook.

2. **Purpose.** The purpose of this supplement to the ADP Security Handbook is to balance the statutory and regulatory requirements that the Department adequately protect the security of the data and information of its systems, while ensuring that such ADP security requirements do not deny, as stated in Executive Order 10450, "individual employees fair, impartial, and equitable treatment at the hands of Government, or rights under the Constitution and laws of the United States or this order."

3. **Corrections to Background Investigation.** Employees will be given an opportunity to correct or add to the records of an ongoing background investigation.

4. **Sensitivity Levels.** The parties agree that the sensitivity of positions will be determined in relation to the sensitivity level(s) of Departmental systems accessed by employees, and that such sensitivity relates to system-by-system designation as to its data sensitivity and mission criticality of the Department in accordance with standards established in FPM 732. Any determination that an employee must undergo a security screening will be based strictly on sensitivity level(s) of Departmental systems accessed by the employee.

The Union will be given notice of the sensitivity level of all sensitive systems, which will be updated annually and provided by Management.

5. **Orientation and Training.** As a part of new employee orientation, all entering HUD employees will receive, as a part of their Orientation Process, materials describing their responsibilities relative to their potential access and use of sensitive and critical data or systems. The Union will receive an advance copy of orientation materials intended for the new employees. Employees will be required to acknowledge receipt of such materials.

Employees whose positions require access to sensitive data and systems will be offered periodic (at least annual) training on ADP Security awareness and practices. Management will determine and designate which employees will receive such training based on the sensitivity of systems accessed. The Union will receive copies of material distributed during this training.

6. **Debriefing.** Supervisors shall debrief all employees terminating assignments with sensitive systems. Such debriefings will constitute such discussions as employee reminders regarding non-disclosure of sensitive data to which employees may have been exposed. The contents of these debriefings will contain the standard elements identified in Section 4-7 of the ADP Security Handbook. Management will identify to the employees those permissible persons to whom subsequent disclosures may be made, if any, the nature of the sensitive material which should not be disclosed. Employees will be briefed on their continuing responsibilities and will be asked to sign an acknowledgement of receipt of such debriefing.

7. **Access Removal.** Management should provide notice to the Union and employee at the time it removes an employee's access to sensitive materials as a result of any adverse action and describe the reason for the action, consistent with the contract and Federal personnel law.

8. **Sensitive Position Designations.** Management determinations regarding sensitive position designations will be made in accordance with applicable law and regulation. A determination as to position sensitivity regarding other programs will be made independent of the provisions of the HUD Handbook on ADP Security, based on criteria of those programs.

9. **Grievances.** The negotiated grievance procedure will be available with respect to any personnel actions resulting from findings made in connection with the ADP Security Handbook. This provision in no way diminishes the availability of employees' rights to grieve in accordance with the Master Agreement between the parties.

10. **Work Product Retrieval.** Employees' rights to access or retrieve HUD work products electronically stored in Department systems shall be protected while the employee remains in a specific sensitive position, unless an ongoing investigation results in management's determination of the need to limit access. Upon leaving such a position, management will give consideration for reasonable requests for employees' final access to that system.

11. **Badges.** The parties recognize that the Agency's current need for ADP security is being met without resort to the wearing of badges, and is expected to continue, except as identified in selected highly sensitive locations determined by management.

12. **Penalties.** Whenever "penalties" are discussed in the ADP Security Handbook, the meaning shall be in accord with the definition of penalties contained in the FPM and appropriate implementing HUD guidance.

13. **Positions Identified for Background Investigations.** Management will make every effort to keep to a minimum those positions requiring security background investigations, consistent with prudent deployment of staff and program mission accomplishment. However, when positions have been designated as requiring security background investigations, the incumbents must meet security requirements. Employees who choose not to undergo Background Investigation which would be required because of a position's ADP security sensitivity may be reassigned to other available positions at management's option.

14. **Password Disclosure.** Non-negligent inadvertent disclosure of one's password shall not necessitate disciplinary action.

15. **Security Standards.** HUD's ADP Security Handbook standards are promulgated in accordance with the standards established by the Secretary of Commerce pursuant to the Computer Security Act of 1987, and other relevant laws, rules, and regulations.

16. **Uniform Criteria.** The criteria used to assess the sensitivity and criticality of HUD ADP systems, and the positions within those systems, will be uniformly applied on a Department-wide basis.

17. **Privacy Act Training.** ADP Security Handbook training will include appropriate treatment of the requirements of the Privacy Act.

18. **Union Receipt of Background Investigation Lists.** As the information identifying positions requiring Background Investigations becomes available, the Union will periodically receive lists of those affected positions.

19. **Lack of Opportunity for Training.** Management will give appropriate consideration to an employee's lack of opportunity to attend ADP Security training during any determination of the consequences of the employee's violation of security requirements.

20. **Allegation of Security Breach.** In determining whether disciplinary action is appropriate with respect to a security breach, management will weigh all of the relevant facts, including whether the breach was a mere allegation.

21. **Repeat Background Investigations.** Employees who have undergone the appropriate Background Investigation and can demonstrate its currency, will not be required to undergo another one unless their current job requires a higher level of investigation or the period of the current investigation expires.

22. **Vacancy Announcements.** To be added to Position Vacancy Announcements, as appropriate: To the extent possible, vacancy announcements will state the sensitivity level of the position to be filled, and will state that the position may be subject to Background Investigations to fulfill execution of functions relative to access to sensitive and critical data and/or systems of the Department.

23. **PD's and EPPES.** Where appropriate, management will review and amend position descriptions and/or performance standards to reflect any changed or additional duties relating to ADP security.

24. **Access to Systems.** The Department will ensure that systems security controls will be consistently applied so as to enable adequacy of employees' security access to systems required to accomplish position functions.

25. **ADP Security Reviews.** When possible, the Union will be notified of management's intent to perform planned reviews of ADP security in a specific work environment.

26. **Log Notice.** Where an employee's name is placed on a security violations log, the employee will be notified and provided an opportunity to respond to the person responsible for keeping the log.

27. **ADP Security Implementation.** With regard to implementing ADP security systems responsibilities, management will make every effort to minimize the effect on employees.

28. **Information Disclosure.** No employee having access to or possession of critical or sensitive information shall disclose this information to another individual not cleared for that information, or having the need to know the information, without authorization from the responsible supervisor.

29. **Reassignment.** Employees who choose not to undergo Background Investigations which would be required because of a position's ADP security sensitivity may be reassigned to other available positions at management's option. Employees choosing to leave such positions may do so without prejudice.

30. **Handbook Changes.** Pursuant to this Supplemental Agreement, the draft proposed ADP Security Handbook 2400.23 will incorporate the following changes into the final ADP Security Handbook 2400.23:

- a. Paragraph 3-1. a., ... serious breaches of security, such as sharing of passwords; alteration of systems to enable illicit personal gain; and installing personal, unauthorized software which might result in infecting the system or equipment of the Department with a computer virus
- b. Paragraph 4.5. a. (Substitute) Management shall review program functions to ensure that control of an entire sensitive function, such as collection, disbursement, and validation of collections, including automated entry of relevant data and systems, are not under a single individual's control.
- c. Paragraph 4-5 - Delete the last sentence of b. "The operator who ... to security."
- d. Delete paragraph 4-6, Labor Disputes, in its entirety.
- e. Paragraph 4-7. b. (Substitute) Removal, Suspension, and/or Furlough. Supervisors should be particularly sensitive to conditions surrounding intended actions on employees, such as removal, suspension, or notification to furlough for 30 days or less. The supervisor may consider removing the employee from the sensitive area(s) before informing him/her of such actions. Consideration might be given to rotating the employee to a non-sensitive position before such an action (an easy procedure if the jobs rotate regularly), or to removing him/her from the sensitive job's site and not allowing him/her to return to that location. Where the supervisor determines to take such action, the employee should not have access to sensitive materials after receiving that notice and may require an escort.

- f. Paragraph 5-4 e. (3) (Substitute) Employee Awareness. Employees are encouraged to be alert to the presence of unknown visitors in their work space as it may affect the security of data, systems, or equipment of the Department and report any unusual circumstances to appropriate management.

For the Union:

James K. Harrell
James K. Harrell
Chief Negotiator

David B. Birt
David B. Birt

Robert H. Covell
Robert H. Covell

Alice P. Thomas
Alice P. Thomas

Approved: David A Dalton
David A Dalton
President
National Council of HUD
Locals, 222

Date: 4/15/77

For Management:

Edwin Banks
Edwin Banks
Chief Negotiator

Barbara J. Edwards
Barbara J. Edwards

John T. Murphy
John T. Murphy

Frank J. Setash
Frank J. Setash

Approved: Matthew N. Raphael
Matthew N. Raphael
Chief
Labor Relations
Branch

Date: _____

INDEX OF APPENDICES

Appendix A	Status of Office Recognition Coverage & Agreements in HUD Covered by National HUD/AFGE Contract
Appendix B	AFGE Union Representation Biweekly Time Report*
Appendix C	Employee Grievance Form*
Appendix D	AFGE Bargaining Unit Work Plan and Performance Rating
Appendix E	Progress Review Record
Appendix F	Attendance Record Sheet

*Individuals may copy this form on office copiers as needed. These appendices are not lettered so that they may be copied.

REGION V

Chicago Regional Office	Professionals & Nonprofessionals
Springfield Office	Professionals & Nonprofessionals
Columbus Office	Nonprofessionals
Cincinnati Office	Nonprofessionals
Cleveland Office	Nonprofessionals
Milwaukee Office	Professionals & Nonprofessionals
Minneapolis-St. Paul Office	Professionals & Nonprofessionals
Indianapolis Office	Nonprofessionals

REGION VI

Fort Worth Regional Office	Nonprofessionals
Tulsa Office	Nonprofessionals
Lubbock Office	Nonprofessionals
Dallas Office	Nonprofessionals
New Orleans Office	Nonprofessionals
Oklahoma City Office	Nonprofessionals
San Antonio Office	Professionals & Nonprofessionals
Houston Office	Nonprofessionals
Albuquerque Office	Nonprofessionals
Shreveport Office	Nonprofessionals
Little Rock Office	Nonprofessionals

REGION VII

Kansas City Regional Office	Professionals & Nonprofessionals
Omaha Office	Nonprofessionals
Des Moines Office	Nonprofessionals
St. Louis Office	Nonprofessionals

REGION VIII

Denver Regional Office*	Professionals & Nonprofessionals
Salt Lake City Office*	Professionals & Nonprofessionals
Helena Office*	Professionals & Nonprofessionals
Casper Office*	Professionals & Nonprofessionals

REGION IX

Los Angeles Office	Professionals & Nonprofessionals
San Diego Office	Professionals & Nonprofessionals
Santa Ana Office	Professionals & Nonprofessionals
Tucson Office	Professionals & Nonprofessionals
Phoenix Office	Professionals & Nonprofessionals

REGION X

Seattle Regional Office
Spokane Office
Portland Office
Boise Office

Professionals & Nonprofessionals
Professionals & Nonprofessionals
Nonprofessionals
Nonprofessionals

*Consolidation approval pending with the Federal Labor Relations Authority.

Employee Grievance

U.S. Department of Housing and Urban Development



- Employees must use this form for filing grievances at step 2 & step 3 of the grievance procedure.
- Use of this form is optional at Step 1.
- Check one of the boxes: Step 1 Step 2 Step 3

Name of grievant:	Office code:	Duty phone:
Union representative, if any:	Office code:	Duty phone:

Briefly describe the incident causing this grievance. Include date, time, and place, management officials involved, witnesses, if any. If more space is needed, continue on reverse or use separate sheet of paper:

Identify the article(s) or section(s) of the master agreement/local supplement, law, or regulation alleged to have been violated:

Identify the remedy you seek:

- Questions and/or further correspondence in this matter should be sent to the union representative and the grievant.
- The employee bears the responsibility for meeting all time limits for the filing and appeal of this grievance.
- Attach a copy of the record of informal grievance discussion, if any.

Signature of grievant & Date:	Acknowledgement of receipt by Management (if personally delivered) Signature & Date:

If your grievance is not resolved to your satisfaction, you may submit the grievance to the next step of the grievance procedure by signing and dating this form (at right) and attaching a copy of management's reply. Any additional information you believe is pertinent should also be attached.

Signature of grievant & Date:

Employee Comments

Rating Official/Reviewing Official Comments

Progress Review Record

U.S. Department of Housing and Urban Development

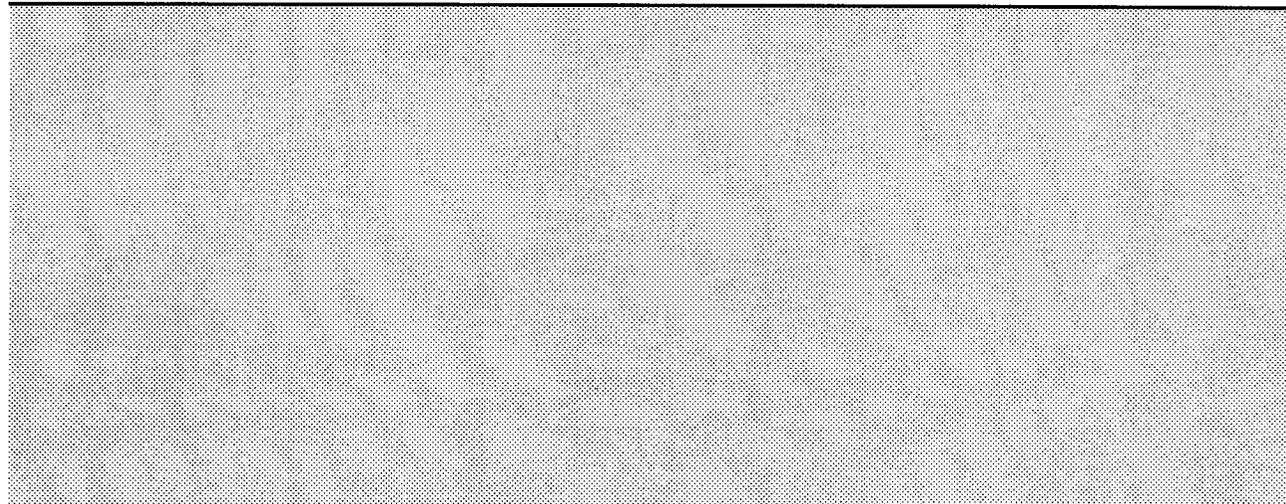


Employee Name	Critical Element No.	Current Performance Level				
		Outstanding	Highly Successful	Fully Successful	Marginally Successful	Unacceptable
Position Title, Series, Grade						
Organization						
Date of Progress Review Meeting						

(Name of) Reviewing Official Reviewing Official's Signature (Signature signifies that Reviewing Official reviewed this form)
X

(Name of) Rating Official Rating Official's Signature (Signature signifies that Progress Review meeting was held with employee)
X

Employee's Signature (Signature signifies that content of this form was discussed with employee at Progress Review meeting. It does not signify agreement or disagreement with what is recorded here) X





Attendance Record Sheet

U.S. Department of Housing and Urban Development

Organization _____

Date _____

Page () of ()

Instructions: All employees shall be responsible for recording and certifying their arrival and departure times on this register on a daily basis. Employees shall sign in immediately prior to beginning work and sign out upon completion of the work day. Sign in and sign out shall be sequential. No employee will be required to sign out or sign in for the lunch period.

Arrival Time	Name	Departure Time	Name	Hours Absent (Less than 8 hours)		*Code	**Approved Overtime / Credit Hours Worked		*Code
				From	To		From	To	
	Print Name		Print Name	From	To		From	To	
	Signature		Signature	From	To		From	To	
	Print Name		Print Name	From	To		From	To	
	Signature		Signature	From	To		From	To	
	Print Name		Print Name	From	To		From	To	
	Signature		Signature	From	To		From	To	
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	Signature		Signature	From	To		From	To	
	Print Name		Print Name	From	To		From	To	
	Signature		Signature	From	To		From	To	
	Print Name		Print Name	From	To		From	To	
	Signature		Signature	From	To		From	To	
	Print Name		Print Name	From	To		From	To	
	Signature		Signature	From	To		From	To	
	Print Name		Print Name	From	To		From	To	
	Signature		Signature	From	To		From	To	
	Print Name		Print Name	From	To		From	To	
	Signature		Signature	From	To		From	To	

Supervisor's Signature (indicates only that employee arrival and departure times are accurate) Date _____

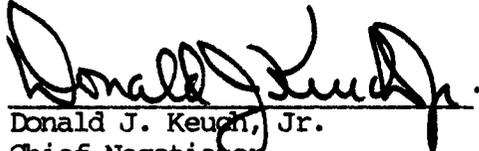
* Codes: A=Annual Leave S=Sick Leave L=LWOP E=Excused Absence CT=Comp. Time OT=Overtime Worked
O=Other (Court/Military) RA=Restored Annual Lv. CH=Credit Hrs. H=Holiday Worked COP=Injury Compensation

** The appropriate authorization form must be on file for all time recorded.

Use other side of this form for additional signatures.

form HUD-25006 (11-89)

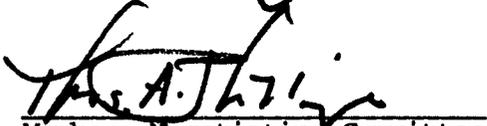
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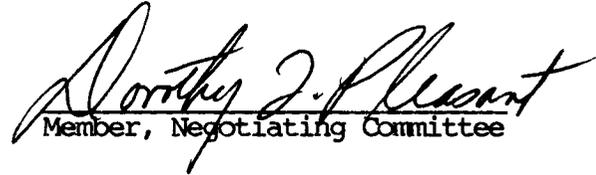

Donald J. Keugh, Jr.
Chief Negotiator

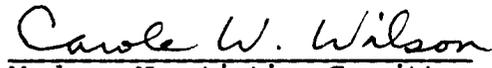

David Dalton
Chief Negotiator


Patricia M. Jameson
Member, Negotiating Committee

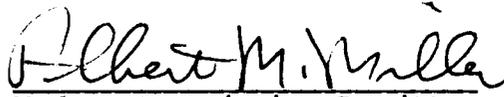

Eugene D. Jackson
Member, Negotiating Committee


Thomas A. Thigpen
Member, Negotiating Committee

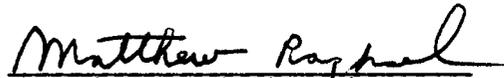

Dorothy J. Pleasant
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Carole W. Wilson
Member, Negotiating Committee


James R. Harrell
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Albert M. Miller
Member, Negotiating Committee


Barbara Davidson
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Matthew Raphael
Technical Representative

FOR MANAGEMENT:

FOR THE UNION:


Claire E. Freeman
Assistant Secretary for Administration
U.S. Department of Housing and
Urban Development


John N. Sturdivant
President
American Federation of
Government Employees,
AFL-CIO

Date Signed: April 24, 1990

Effective Date: June 11, 1990