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PREAMBLE

The Parties agree to mutually establish and maintain a work environment that ensures the integrity of the Federal Service, promotes the most effective and efficient delivery of Agency services, protects the interest of American taxpayers, promotes good workmanship and the principles of good management, protects human dignity, assures equal and fair treatment of employees, and to the extent practicable, provides a work experience for all employees that is personally challenging, rewarding, and that provides equal opportunity for professional growth and success.

Employees and managers shall conduct themselves in a professional and business-like manner, characterized by mutual courtesy and consideration in their day-to-day working relationship.

The Parties, especially Union representatives and first-line supervisors, are encouraged to meet as necessary to informally discuss and attempt resolution of matters or problems of concern to either party, including, but not limited to, employees' concerns or dissatisfactions and contract administration.

It is the intent of the parties to establish procedures to accommodate the Union's legitimate need to perform representational activities specified in this Agreement and as permitted by law. It is also the intention of the Parties to accommodate the Employer's legitimate interest in ensuring no unreasonable disruption of the Employer's ability to carry out its critical day-to-day operations and perform its overall mission.

The parties agree that most grievances and complaints should be resolved in an orderly, prompt, and equitable manner that will maintain the self-respect of the employee and be consistent with the principles of good management and public interest.

ARTICLE 1 - PARTIES TO THE AGREEMENT, RECOGNITION, AND DEFINITION OF BARGAINING UNIT AND DEFINITION OF DAYS

1.1 PARTIES TO THE AGREEMENT

The parties to this Agreement are the U.S. Department of Agriculture (USDA), National Appeals Division (NAD), (hereinafter referred to as the "Employer", "Agency", or "Management") and the American Federation of State, County, and Municipal Employees (AFSCME) Council 26, AFL-CIO, Local 3020, (hereinafter referred to as the "Union.")

1.2 UNIT OF RECOGNITION

The unit of recognition covered by this Agreement is the unit certified by the Federal Labor Relations Authority (FLRA) in Case Numbers WA-AC-50040 and WA-RP-70033. The Employer recognizes AFSCME Council 26, AFL-CIO, as the exclusive representative of all employees (hereinafter referred to as "employees" or "bargaining unit employees") in the bargaining unit as defined below.

1.3. DEFINITION OF A BARGAINING UNIT

This Agreement covers all nonprofessional employees employed by the U.S. Department of Agriculture, National Appeals Division. This Agreement does not cover professional employees, Management officials, supervisors, confidential employees, employees engaged in Federal personnel work in other than a purely clerical capacity, and employees described in Title 5, United States Code (U.S.C.), Section 7112(b)(2), (3), (4), (6) and (7). In addition, the following groups of employees are excluded: stay in school, summer hires, cooperative education program students and temporary employees.

1.4. DEFINITION OF DAYS

Days in this agreement are defined as calendar days unless otherwise noted.

ARTICLE 2 – PROVISIONS OF LAW AND REGULATIONS

In the administration of all matters covered by this Agreement, the parties will be governed by this Agreement, existing or future Agency and the Department rules, regulations and policies that do not conflict with this Agreement, Government-wide rules and regulations, and Federal law.

All past practices and previously negotiated agreements between AFSCME Local 3020 and the Employer that conflict with the terms and conditions of this agreement are no longer recognized.

ARTICLE 3 - MANAGEMENT RIGHTS

Basic Rights (5 U.S.C. Section 7106)

- A.** Subject to subsection (b) of this section, nothing in this Article shall affect the authority of any management official of the Agency—
- (1) to determine the mission, budget, organization, number of employees, and internal security practices of the Agency; and
 - (2) in accordance with applicable laws—
 - (a) to hire, assign, direct, layoff, 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 filling positions, to make selections for appointment from—
 - (1) among properly ranked and certified candidates for promotion; or
 - (2) any other appropriate source; and
 - (d) to take whatever actions may be necessary to carry out the Agency mission during emergencies.
- B.** Nothing in this section shall preclude the Agency and the Union from negotiating—
- (1) at the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
 - (2) procedures which management officials of the Agency will observe in exercising any authority under this section; or
 - (3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

ARTICLE 4 – UNION RIGHTS

- 4.1 The Union is the exclusive representative of the employees in the bargaining unit and is entitled to act for, and negotiate collective bargaining agreements covering these employees. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to Union membership, in accordance with the Federal Labor-Management Relations Act (FLMRA) and interpretative case law.
- 4.2 For the purpose of administration of this Agreement, the Employer agrees to recognize representatives of AFSCME Council 26, Local 3020.
- 4.3 The Union has the right to represent an employee or group of employees in formal discussions between one or more representatives of the Agency and one or more employees in the bargaining unit concerning conditions of employment. The Union will be given reasonable notice of, and an opportunity to attend formal discussions.
- 4.4 The Agency will provide the Union an opportunity to be present at the examination of an employee in the bargaining unit by a representative of the agency in connection with an investigation if: 1) the employee reasonably believes that the examination may result in disciplinary action against the employee, and 2) the employee requests Union representation.
- 4.5 The Union has exclusive right to represent employees under the negotiated grievance procedure in this Agreement. An employee or group of employees may present a grievance or complaint without representation by the Union.
- 4.6 **REASONABLE NOTICE**: The Union will be given reasonable notice of, and provided an opportunity to attend formal discussions concerning the settlement of a grievance, personnel policy or practice, or other conditions of employment.
- 4.7 **RESTRAINT**: Union officials and representatives performing duties in consonance with this Agreement and under the FLMRA will not be subject to restraint, coercion, or reprisal, or discrimination as the result of performing such duties

4.8 NOTIFICATION OF CHANGES IN WORKING CONDITIONS: The parties agree that this Agreement encompasses the interests at the time of negotiations. All issues were fully discussed and are included in this Agreement. The parties recognize that changes will occur in the workplace regularly. When changes occur, the parties will be governed by the following provisions: Whenever possible, Management will provide notification to the Union at least 15 working days of an anticipated implementation date of changes in conditions of employment involving bargaining unit employees. If the Union wishes to negotiate on the proposed changes, it will notify Management within 10 days after receipt of Management's notice. The Union then must provide negotiable proposals to Management at least three (3) working days prior to scheduled negotiations. Failure to provide notice within 10 days constitutes a waiver of the Union's rights to negotiate.

If following any informal discussions, the parties are unable to reach agreement on the proposed change, they shall commence negotiations on a mutually agreeable date and site before the date of implementation. Absent mutual agreement on a date and site, such negotiations will commence at 9:00 a.m. at the Headquarters location on the tenth (10) workday following the date the Union's proposals were first received by management. Management will implement change in conditions of employment in compliance with the Federal Service Labor Management Relations Statute.

ARTICLE 5 - EMPLOYEE RIGHTS

- 5.1** Each employee shall have the right to form, join, or assist any labor organization, or to refrain from such activity, freely, and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided, such right includes the right:
- A. to act for AFSCME in the capacity of a representative and the right, in that capacity, to present the views of AFSCME to heads of agencies and other officials of the Executive Branch of the Government, Congress, or other appropriate authorities:
 - B. to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.
- 5.2** An employee has the right to be represented by the Union at formal discussions between one or more representatives of the Employer and one or more employees in the Unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment.
- 5.3** Each employee has the right to be represented by the Union at any Management-initiated investigative meeting that may result in disciplinary action, or that the employee believes may result in disciplinary action, and shall be given the opportunity to obtain such representation, upon request.
- 5.4** An employee may be represented by a representative of the employee's own choosing, in any employee-related appeal action not under the negotiated grievance procedure. The employee may exercise grievance or appellate rights established by law, rule, or regulation. When exercising these rights and the rights under the negotiated Agreement, employees shall be granted a reasonable amount of official time for initiating, reviewing, preparing, presenting, and participating in the grievance process, in accordance with Article 19.
- 5.5** Employees covered by this agreement may, without fear of penalty or reprisal, engage in the disclosure of information which the employee reasonably believes evidences a violation of law, rule, or regulation; or evidences mismanagement, a waste of funds, an abuse of authority, or a danger to public health or safety, in accordance with applicable laws and regulations.
- 5.6** Each employee has the right to file a complaint or grievance, act as a witness, and exercise any appeal or other rights granted by law, rule,

regulation or this Agreement without fear of restraint, coercion, discrimination, or reprisal.

- 5.7** Copies of rules, regulations, and policies under which employees are obligated to work will normally be available at the employee's duty station.
- 5.8** Employee counseling or cautions on conduct or unacceptable performance, or verbal warnings will be conducted in a setting that protects the employee's confidentiality.
- 5.9** With Management's approval, employees have the right to use official time.
- 5.10** Each employee has the right to choose whether to participate in Federally-sanctioned charitable and/or investment activities including, but not limited to, CFC, Savings Bond drives, and the like, freely, without coercion, and without fear of reprisal. Each employee also has the right to have his or her choices made and held in confidence.

ARTICLE 6 - CONFLICT OF INTEREST

6.1 POLICY

In accordance with 5 C.F.R. 2635.101, each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal government, each employee shall respect and adhere to the principles of ethical conduct set forth in applicable laws, regulations, and executive orders. The Agency will continue to ensure that all employees are trained on conflict of interest matters for which employees are to be knowledgeable and accountable, in conjunction with providing a copy of the Standards of Ethical Conduct for Employees of the Executive Branch.

6.2 CONFLICT OF INTEREST

In accordance with the Standards of Ethical Conduct for Employees of the Executive Branch, employees who find themselves in an actual conflict, a potential conflict, or in a situation that could give the appearance of a conflict of interest shall immediately make known to their supervisor the nature of the situation. The employee shall state any suggestions as to how the situation may be remedied. Employees who fail to make such situations known within ten (10) days may be subject to disciplinary action. In accordance with 5 C.F.R. 2635.101(b)(14), whether particular circumstances create an appearance that the law or applicable standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts. Employees shall disclose fraud, waste, abuse, and corruption to appropriate authorities.

6.3 OUTSIDE EMPLOYMENT

An employee shall not engage in outside employment or other outside activity that conflicts with his/her official duties. An activity conflicts with an employee's official duties: if it is prohibited by Statute or by a Departmental or NAD supplemental regulation; or, if under the standards set forth in government-wide regulation, it would require the employee's disqualification from matters so central or critical to perform the duties of his/her position would be materially impaired. Employees are responsible for adhering to established Agency guidelines for outside employment or other activities, whether paid or unpaid.

6.4 REPORTS OF MISCONDUCT

Employees who have reason to believe that misconduct has been committed shall report it promptly to their supervisors. If the circumstances of the case are such that the employee feels his/her report should not be routed through his/her supervisor, it shall be reported to the next higher or appropriate level of supervision. Employees are covered by the Whistleblower Protection Act.

6.5 ETHICS OFFICIAL

Employees will be notified of the identity and phone number of the Agency's designated Ethics Official. Employees who have questions about the application of ethics requirements or any particular situations should seek advice from the Agency Ethics Official. Disciplinary action for violating such requirements or any Departmental regulations will not be taken against an employee who has engaged in conduct in good faith reliance upon the advice of an Agency Ethics Official, provided that the employee, in seeking such advice, has made full disclosure of all relevant circumstances.

ARTICLE 7 - USE OF OFFICIAL FACILITIES AND SERVICES

7.1 GENERAL

- A.** Due to budget constraints, for the duration of this contract, the Union will not require office space dedicated solely to Union business. The Agency will make conference rooms available for use as needed by the Union to conduct Union activities.
- B.** The Agency agrees to allow Union officials reasonable access to telephones, copier equipment, four-drawer locking file cabinet, fax machine, e-mail, computer equipment and the internal mail system. Such use will be for official business only and not internal Union business.

7.2 BULLETIN BOARDS

- A.** The Agency will provide an adequate amount of space on office bulletin boards throughout the Headquarters site and Regional Offices.
- B.** The Union is the sole authority for the content of all material posted on Union bulletin boards. Management will not be held liable for any of the Union's actions regarding the content of the material on such bulletin boards.
- C.** Material which does not violate any law, contain libelous material or personal attacks may be posted on Union bulletin boards.

7.3 DISTRIBUTION OF UNION LITERATURE

- A.** Management agrees that the Union has the right to use the internal mail system to transmit documents or correspondence to Management or to bargaining unit employees for representational purposes only.
- B.** The Union agrees that, prior to the bulk distribution of its literature, the Union is responsible for preparing, collating, and apportioning such literature.
- C.** Upon prior approval from the Agency, the Union shall be allowed to distribute its literature.

- 7.4** Upon prior approval from the Agency, the Union shall be allowed to reserve rooms to hold meetings on the Agency's premises during the lunch period and outside normal duty hours.
- 7.5** Union representatives not employed by the Agency may meet with local Union representatives and/or bargaining unit employees to discuss appropriate matters and may participate in meetings between the Union and the Agency.

ARTICLE 8 - PERSONNEL RECORDS

- 8.1** Each employee and/or their designated representative who has been so authorized in writing by the employee, has the right, upon request, to review or photocopy his/her official personnel file (OPF). The location of employees' OPFs will be disclosed to employees and the Union upon request.
- 8.2** Each employee is responsible for giving the proper written authorization to his/her designated representative and providing a copy to the official having custody of the file(s) in question. The designation(s) must be for a specified time and will remain in the appropriate file until revoked or expired.
- 8.3** Each employee and their designated representative may inspect such records and files only with proper identification. This record shall be maintained as part of the file and shall always be available for inspection by the employee or his/her representative.
- 8.4** The review or photocopying of all official files shall take place only in the presence of the Agency official or his/her designee having custody of the file. Release of requested information shall be only to persons authorized according to the Privacy Act and Freedom of Information Act (FOIA).
- 8.5** Employees will be made aware of information placed in any official Agency record as defined by the Privacy Act.

ARTICLE 9 - POSITION DESCRIPTION

- 9.1 POLICY AND PURPOSE:** The purpose of a position description (PD) is to describe the principal duties and responsibilities of the position for pay and classification purposes. Employees will normally be provided with an official description of duties for their position within 30 days of assignment. Position descriptions also contain any special qualifications and/or requirements of the position.
- 9.2 ACCURACY OF POSITION DESCRIPTION:** The Employer will update position descriptions periodically to ensure accuracy. Employees who believe their position description is inaccurate may meet and discuss this matter with their supervisor for clarification. When differences concerning the accuracy of a position description cannot be resolved between the supervisor and the employee, the employee may grieve the matter under the negotiated grievance procedure. An employee will be informed of changes made to his/her position description, and will be provided a copy.
- 9.3** The phrase “other duties as assigned” normally relates to tasks of an incidental nature, or that are infrequent, or constitute an emergency, for which it is impractical to include in the official position description.

ARTICLE 10 - WORK SCHEDULES AND HOURS OF WORK

10.1 DEFINITIONS

A. ALTERNATIVE WORK SCHEDULES (AWS)

Alternative Work Schedules (AWS) are comprised of compressed and flexible work schedules. Employees can work either a compressed schedule (5-4/9 or 4-10) or a flexi-tour schedule, but not both. These schedules provide a family friendly work environment and can be used to improve productivity and the quality of life for Agency employees by encouraging job orientation instead of time orientation. The Agency can improve productivity through reduced tardiness, short-term absences, the achievement of quieter hours at the beginning and end of the workdays, and enhanced employee morale. The quality of life for employees is improved by empowering them through control over their personal working situations. It also provides a greater opportunity for employees to participate in the Wellness Program activities as well as community, family, and leisure activities. The employees have workday flexibility for childcare arrangements and emergency short-term absences that may be necessary when caring for sick children.

B. FIVE-FOUR-NINE (5-4/9) SCHEDULE (COMPRESSED)

This is a fixed, nonflexible schedule, which means that it does not vary from day-to-day. The arrival and departure times are according to a set schedule requested by the employee and approved by the supervisor in advance. The schedule includes nine workdays in each pay period consisting of five in one week and four in the next week. Employees work nine hours per day for eight days and eight hours for one day, excluding any scheduled lunch period, for a total of 80 hours per pay period.

C. TEN-HOUR (4-10) SCHEDULE (COMPRESSED)

This is a fixed, nonflexible schedule, which means that it does not vary from day-to-day. The arrival and departure times are according to a set, written schedule requested by the employee and approved by the supervisor in advance. The schedule includes eight workdays in each pay period. Each workday is 10 hours in length excluding any scheduled lunch period. A 10-hour schedule

may not include any combination of half-days or workdays of less than 10 hours.

D. FLEXITOUR SCHEDULE (ALTERNATIVE EIGHT-HOUR SCHEDULE)

This is a fixed schedule that does not vary from day-to-day. The arrival and departure times are according to a set, written schedule requested by the employee and approved by the supervisor in advance. The schedule includes 10 workdays in each pay period. Each workday is eight hours in length excluding the scheduled lunch period. This schedule differs from the normal eight-hour tour in that the scheduled arrival and departure times need not coincide with the basic eight-hour workday.

E. BASIC EIGHT-HOUR WORKDAY

The basic workday for full-time employees consists of eight hours from 8:00 a.m. until 4:30 p.m.

F. OPERATING HOURS

The operating hours are the specific hours of the Agency in which employees may begin or end the workday. Those hours are from 6:00 a.m. until 6:00 p.m. daily.

G. CUSTOMER SERVICE BAND

The customer service band is the span of time that office coverage will be provided to serve customer needs for headquarters and regional offices and is from 8:00 a.m. until 5:00 p.m.

H. CORE HOURS

Core hours are the hours in a workday when all full-time employees must be present for duty. The core hours are from 9:00 a.m. until 3:30 p.m.

I. AWS QUARTERS

The four AWS quarters are defined as:

1. January, February, March
2. April, May, June
3. July, August, September
4. October, November, December

J. CREDIT HOURS

Credit hours are any hours, which are in excess of an employee's basic work requirement and the employee elects to work varying the length of a workweek or a workday. Credit hours may be worked only by employees who choose the flexitour schedule. Employees who choose compressed work schedules (5-4/9, 4-10) may not work credit hours. Credit hours must be approved by the supervisor in advance.

10.2 IMPLEMENTATION OF AWS

The AWS available to bargaining unit employees include:

1. 5-4/9
2. 4-10
3. Flexitour

10.3 REQUESTING AWS

Requests for AWS must be made in writing two pay periods before the beginning of the quarter. Requests will be made using the proper form. Management and the Union can agree to waive this requirement on a case-by-case basis.

10.4 APPROVAL OR DENIAL OF AWS

Approval or denial of AWS requests must be communicated in writing, to the employee one pay period before the start of the quarter. The approval/denial shall be based on the following three prerequisite criteria:

1. Service to the public cannot diminish
2. Productivity cannot diminish, and
3. Costs of operations must not increase.

10.5 AWS PROCEDURES

- A.** Employees may request to change their work schedule quarterly.
- B.** Because changes to the work schedule are implemented quarterly, new requests for AWS, or requests for changes in an existing AWS schedule, must be made in writing two pay periods before the beginning of the quarter. No more than one-third of a work unit's employees may be scheduled for a compressed day off at the

same time. A work unit is an organizational entity, such as a Regional Office Staff.

- C.** AWS (flexitour, 5-4/9, 4-10) for individual employees cannot be combined.
- D.** If a manager finds that an existing schedule has had an adverse impact, he/she may terminate or suspend AWS if one of the three criteria in Section D above cannot be met.
- E.** An employee may revert to the basic eight-hour workday at any time at the start of a pay period.
- F.** Employees must be provided two pay periods notice for permanent changes in the work schedules.
- G.** To resolve conflicts in schedules:
 - 1. The parties encourage informal resolution within the employees work unit.
 - 2. Department (USDA) seniority shall be used to determine priority. In case of a tie, the Service Computation Date (SCD), as shown on the SF-50, Notice of Personnel Action, shall be used to determine order of priority in choosing the schedules and days off when informal resolution is unsuccessful.
 - 3. Requests for changes in work schedules will not be used to alter existing work schedules of employees who are not seeking a change in their work schedules.
 - 4. A new employee coming into the work unit cannot force a change in the existing employees' work schedules.
 - 5. Employees are encouraged to consider days off other than Monday and Friday.
 - 6. Once an employee has selected a compressed day off, that employee may not use seniority to bump another employee from his/her established compressed day.

10.6 HOLIDAY IMPLEMENTATION

- A.** When a Federal holiday falls on an employee's scheduled workday, the employee is entitled to holiday leave according to the following:
 - 1. For employees on a Compressed Work Schedule, the total number of hours scheduled for that day. For example, if a holiday falls on Monday and the employee is scheduled to work nine (9) hours, the employee will be paid nine (9) hours for the holiday.
 - 2. For employees on Variable (Short) Day or Standard Work Schedules, the employee is entitled to 8 hours holiday leave.

10.7 CREDIT HOURS

- A.** Employees who work a flexitour schedule may earn credit hours by working beyond their normal tour of duty. Then, employees may use the hours just like annual leave. Credit hours may not subsequently be converted to overtime pay. An employee may carry over a maximum of 24 credit hours at the end of any pay period. There is no time limit for using credit hours. However, should an employee leave NAD, the hours will be paid in a lump sum at the employee's current regular hourly rate of pay.
- B.** If an employee wishes to earn credit hours, he/she must complete a copy of Form LR-102, Request to Earn Credit Hours (see Appendix A), and submit to his/her supervisor by noon on the day which the employee wants to earn credit hours. Supervisors will normally approve the request if there is sufficient work available and all other requirements of this Article are met.
- C.** Credit hours will be earned in one-half hour increments. An employee may earn as much as two hours of credit hours per day.
- D.** An employee may not earn credit hours on the same day that he/she uses credit hours or leave. An employee must earn credit hours within regular operating hours. The Agency will only approve credit hour work during operating hours.
- E.** An employee may use credit hours in one-half hour increments just like annual leave by submitting an Application for Leave (OPM-71) to the supervisor. Employees should check the "other" block on the OPM-71 and write in "credit hours."
- F.** Part-time employees also may earn credit hours by working beyond their normal tour of duty. The maximum carryover for part-time employees is one-fourth of the hours in their normal pay period. For example, a part-time employee who works 32 hours per week (64 hours per pay period) may carry over a maximum of 16 credit hours (rather than the 24 which full time employees carryover).
- G.** Employees also may use credit hours in lieu of sick leave, but employees on formal leave restriction, which requires documentation for use of sick leave, must submit proper documentation.

- H. Requests to use credit hours have the same priority as annual leave. In the event of conflicts over a day off, it does not matter whether annual leave or credit hours have been requested.
- I. For approval purposes, credit hours are treated just like annual leave.

10.8 COMPENSATORY TIME

- A. Employees who are covered under the Fair Labor Standards Act (FLSA) may elect comp time in lieu of payment for overtime. FLSA-Exempt employees who are authorized overtime may request to take compensatory time in lieu of payment for overtime in accordance with 5 CFR 550.114(c). Employees working a flexible schedule may earn compensatory time for an equal amount to overtime work, whether or not overtime work is irregular or occasional, as contrasted to employees working other than a flexible work schedule who can only earn compensatory time for irregular or occasional overtime work.
- B. Employees who do not use compensatory time earned within the time limits provided shall be paid overtime for the unused hours at the pay rate in effect when the overtime was earned in accordance with government regulations.

10.9 OVERTIME

- A. Time spent performing official business in excess of eight hours a day, 40 hours a week, or 80 hours per biweekly pay period shall be considered overtime when officially ordered or approved for employees exempt from the FLSA. An employee covered under the FLSA shall be considered to be in an overtime status when performing work prior to or after the established hours of work or during the prescribed lunch period for the benefit of the Agency, whether requested or not, and the Agency knows or has reason to believe it is being performed, and has not placed the employee on notice that such work in excess of the employee's work schedule is not authorized. All employees shall be compensated for overtime work either by compensatory leave or overtime pay according to applicable laws and regulations (see Section 10.8, Compensatory Time).
- B. Overtime assignments will be distributed and rotated equitably among qualified employees according to qualifications needed for the work to be done, as determined by Management. Supervisors shall

not assign overtime work to employees as a reward or penalty. In the assignment of overtime, the Agency agrees to provide the employee(s) with advance notice, if possible. Any employee designated to work overtime on days outside his/her basic workweek will be given two days notice, except in an emergency or other situation that was not reasonably foreseen. When overtime is to be performed on a Sunday or holiday, two days advance notice will normally be given to the employee(s) affected whenever possible, and compensation will be according to applicable laws, regulations and the provisions of this Agreement.

- C. A rotation will be established whereby each and every employee within a section or organizational unit where the work is to be performed will be given the opportunity to participate in overtime work assignments on an equal basis insofar as operational needs allow. The rotation of overtime will be limited to employees within the section or organizational unit who possess the needed training or skills, as determined by Management. If sufficient employees from within the unit where the work is being performed are not available to perform the work, the supervisor may assign qualified staff members to work overtime regardless of their organizational unit. Records of employee overtime worked shall be maintained by the Agency and provided to the Union upon request.
- D. Employees who are called back to work at the office for a period of overtime unconnected to their regularly scheduled tour or who are called in on Saturday, Sunday, or holidays are entitled to a minimum of two hours overtime pay.
- E. Employees will normally be scheduled to perform functions on overtime commensurate with the grade-level of the employee.
- F. Overtime shall be distributed to bargaining unit employees whose performance is at least fully successful.
- G. The Union acknowledges that the Agency retains the right to require employees to work overtime. Management will consider personal hardship requests when assigning overtime.

10.10 DEALING WITH ABUSERS

Employees who abuse AWS will not be permitted to remain on AWS. The following procedure will be followed in cases where AWS is abused:

A. FORMAL WARNING

When it becomes apparent that an employee is abusing AWS, the supervisor will counsel the employee and issue a letter providing written notice that another instance of abuse will result in suspension of that employee's AWS. The formal warning period will cover 12 months from the date of the letter. If there is no abuse within that 12-month period, this warning period will expire.

B. SUSPENSION

If an abuse occurs during the 12-month formal warning period, the employee will be suspended from AWS. If suspended, the employee will not be eligible for AWS for a period of one year from the date of suspension. At the end of the one-year suspension, the employee may be reconsidered for eligibility for AWS.

10.11 BREAKS

Employees shall receive two daily rest breaks of 15 minutes duration, one to be taken in the morning and one to be taken in the afternoon, or one break for each four hours worked. The supervisor and employee shall mutually determine the time for breaks. Rest breaks shall not be taken during the first or last hour of the employee's workday. Employees on their break shall not interfere with the work of employees not on their break. Break time shall not be accumulated (banked) for future use or used to extend the lunch period or shorten the workday. Regularly scheduled break times are not applicable for Hearing Officers.

10.12 TRAVEL ENTITLEMENT

Every effort will be made to schedule official travel during the basic 8-hour workday. In those cases where it cannot be accomplished, the affected employee will be compensated for travel time in keeping with applicable pay laws and government wide regulations.

ARTICLE 11 - MERIT PROMOTION

11.1 PURPOSE AND POLICY

The parties agree that the purpose and intent of the provisions contained herein are to ensure that merit promotion principles are applied in a consistent manner with equity to all employees and without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, disabling condition, or age, and shall be based solely on job-related criteria. This Article applies to bargaining unit positions in the Agency.

The actions covered by merit promotion are stated in Departmental Regulations.

11.2 NOTIFICATION

- A.** If an employee is determined to be not basically qualified for the position, the employee may request an explanation from the HR Staff. If requested, the HR Staff will provide a verbal explanation to the employee.
- B.** If an employee does not make the Best Qualified (BQ) list for a position, the employee may request an explanation from the HR Staff. If requested, the HR Staff will provide a verbal explanation to the employee.
- C.** If an employee is on the BQ list but is not selected for the position, the employee may request an explanation from the selecting official. If requested, the selecting official will provide a verbal explanation to the employee.

11.3 PROMOTION PANELS

- A.** When vacancy announcements result in 10 or less basically qualified applicants, all basically qualified applicants will be certified to the selecting official.
- B.** When vacancy announcements result in more than 10 basically qualified applicants, a panel will be convened to rate the basically qualified applicants. The panel will be conducted as outlined in Departmental Regulations. A reasonable number of the best-qualified applicants (minimum of 10) will be certified to the selecting official.

11.4 DETAILS WITH TEMPORARY PROMOTIONS

- A.** Employees assigned to higher grade positions for more than 75 consecutive days will be temporarily promoted and receive the higher rate of pay effective on the first day of the detail, unless the employee is not qualified, funding is not available, or in the case of an externally imposed freeze. Short details shall not be used to avoid temporary promotions. Management will make every reasonable effort to assign qualified employees for such positions.

11.5 PRIORITY (CONSIDERATION)

- A.** If it is determined by HR or through the grievance procedure that an employee was erroneously omitted from the BQ list or improperly rated, the employee will receive priority consideration for the next two vacancies for which the employee is qualified.
- B.** Priority consideration consists of a promotion certificate, which contains an employee's name alone, being sent to the selecting official before the official considers other applicants for a position.
- C.** If more than one employee is entitled to consideration, the names of only those employees will be submitted on the single certificate to the selecting official for the next appropriate vacancy.
- D.** An employee will be entitled to a separate priority consideration for each vacancy announcement for which the employee was improperly considered.
- E.** Under normal circumstances, priority consideration will be given prior to a vacancy being announced. If the appropriate vacancy has already been announced, the employee(s) due the priority consideration will be considered by the selecting official before other applicants are rated or referred for selection.
- F.** If, the selecting official declines to select the priority consideration employee, documentation must be presented showing legitimate job-related reasons for the non-selection.

ARTICLE 12 – REASSIGNMENTS AND DETAILS

12.1 POLICY AND PURPOSE

The parties agree that Management has the authority to reassign employees, as needed, to meet the needs of the Agency, in accordance with Title 5, Section 335, of the Code of Federal Regulations. The parties recognize that personal circumstances change and bargaining unit employees may prefer work in other locations. Details are intended for meeting temporary needs of the Agency when necessary services cannot be obtained by other desirable or practicable means.

12.2 DEFINITIONS

- A. Reassignment** - An employee changes from one (1) position or geographical location to another without promotion or demotion.
- B. Detail** - a detail is a temporary assignment of an employee to a different or the same position for a specified period, with the employee returning to his/her regular duties at the end of the detail.
- C. Voluntary Reassignment** – An employee requests a reassignment for personal reasons.

12.3 PROCEDURES

- A.** The Employer agrees to give an employee who is going to be reassigned or detailed as much notice as possible before effecting the reassignment or detail. The employer will provide a minimum of 30 days advance notice to employees for directed reassignments out of the commuting area.
- B.** The Employee may request reconsideration of a reassignment based on undue hardship.
- C.** Merit promotion procedures do not apply when a detail is to a position of the same grade and promotion potential.
- D.** The procedures in this article shall apply, except when the Agency must make a detail or assignment to respond to an unusual, sudden, and unforeseen situation of an urgent nature.

12.4 SELECTION OF EMPLOYEES

The Agency retains the authority to detail employees. This authority shall be exercised in accordance with applicable laws, rules, regulations and directives/policies.

12.5 DETAILS TO HIGHER GRADED POSITIONS

Details for more than one hundred twenty (120) days to a higher-grade position or to a position with known promotion potential shall be handled under competitive promotion procedures. Prior service during the preceding twelve (12) months under non-competitive temporary promotions and non-competitive details to higher graded position counts toward the one hundred twenty (120) day total.

12.6 RECORD OF DETAIL

Details over thirty (30) consecutive days will be documented by a SF-52, Request for Official Personnel Action. Should the requirements of the Agency necessitate detailing an employee to a lower graded position, this will not adversely affect the employee's salary, classification, or job standing.

ARTICLE 13 - REDUCTION-IN-FORCE (RIF)

- 13.1** When it is anticipated that a RIF will involve bargaining unit employees, the Union President will be given the earliest possible preliminary notification in writing. To the maximum extent possible, this notification will be at least ninety (90) days before the anticipated start date and will include the following information:
- A.** Specific functions to be transferred and identification of employees assigned to this function,
 - B.** The reason for the RIF,
 - C.** The competitive area and levels proposed by the Employer that may be involved initially during a RIF.
 - D.** The anticipated effective date that the action will occur, and
 - E.** The manner in which Management anticipates exercising its discretion under 5 CFR 351.
- 13.2** The Agency will attempt to minimize any actions that may adversely impact employees during a RIF by using, to the extent feasible, attrition to accomplish reductions. The RIF will be carried out in strict compliance with all applicable laws and regulations.
- 13.3** Any career or career-conditional employee who is separated because of a RIF will be placed on the re-employment priority list for all competitive positions in the commuting area for which qualified and available according to applicable rules and regulations. It is understood that acceptance of a temporary appointment will not alter the employee's right to be offered permanent employment.
- 13.4** Employees receiving a RIF notice have the right to review retention lists pertaining to all positions for which they are qualified. This includes the retention register for their competitive level and those for other positions for which they are qualified, down to and including those in the same or equivalent grade as the position offered by the Agency. If separation occurs, this includes all positions to or below the grade-level of their current positions. Bargaining unit employees involved shall have the right to seek assistance from the Union when reviewing such lists or records.

13.5 Bargaining unit employees have the right to outplacement services described in current USDA RIF regulations.

ARTICLE 14 - PROFESSIONAL DEVELOPMENT AND TRAINING

14.1 POLICY

- A.** Professional development and training is defined as any NAD mission-related formal or on-the-job training that enables employees to develop to their maximum potential and contributes to increased Agency efficiency and effectiveness. NAD is committed to providing professional development and training opportunities to all employees through a positive, proactive approach.
- B.** The parties agree that each employee is responsible for applying reasonable effort, time and initiative in increasing his/her potential value to the Agency through self-development, training, and education. Employees are encouraged to take advantage of training and educational opportunities that will enhance skills and qualifications.

14.2 PROCESSES AND PROCEDURES

- A.** The Individual Development Plan (IDP) is a shared responsibility between the Agency and employees that identifies long and short-term career goals and training needs of the employee to better accomplish the mission of the Agency. An IDP is a living document, which can be updated as necessary. Employees may be expected, as part of their IDP, to participate in activities that must be completed during non-duty time.
- B.** Employees must complete Agency provided mandatory training within the time allotted. The Agency shall determine employee development training and education needed to meet workforce needs. The Agency shall provide training and education subject to the availability of funds and shall determine the methods and means to provide the training. Retirement planning training, including mid-career retirement training will not be restricted to employees with 5 years remaining service.
- C.** The Agency will provide employees with information on available training, education, and career development/enhancement opportunities upon request.
- D.** The Employer agrees to notify employees of approval or denial of requested training. In cases of denial, the employee may request in writing and receive a reason for the denial in writing.

ARTICLE 15 - PERFORMANCE APPRAISAL SYSTEM

15.1 STATEMENT OF POLICY

Performance evaluation shall be administered in accordance with applicable laws, regulations, and internal guidelines. The Agency and the Union recognize and endorse the concept that performance management is a continuous, systematic process by which managers and supervisors integrate the planning, directing, and executing of organizational work with the personal performance appraisal, pay, awards, promotion, and other systems. Individual employee work elements and standards are documented and communicated in writing.

15.2 PERFORMANCE ELEMENTS AND STANDARDS

Performance standards shall be fair, objective, reasonable, and related to the employee's official position. Performance standards describe the expectations or requirements established by Management for critical and noncritical elements.

15.3 PERFORMANCE PLANS

- A.** All elements and standards will be in writing on the performance plan. The supervisor and employee will review the elements and standards. The performance plan will normally be issued within 30 days after the beginning of an appraisal period or a change in tasks that result in changing the performance standards. Periodic reviews and discussions should be held to evaluate performance. The minimum of a mid-year review is required.
- B.** When a work assignment changes significantly, whether or not the work assignment change requires a personnel action, the effected performance plans shall be reviewed to determine whether revision or reestablishment is necessary. Employees will be informed and participate as provided in this Agreement when any revisions are made to their performance plan. Employees who believe that revisions to their performance plan are warranted due to substantial changes in work assignments may propose such changes to their immediate supervisor/rating official for consideration.
- C.** Employees shall be apprised of their performance under established performance elements and standards at the conclusion of the rating cycle.

15.4 EMPLOYEE PARTICIPATION IN ESTABLISHING PERFORMANCE PLANS:

The Employer will ensure consistency, objectivity and applicability in development of performance elements, standards and the subsequent appraisal of performance against established performance standards. Final authority to approve elements and standards rests with the Employer. Joint participation may be accomplished by means including, but not limited to, the following:

- A. Employee and supervisor discuss and develop performance plan together,
- B. Employee provides supervisor a draft performance plan,
- C. Employee comments on draft performance plan prepared by the supervisor, or
- D. Employees who occupy similar positions prepare performance plan(s) with supervisor's approval for consideration.

15.5 EMPLOYEES RESOURCE FOR EXPLANATION OF PERFORMANCE PLAN

When an employee is unclear about what is required to attain a rating of fully successful or equivalent, or what is required to improve their performance, the employee may request clarification from the supervisor. A summary of the guidance given will be documented, with a copy to the employee.

15.6 DOCUMENTATION OF ACCOMPLISHMENTS

At the end of the appraisal period, the employee's accomplishments will be documented in the form of a performance appraisal.

ARTICLE 16 - AWARDS

16.1 PURPOSE AND POLICY

- A.** The Agency and the Union agree and recognize that an award program is a necessary and useful mechanism through which employee accomplishments may be recognized. The award program will be administered in accordance with law, governing regulations, and Agency guidelines.
- B.** Incentive awards encourage creativity, promote initiative, and improve morale, resulting in improved organizational efficiency and customer service. Public recognition of award recipients for their special contributions, community involvement, suggestions, etc. is an effective means to achieve this objective.

16.2 TYPES OF AWARDS

- A.** Incentive Awards: These are granted in the form of monetary and non-monetary recognition based upon the tangible or intangible benefits realized by the government. The Incentive Awards Program consists of the following categories of awards:
 - 1.** Special Act Awards: Recognition granted for recurring and non-recurring accomplishments, such as suggestions, superior accomplishments, productivity gains, or other efforts that contribute to efficiency, economy, or other improvement of operations.
 - 2.** Spot Awards: Monetary recognition that serves to immediately reward an employee's contributions.
 - 3.** Time-Off Awards: Excused absences, awarded in hourly increments, granted to employees, without charge to leave or loss of pay. Time-off awards may be granted to an employee for up to eighty (80) hours per year. Individual awards may not exceed forty (40) hours. Employees may not receive more than two (2) individual time-off awards per year. The scheduling of the time-off awards will be coordinated between the employee and the supervisor.
 - 4.** Honorary Awards: A form of non-monetary recognition that includes certificates, letters, citations, medals, plaques, or other items that have an award or honor connotation.

5. Informal Recognition: These non-monetary awards are usually in the form of items that symbolize the employee/employer relationship and are suitable to wear, display, or use in the work environment.
6. External Awards: The Employer encourages recognition of employees whose contributions through organizations external to the Agency benefit the government and community. Employees who perform community service activities as a volunteer may be recognized for their contributions through appropriate recognition.

Incentive Awards may be individual or group awards, as appropriate, based on the circumstances.

- B. Performance Awards: These are based on the individual performance rating of record, and are awarded as performance awards (monetary) or Quality Step Increases (QSIs). The purpose of QSIs is to recognize outstanding performance by granting faster than normal step increases. To be considered for a QSI, an employee's current rating of record must be outstanding and the employee must not have received a quality step increase within the preceding 52 consecutive calendar weeks.

16.3 REVIEW COMMITTEE

- A. The parties will establish an Incentive Awards Review Committee, consisting of two (2) members. The Employer and the Union will each select one (1) representative.
- B. This Committee is established to perform post-reviews of the Incentive Awards issued by the Agency.
- C. The Committee will meet on an ad hoc basis upon mutual agreement of the Employer and the Union. The Committee will perform the following activities:
 1. Review written justifications for awards;
 2. Review Awards distribution;
 3. Submit findings, and recommendations to the Director, NAD; and,

4. Maintain confidentiality and share information only with the Director, NAD.

D. The Committee has no veto power but serves only in an advisory capacity.

ARTICLE 17 - ACTIONS BASED ON UNACCEPTABLE PERFORMANCE

17.1 SCOPE AND DEFINITION

- A.** An action based on unacceptable performance is defined as the reduction in grade or removal of an employee whose performance fails to meet established performance standards in one or more critical elements of the employee's position.
- B.** This Article applies only to bargaining unit employees who have completed their probationary or trial period.

17.2 PROCEDURAL REQUIREMENTS

- A.** The procedural requirements prescribed by USDA/NAD regulations and this Agreement apply in processing unacceptable performance actions.
- B.** At any time during the appraisal year, if the supervisor identifies a performance-related problem with an employee, the supervisor, prior to initiating a Performance Improvement Plan (PIP), will meet with the employee. The Supervisor shall counsel and advise the employee regarding actions necessary to bring their performance to an acceptable level.
- C.** At a minimum, the employee will be given written notice of the proposed action stating the specific reasons of unacceptable performance and the procedure for response. The notice will also state that the employee may review all the evidence relied upon by the supervisor in preparing the notice and that the employee is entitled to Union representation in preparing and presenting his/her oral and/or written response.

17.3 PERFORMANCE IMPROVEMENT PLAN

- A.** As early as possible, the employee's attention will be called to areas of performance needing improvement and informal steps will be initiated to assist the employee in meeting performance standards. When informal efforts do not result in acceptable performance, a Performance Improvement Plan (PIP) will be developed.
- B.** The PIP will be developed in writing.
- C.** The PIP will include the following:

- D. Identification of the critical element(s) and performance standard(s) for which performance is unacceptable, specific examples of how the employee's performance is failing to meet the standard,
- E. What the employee must do to bring performance up to an acceptable level,
- F. A statement that the employee has a reasonable period of time, normally thirty (30) to ninety (90) days, to achieve acceptable performance.
- G. At any time during the PIP period, the supervisor may conclude that the employee's performance has improved to an acceptable level and the PIP can be terminated. Should the PIP be terminated, the employee will be notified in writing and rated appropriately.
- H. The Agency will provide periodic feedback during the PIP period, as appropriate.

17.4 PERFORMANCE-BASED ACTIONS

Should the employee's performance remain unacceptable while on a PIP, the employee shall receive a rating to reflect his/her level of performance. The Agency will then proceed with Action to reassign the employee, or adverse action to reduce in grade, or remove the employee. Such action will be processed pursuant to Agency regulations and existing laws. Employees may grieve reassignments pursuant to this section under Article 19, Negotiated Grievance Procedure.

17.5 WRITTEN NOTICE

- A. In all cases of proposed action based on unacceptable performance, the employee will be given written notice of the specific reasons of unacceptable performance on which the proposed action is based 30 days in advance of the action.
- B. The advance written notices proposing either to remove or downgrade an employee for unacceptable performance includes:
 - 1. Specific instances of unacceptable performance by the employee on which the proposed action is based,
 - 2. The critical element and performance standard,

3. The employee's right to be represented,
 4. The employee's right to answer orally and/or in writing, and
 5. The employee's right to review the material relied upon to support the specific reasons.
- C. The Union or employee will not grieve either the substance or the procedural aspects of this notice, however, a final decision may be grieved.

17.6 DECISION LETTER

- A. The deciding official will set forth findings with a response to each specification listed in the letter proposing the action.
- B. The decision letter will also address factual disputes, if any, raised in the employee's reply by stating the reasons why each factual dispute was rejected.
- C. The decision letter will also:
1. Advise the employee of the right to appeal the final decision to the Merit Systems Protection Board or through the Negotiated Grievance Procedure, but not both; and
 2. Indicate the effective date of the action.

17.7 TIME EXTENSIONS

Any of the time limits set forth in this Article may be extended or waived by mutual agreement of the parties.

ARTICLE 18 - DISCIPLINARY AND ADVERSE ACTIONS

18.1 GENERAL

The parties agree that the objective of this article is to correct and improve employee conduct and/or performance so as to promote the efficiency of the Agency. All disciplinary and adverse actions will be consistent with Agency regulations and existing laws. Early communication between the employee involved and the supervisor to achieve resolution is encouraged. If either party believes that resolution would be aided if the Union were involved in these early discussions, they are encouraged to contact the applicable Union steward. The parties recognize that employee misconduct may be serious enough to warrant the proposal of an adverse action even for a first offense. Every effort will be made to assure that actions are fair and equitable. Actions taken during the probationary period are not covered under this article.

18.2 DEFINITIONS

Disciplinary action - Refers to a letter of official reprimand or a suspension for 14 days or less as outlined in Subchapter I, Chapter 75, 5 U.S.C.

Adverse action - Refers to a removal, suspension for more than 14 days, reduction in grade, reduction in pay or furlough of 30 days or less as outlined in Subchapter II, Chapter 75, 5 U.S.C.

18.3 OTHER PROVISIONS

- A.** An employee may appeal an adverse action under the Negotiated Grievance Procedure or to the Merit Systems Protection Board, but not both. Disciplinary actions are appealable only under the Negotiated Grievance Procedure. However, certain actions are not grievable, including, oral counselings, warnings, reprimands, or admonishments. Proposed actions are also not grievable.
- B.** The employee will be responsible for providing copies of documents from Management to the employee's representative.
- C.** Letters of reprimand will be maintained in the employee's OPF for a period not to exceed two (2) years.
- D.** Management has the right to take any action necessary to protect the health and safety of the work force.

ARTICLE 19 - NEGOTIATED GRIEVANCE PROCEDURE

19.1 POLICY AND PURPOSE

- A.** The purpose of this Article is to provide a fair, simple, and expeditious means of processing grievances. The negotiated grievance procedure shall be the exclusive procedure available to the Union and employees in the bargaining unit for resolving grievances which come within its coverage, except as specifically provided in Section D.

- B.** The Employer and the Union agree that every effort will be made to settle grievances at the lowest possible level. Employees are encouraged to resolve concerns between themselves and their immediate supervisor without resorting to the grievance procedure. The filing of a grievance should not be construed as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the organization. Employees dissatisfied with the orders properly grounded in supervisory authority must follow the order first and then grieve the matter if they believe relief should be granted. If an employee has a reasonable belief that a supervisory order creates an imminent risk of death or serious bodily injury, the employee may pursue resolution through the next level supervisor. However, this does not absolve the employee of his/her responsibility to timely follow supervisory orders. Employees are reminded that timeframes continue to run throughout the time the employee is attempting to informally resolve the complaint.

19.2 DEFINITIONS

- A. DENIAL** - An action by either the Employer or the Union at any step of the grievance process advising the other party that the remedy sought will not be granted.

- B. GRIEVANCE** - Under title 5, United States Code, section 7103(a)(9), a grievance "means any complaint-- (A) by an employee concerning any matter relating to the employment of the employee; (B) by any labor organization concerning any matter relating to the employment of any employee; or (C) by an employee, labor organization, or agency concerning-- (i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or (ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment[.]"

- C. PARTICULARIZED NEED** - The Authority's analytical approach in dealing with union requests for information under title 5, United States Code, section 7114(b)(4). Under this approach, the union must establish a "particularized need" for the information and the agency must assert any countervailing interests. The Authority then balances the one against the other to determine whether a refusal to provide information is a unfair labor practice.
- D. PERSONAL RELIEF** - A specific remedy directly benefiting the grievant(s). A request for disciplinary action against another employee is not a request for personal relief. Failure to request personal relief in a grievance may be grounds for rejecting the grievance.
- E. PRE-DELIBERATIVE DOCUMENTS** - Internal Employer communications that are pre-decisional and do not constitute final decisions or published Agency policy. These documents may include, but are not limited to—
1. Option papers on negotiations and disciplinary actions,
 2. Information on the strategy the Employer should take on a particular grievance or unfair labor practice,
 3. Case analyses or summaries of investigations conducted by the Employer, and
 4. Lower-level supervisors' recommendations and concurrence with proposed.
- F. REJECTION** - An action by either the Employer or the Union at any step of the grievance process advising the other party that the negotiated grievance procedure is not the appropriate forum to seek redress because it is outside the scope of this Article. A rejection must state the specific provision in this Article that is the cause for rejection. A rejection causes the grievance to be terminated.

19.3 GRIEVANCES PROCEDURES

- A.** The procedures in this Article shall be the exclusive procedures available to the parties for resolution of grievances covered under the terms of this Agreement except as expressly limited by the following:
1. Only incidents that occur while the employee is a bargaining unit employee may be pursued under this procedure.
 2. An aggrieved employee affected by discrimination or adverse action taken according to 5 U.S.C. §7512 (except as excluded

from the negotiated grievance procedure in Section 19.5) may at his/her option raise the matter under a statutory appellate procedure or this negotiated procedure, but not both. For the purpose of this section and pursuant to 5 U.S.C. §7121, an employee shall be deemed to have exercised his/her option when the employee files a timely notice of appeal under the appellate procedures, files a formal complaint under the EEO process or files a timely grievance in writing under the negotiated procedure.

- 3.** An employee who alleges a prohibited personnel practice under 5 U.S.C. §2302(b)(1), which also falls under the scope of this Article, may raise the matter under a statutory procedure or this Article, but not both.
- B.** A grievance initiated by the Union that expresses the Union's disagreement with the Employer's interpretation or application of this Agreement, and which does not request personal relief but an institutional remedy, will be filed directly with the Labor Relations (LR) Staff. If the grievance is not resolved to the Union's satisfaction, the Union may invoke arbitration pursuant to Article 20. If requested by either party, a meeting will be held according to the Step 1 procedures in Section 19.6. The Employer will provide a written decision within 30 calendar days of its receipt of the grievance.
- C.** A grievance initiated by the Employer against the Union will be filed in writing within 30 calendar days from the date the Employer knew or should have known of the subject upon which the grievance is based. If requested by either party, a meeting will be held according to the Step 1 procedures in Section 19.6. The Union will provide the Employer with a written decision within 30 calendar days of receipt of the grievance.
- D.** The parties agree that information requests will be limited to that material normally maintained by the Employer in the regular course of business which is reasonably available, necessary and relevant to the Union's representational responsibilities. If a dispute arises over access to information in connection with the grievance, after the Union has filed a request under 5 U.S.C. §7114(b) (4) with the LR Staff, it will be joined to the grievance. Information which constitutes guidance, advice, counsel, or training for the Employer is not releasable nor are pre-deliberative documents. The standard that will be used when determining necessity will be articulated "particularized need" for the data. The Union will explain why it seeks the information, how it will be used and what it will be used

for, so that the Employer can make an informed judgment on necessity for the collective bargaining process. Each information request will be evaluated based upon the specific circumstances of the grievance being considered. All information requests relating to the labor relations process will be filed under 5 U.S.C. §7114(b) (4) with the LR Staff.

- E. The time limits delineated in this Article may be modified by mutual written agreement of the parties. When the due date falls on a non-work day, the next workday will become the due date.

19.4 REJECTION/DENIAL OF GRIEVANCE

- A. Individual employee grievances must request personal relief. The LR Staff is responsible for determining if other than personal relief is requested and advising the grievant in writing of the rejection. In those instances where a grievant requests personal relief and also seeks an additional remedy that does not constitute personal relief, only that portion of the grievance seeking a direct benefit for the grievant will be processed. The grievant will be notified in writing that the portion requesting other than personal relief has been rejected and the reason(s) for that decision.
- B. If a disagreement exists concerning timeliness that cannot be resolved at the various steps of the grievance procedure, the matter can be joined to the grievance as a threshold issue. The arbitrator may then decide to issue a decision on the threshold issue of timeliness and not address the merits of the grievance or conduct a hearing on the merits and timeliness jointly, then issue a final decision according to the provisions of Article 20.
- C. Grievance which are denied may continue being processed through the various steps and eventually decided at arbitration.
- D. Grievances which are rejected as being outside the scope of this Article (e.g., specifically excluded) are terminated when the grievant receives a written rejection.
- E. The parties agree to raise any questions of grievability as early as possible in the grievance procedure.

19.5 EXCLUSIONS

Exclusions include:

1. The content of published Agency regulation and policy;
2. Non-selection for promotion from a list of best qualified candidates. However, if such action is alleged to have been taken for discriminatory reasons prohibited by statute, that issue may be grieved under this procedure;
3. Oral counseling, warnings, admonishments, reprimands, counseling letter or notice of-proposed actions. However, disputes regarding a proposal may be incorporated into a grievance after the final decision is issued;
4. A progress review, a counseling session or performance improvement plan (PIP). However, if such action is alleged to have been taken for discriminatory reasons prohibited by statute, that issue may be grieved under this procedure. While the issuance of a PIP is not grievable, the failure of the PIP to meet contractual requirements regarding content (as specified in Article 17, Section 17.3) may be grieved;
5. An action which terminates a temporary or term promotion and returns the employee to the position from which the employee was temporarily promoted or to a different position (not lower in grade) where the employee is informed in advance that the promotion is only temporary;
6. The substance of the elements and performance standards of an employee's position.
7. The decision to adopt or not to adopt an employee suggestion. However, if such action is alleged to have been taken for discriminatory reasons prohibited by statute, that issue may be grieved under this procedure;
8. Granting of awards, except as to the procedures provided in Article 16, Incentive Awards. However, if such action is alleged to have been taken for discriminatory reasons prohibited by statute, that issue may be grieved under this procedure;
9. Action taken according to the terms of a formal agreement voluntarily entered into by an employee, which assigns the employee from one location to another;
10. The termination of a probationary employee;
11. A salary offset determination or garnishment which is

reviewable under separate procedures or law;

12. Any claimed violation relating to prohibited political activities;
13. Any complaint concerning retirement, life insurance, or health insurance;
14. Any employment examination, certification, or appointment;
15. The classification of any position which does not result in the reduction in grade or pay of an employee;
16. Complaints concerning Veterans Preference, and
17. Complaints regarding non-bargaining unit positions.

19.6 FILING A GRIEVANCE

A. STEP 1

1. Grievances must be in writing and accompanied by Grievance Form LR- 103, and signed by the grievant. At each step of the grievance process, the grievant shall complete Form LR-103 that may include other documents to support the complaint. The grievant shall submit the Form LR-103 and other necessary information to the grievant's immediate supervisor.
2. The grievance must be filed with the grievant's immediate Supervisor by close of business on or before 15 calendar days of the incident that gave rise to the grievance; or on or before 15 calendar days from the time that the grievant learned, or should have learned of the matter out of which the grievance arose; or in EEO incidents, the grievant will have 15 calendar days after the date of the EEO counselor's final determination to file a grievance. Grievances must cite the basis of the violation, describe the nature of the violation, and state the remedy sought (personal relief).
3. Services of grievances and the decision thereof, including arbitration notices, shall be accomplished either by personal delivery, U.S. Mail, fax, or by other recognized delivery service(s) (ie. FedEx, etc.). The grievance filing date shall be the post marked date, shipping date, fax confirmation date, or date personally delivered.
4. Employer will have 24 calendar days to attempt to resolve the

grievant's complaint that may or may not include a meeting. Either party (that is, the grievant, the grievant's first level supervisor, the manager, or the manager against whom the complaint is filed) may request to meet with the other party at the earliest possible stage. The decision to accept or deny a request to meet is non-grievable or arbitrable. Should the parties mutually decide to meet, parties may have a representative present.

5. The grievant will be apprised of his immediate supervisor's decision by letter on or before 24 calendar days after receipt of the grievance. If the grievant is dissatisfied with the response to his/her first step grievance, or the grievant does not receive a written response, or the written response is untimely, the grievant has the right to elevate the grievance to the next step (Step 2) within 14 calendar days after the date the grievant received a decision at the first step.

B. STEP 2

1. The Step 2 grievance shall be filed with the next higher-level supervisor or designee. As in step 1 above, a meeting of the parties at this Step is optional, at the consent of both parties.
2. The grievant must complete and submit Form LR-103 to the Step 2 supervisor or designee with an explanation about why the grievant appealed the Step 1 decision. The Step 2 deciding official will render a decision in writing within 21 calendar days after receiving the step 2 grievance. If the grievant is not satisfied with employer's written response, or the grievant does not receive a written response, or the written response is untimely, the grievant has the right to elevate the grievance to the next step level supervisor within 14 calendar days after receiving the Step 2 response.

C. STEP 3

1. The Step 3 grievance shall be filed with the next higher-level supervisor (above the Step 2 supervisor) or designee.
2. The grievant must complete and submit Form LR-103 to the Step 3 supervisor or designee with a copy to the LR Staff. The Step 3 grievance must include an explanation about why the grievant grieved the Step 2 decision. The grievant will receive a written decision within 21 calendar days after receipt of the grievance. The grievant will be apprised of the decision by

letter, with copies being sent to the LR Staff. The letter will contain the reasons for the decision.

- D. ARBITRATION:** Step 3 is the final step in the negotiated grievance process. If the grievant is not satisfied with employer's written decision issued at Step 3, or the grievant does not receive a written response, or the written response is untimely, the parties to this agreement (Agency or the Union) may invoke binding arbitration. See Article 20 of this agreement

ARTICLE 20 – ARBITRATION

- 20.1** Arbitration may only be invoked by the Employer or the Union. Any unresolved grievance or issue processed under Article 19, Negotiated Grievance Procedure, of this Agreement shall upon written request be submitted to binding arbitration. The request for arbitration must be made within 30 days after receipt of the final level written decision in the grievance process.
- 20.2** Within seven (7) days from the date of the request for arbitration, the party invoking arbitration will request from the Federal Mediation and Conciliation Service (FMCS) a list of seven (7) impartial persons qualified to act as arbitrators.
- 20.3** The parties shall confer within seven (7) days after receiving the list of names from the FMCS and select one of the listed arbitrators. The first strike shall be determined by the flip of a coin. If they cannot mutually agree upon a selection, the parties will alternately strike one name from the list until the list contains only one name. This person shall be the duly selected arbitrator. If for any reason either party refuses to participate in the selection of the arbitrator, the other party chooses the arbitrator.
- 20.4** If the parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate submission and the arbitrator shall determine the issue or issues to be heard.
- 20.5** The parties agree that only necessary, relevant and material witnesses shall be allowed to participate in the arbitration hearing. The arbitrator will resolve disputes or questions over relevance of witnesses. All Agency employees in duty status authorized to participate in the arbitration hearing shall be in official travel status only in accordance with applicable travel regulations, and on official time.
- 20.6** The parties shall exchange name listings of known witnesses, representatives, and observers no later than five (5) days in advance of the hearing.
- 20.7** The parties may arrange for a pre-hearing conference, with or without the arbitrator, to consider possible settlement and means of expediting the hearing. For example, this can be done by reducing the issue(s) in writing, stipulating facts, outlining offers of proof, authenticating proposed exhibits, exchanging lists of witnesses, or waiving the use of a transcript.
- 20.8** Either party may request a verbatim transcript of the hearing. The party requesting the transcript will pay the costs and it becomes the property of

that party. If both parties request a transcript, the costs will be shared equally.

- 20.9** The arbitrator shall determine the procedures to use to conduct the arbitration. All parties shall be entitled to call and cross-examine witnesses and shall be entitled to a hearing before the arbitrator.
- 20.10** The arbitrator's fee and expenses, if any, shall be borne by the losing party, except that in any decision not clearly favoring one party's position over the other, the arbitrator may specify that all costs be borne equally by the parties.
- 20.11** The arbitrator shall have no authority to add to, subtract from, alter, amend, or modify any provision of this Agreement.
- 20.12** Where the parties mutually agree to bifurcate issues of arbitrability from issues on the merit, issues concerning the arbitrability of a grievance presented for arbitration under the terms of this Agreement may be resolved by the arbitrator on written motion in advance of the arbitration hearing. At the request of either party, a hearing on arbitrability may be held in advance of a hearing on the merits of the case. An arbitrability decision shall be rendered within 24 hours after the conclusion of the hearing or receipt of the written motion.
- 20.13** Where a decision is rendered on the merits, the arbitrator will be requested to render the decision as quickly as possible, but in any event not later than 30 days after the conclusion of the hearing unless the parties mutually agree to extend this time limit. The arbitrator shall submit all findings in writing, and this report shall decide all issues raised by any party.
- 20.14** The arbitrator's findings and award shall be binding upon all parties. However, either party may file exceptions to an award with the Federal Labor Relations Authority (FLRA) or the appropriate court under regulations prescribed by the Civil Service Reform Act or the FLRA.

ARTICLE 21 - MEDIATION

21.1 Mediation is recognized as an informal, yet effective process for resolving conflict. It is the intent of the parties that the use of this process will enhance the work environment. Mediation may only be used by mutual agreement of the parties. Mediation will be administered in accordance with the USDA Conflict Prevention and Resolution Center guidelines.

21.2 Mediation will not be used for:

A. Grievable or appealable adverse actions as follows:

- 1.** Suspensions greater than 14 days
- 2.** Demotions
- 3.** Removal Actions
- 4.** Reduction-In-Force and Furloughs

B. Other issues that would normally be excluded from the administrative grievance procedure.

ARTICLE 22 - LEAVE

- 22.1** The Agency will adhere to all applicable Government-wide rules and regulations, Departmental Regulations and this Article, in the administration of leave. Employees shall be entitled to accrue and use leave in accordance with Government-wide rules and regulations and this agreement.
- 22.2** Employees should request sick leave and annual leave in advance, when possible. When advance notice is not possible, an employee must notify his/her supervisor, or their designee on the first day of absence. This will normally be no later than 45 minutes after the beginning of the scheduled tour of duty. When an employee cannot contact their supervisor/designee, they may leave a phone number at which they can be reached.
- 22.3** Failure to give prompt notice may result in the absence being charged to Absent Without Leave (AWOL). This will not preclude a later change in leave status for very sufficient reasons.
- 22.4** Supervisors may require all leave to be documented by use of the OPM-71.
- 22.5** A period of absence on sick leave in excess of three (3) consecutive workdays must ordinarily be supported by a medical certificate. However, if the circumstances surrounding the employee's absence indicate that the services of a physician were not available or required, the employee's written statement may be accepted in lieu of a medical certificate. When an employee's absences indicate a possible abuse of sick leave, the submission of a medical certificate may be required to support any leave absence regardless of its duration. If there is evidence that an employee abuses sick leave, that employee may be placed on restricted sick leave.
- 22.6** Advance sick leave, advance annual leave and leave without pay will be requested and approved only in strict compliance with law and governing regulations.
- 22.7** Leave without pay (LWOP) is an approved leave status that may be requested by employees to cover periods of absence in lieu of or in the absence of accrued annual leave or sick leave. LWOP is not a right that accrues to an employee and is administered in accordance with Agency and Government-wide regulations.
- 22.8** The Family and Medical Leave (FMLA) Act of 1993 entitles certain Federal employees up to twelve (12) weeks of LWOP for specific personal and

family health conditions or emergencies. FMLA is administered in accordance with Agency and Government-wide regulations.

- 22.9** Under the Agency's Family Friendly Leave policy, sick leave for family care and bereavement purposes, sick leave for serious health condition of a family member, and advanced sick leave for family care and bereavement purposes are available for employee request and Agency consideration in accordance with Agency and Government-wide regulations.
- 22.10** The Agency may grant Administrative Leave for activities that are in the Government's interest in accordance with Agency guidelines.
- 22.11** In accordance with law and regulations, bargaining unit employees who are members of the National Guard or the Armed Forces Reserves are entitled to 120 hours of regular military leave in a fiscal year for active duty, active duty for training, and certain inactive duty training and activities defined by law.
- 22.12** Court leave for jury duty and to serve in an official or unofficial capacity as a witness or to supply evidence for state or local government will be granted to employees in accordance with Agency and Government-wide regulations.
- 22.13** The Federal Employees Leave Sharing Act of 1988, Pub. L. 103-103, enables qualifying Federal employees to use transferred (or donated) annual leave from other Federal employees to cover LWOP absences and advanced leave indebtedness resulting from personal and family medical emergencies.

ARTICLE 23 - FLEXIPLACE PROGRAM

23.1 GENERAL

The employer supports a flexible workplace policy for employees who desire to work off-site for part of the pay period and whose work is appropriate to such an arrangement and where such an arrangement will benefit the government. It is the Agency's policy to provide management with the option to allow eligible employees to work at an alternative workplace for part of the workweek.

23.2 QUALIFICATIONS

- A. A fully successful or results achieved rating for two (2) consecutive years. Management can waive the two-year requirement on a case-by-case basis. Employees currently on flexiplace upon signing of this contract are "grandfathered in."
- B. The employee has demonstrated motivation, independence, and dependability in accomplishing work assignments.
- C. The employee can accomplish their duties with less frequent face-to-face contact with others.
- D. The employee has good time management skills.
- E. The employee has clearly defined performance standards that support working offsite.
- F. The employee is willing to sign and abide by a written agreement which requires participation in training and evaluation sessions.
- G. The employee has satisfied adequate homework station requirements, including the availability of equipment and provisions for protecting the confidentiality of data.

23.3 IDENTIFYING POTENTIAL POSITIONS

- A. The following guidelines will be used to identify appropriate work assignments for flexiplace:
 - 1. The work must be portable. In other words, it must be able to be performed in a setting other than the official duty station.

2. The work must be able to be completed away from the official duty station without adversely affecting the workload of other employees, office coverage, customer service, or other mission of the work unit.
- B. The types of work suitable for flexiplace depend on specific job function. However, jobs that require the following types of skills may be considered good candidates for flexiplace.
1. Requires writing such as data analysis, reviewing voluminous documents, writing decisions or reports.
 2. Requires telephone-intensive tasks such as setting up conferences, obtaining information, following up on participants in training sessions.
 3. Includes computer-oriented tasks such as programming, data entry, or word processing.

23.4 SUPERVISOR AND EMPLOYEE AGREEMENT

- A. Before beginning off-site work, employees and supervisors must understand their responsibilities and the details of the program.
- B. The primary concern of supervisors is assuring the work of the unit is accomplished. The overall interests of the office must take precedence over working off-site. One person's off-site work should not adversely affect the performance of other employees or put a burden on staff remaining in the office. Not only should an equitable distribution of workload be maintained, but also methods should be instituted to ensure that office employees do not have to handle the flexiplace employee's work.
- C. Management approval will be at the first line supervisor's level with second line supervisory concurrence.
- D. Employee participation in the flexiplace program is contingent upon available financial resources.

23.5 ADMINISTRATIVE POLICIES

- A. DEPENDENT CARE.** Flexiplace is not a substitute for day care. Flexiplace employees may not have a dependent in the home during work hours unless an in-home care provider is present. Older children, age 12 and older, who can tend themselves before/after school and others may be in the home during duty hours, as long as care is not required by the employee.
- B. DURATION.** Flexiplace agreements can be for any period of time up to and including one year. The agreement should be re-signed if the agreement is extended past twelve months.
- C. EMPLOYEE WITHDRAWAL FROM FLEXIPLACE.** An employee's involvement in the flexiplace program is voluntary and may be discontinued by the employee at any time with appropriate notice. Such notice must be sufficient to allow necessary workplace adjustments to be made.
- D. EQUIPMENT.** The flexiplace employee's work site will be provided with necessary computer equipment to complete their work assignments. Employees wishing to use their own computers may do so, providing the security of government information can be assured. Management will provide supplies and materials. The government will issue phone cards, or other equivalent tools, to pay for long-distance telephone calls needed to perform assigned work. Additionally, for long-term flexiplace participants, management will pay for the installation and maintenance and monthly expense of a single phone line. The Management will not pay any additional utility expenses associated with at-home work.
- E. FOCUS GROUPS, SURVEYS, TRAINING, AND EVALUATIONS.** The Parties will promptly complete and submit surveys, evaluation materials and performance ratings which summarize flexiplace impact on the office, employee, the supervisor, and other organizational elements. Additionally, both Parties agree to attend periodic focus group meetings and training sessions to discuss issues.
- F. FLEXIPLACE WORK AGREEMENT.** The Flexiplace Work Agreement is the written document signed by the flexiplace employee and their supervisor, outlining details of the flexiplace program and the responsibilities of the employee and supervisor. The elements of this policy statement shall be incorporated into each Agreement.
- G. GRIEVANCES.** Grievances under this agreement will be handled according to Article 19.

- H. GROUP DISMISSAL.** A flexiplace employee may sometimes, but not always, be affected by an emergency requiring the regular office to close. For example, on a “snow day”, the flexiplace employee is not excused unless he or she cannot perform work because the regular office is closed. When both the regular office and the alternative work site are affected by a widespread emergency, the employee may be granted excused absence as appropriate. When an emergency affects only the alternative work site for a major portion of the workday, the employee may be required to report to the regular office, request leave, or be granted excused absence, depending on the circumstances.
- I. HOME INSPECTIONS.** The flexiplace employee’s work site must meet acceptable standards for the safety of the employee and the security of data and any Government loaned equipment. A self-certification safety inspection form or on-site inspection may be used to meet this requirement.
- J. INTERMITTENT FLEXIPLACE.** Intermittent flexiplace describes a work schedule that does not follow a regular weekly schedule. It can include any of the following situations.
1. Short-term (one time work assignment)
 2. Periodic (occasional work assignment up to 3 days a month)
 3. Recurring (a regular work assignment occurring less than 4 days per month)
- K. LONG TERM FLEXIPLACE.** Long-term flexiplace describes a flexiplace work schedule that generally includes one (1) day or more a week at the flexiplace site.
- L. OFFICIAL DUTY STATION.** The flexiplace employees’ official duty station is the location of the office to which they are assigned. Entitlement to locality-based comparability payment, special salary rates, travel allowances, and relocation expenses is based on the official duty station.
- M. POSITION DESCRIPTIONS AND PERFORMANCE STANDARDS.** Established position descriptions will apply to flexiplace employees. Performance standards for flexiplace employees will be results-oriented and will describe the quantity and quality of expected work products and the method of evaluation. Generally, the same

performance standards will apply to both flexiplace employees and on-site employees who perform the same tasks.

N. REMOVAL OF EMPLOYEE FROM FLEXIPLACE. The supervisor may remove an employee from the program if performance declines or the program no longer benefits the organization's needs. Normally, the employee will not be removed from flexiplace for a single minor infraction of the flexiplace Work Agreement. The supervisor and employee will make a bona-fide effort to work out specific problems before any decision is made to remove the employee from the Flexiplace program.

O. TIME & ATTENDANCE. Supervisors will continue to certify time and attendance for flexiplace employees. Employees are required to maintain T&A logs for periods covered at the Flexiplace site. Failure to submit T&A logs by close of business of the last Friday of each pay-period is a breach of the flexiplace agreement.

P. WORKERS' COMPENSATION ACT. Flexiplace employees are covered by the Federal Employees Compensation Act and may qualify for payment for on-the-job injury or occupational illness.

Q. WORK SCHEDULE, OVERTIME, PAY, LEAVE AND OTHER PERSONNEL ISSUES. Rules concerning work schedules, overtime, pay, leave, core hours and other personnel issues apply to flexiplace employees as they do to on-site employees.

1. The Flexiplace Work Agreement documents the initial work schedule and should be updated to reflect changes in work schedules. In addition to regularly scheduled on-site days, employees are responsible for attending meetings or other on-site events; reasonable notice, generally not less than 24-hours, of such events will be given to employees who are not scheduled to be in the office on those days.
2. The employee will work at the official duty station a maximum of three (3) days per workweek. Management's decision in this regard is non-grievable or arbitrable.

R. ZONING. It is the employee's responsibility to determine, and comply with, any local zoning restrictions. Employee is responsible for any costs of working at home that arise from local zoning requirements.

23.6 PAID PARKING. Paid parking is not applicable to the flexiplace agreement.

ARTICLE 24 – CHILD CARE

List of Child Care Facilities

- A.** The Employer and the Union agree that healthful and adequate child care facilities are conducive to a family-friendly work environment and are in the best interests of the Agency.

- B.** The Employer agrees to facilitate efforts to obtain lists from the Office of Operations of childcare facilities located in General Services Administration (GSA) space. The Employer will also facilitate efforts to obtain lists of alternate care facilities maintained by the USDA child care center.

ARTICLE 25 - COMMUNITY SERVICES

Community service projects sponsored by the Department or the Agency provide direct, tangible benefits to the public, the Agency, and the participating employees. The parties encourage active participation in these community service activities. Administrative leave may be granted for participation in Department- or Agency sponsored community service projects, according to the guidelines provided by the Department or Agency notification.

ARTICLE 26 - EQUAL EMPLOYMENT OPPORTUNITY

26.1 PURPOSE AND POLICY

The Parties agree that equal employment opportunity (EEO) will be administered in accordance with 29 CFR 1614 and other applicable rules and regulations. Discrimination against any employee on the basis of race, color, national origin, age, sex, disability, political beliefs, sexual orientation, religion and marital or family status is prohibited. Toward this end, the Employer will administer an EEO program in accordance with applicable laws and regulations. The Employer will cooperate and work to resolve any discrimination inquiries or complaints. The Agency also agrees to provide reasonable accommodation according to applicable laws and regulations.

26.2 EEO COMPLAINT COUNSELING

- A.** The Employer will provide employees access to Equal Employment Opportunity Counselors. The Employer shall make available the names and phone numbers of EEO counselors.
- B.** Any employee who believes that he or she has been discriminated against on the grounds set forth in Section 26.1 may file either a grievance under the provisions of this Agreement (Article 19, Negotiated Grievance Procedure), or a complaint under the discrimination complaint procedure, but not both. The EEO discrimination complaint procedures will be made available to all bargaining unit employees.
- C.** Whether an employee chooses to file under the discrimination complaint procedure or under the negotiated grievance procedure, he or she has a right to representation. For complaints filed under EEO procedures, the complainant shall have the right to be accompanied, represented, and advised by a representative of the complainant's choice. For complaints filed under the negotiated grievance procedure, the representative is a Union representative or a Union-designated representative. If the employee elects to process the grievance without representation, the Union shall have the right to be present at any meeting between the Employer and the employee concerning the grievance.

26.3 EEO ADVISORY COMMITTEE (EEOAC)

The Agency's EEOAC will function in accordance with Departmental guidelines.

ARTICLE 27 - HEALTH AND SAFETY

27.1 POLICY STATEMENT

- A.** The Employer and the Union agree that the good health and safety of all employees is essential to the performance of the Employer's mission, and is a matter of highest priority. Accordingly, the Employer and the Union agree to work cooperatively to ensure that a healthy and safe working environment is maintained.

- B.** The Employer will, to the extent of its authority and consistent with the applicable requirements of Title 29 CFR Part 1960, as well as other applicable health and safety codes, provide and maintain safe and healthy working conditions for all employees. The Employer will also provide places of employment that are free from recognized hazards that cause or are likely to cause death or serious physical harm. The Union will cooperate to that end and will encourage all employees to work in a safe manner.

27.2 EMPLOYER RESPONSIBILITIES

- A.** The Employer will work with all persons, entities or organizations regarding GSA owned or leased workspace to which bargaining unit employees are assigned to ensure working conditions are healthy and safe in compliance with applicable laws, rules, and regulations. The Employer will also take appropriate action to ensure that any reported hazardous or unsafe working conditions are examined and, if necessary, corrected in a timely manner. The Employer will ensure a response to an employee report of a condition posing imminent danger in the workplace within 24 hours after receiving the employee's report.

- B.** The Employer agrees to the following in accordance with applicable law and government-wide regulations:
 - 1.** To provide information concerning Federal Employee Health Benefits and Life Insurance Programs, pre-retirement planning, retirement benefits information, and occupational health services;
 - 2.** To make reasonable efforts to provide clean on-site restrooms in which normal supplies shall be available at all times and in which all equipment is in working order;
 - 3.** To provide and maintain on-site fire and disaster plans and equipment on each floor, including smoke detection devices and exit signs that are visible during power failure;

4. To work with the on-site building manager, the Department, GSA, and private lessors, to have safe electrical equipment and adequate ventilation in all work areas;
5. To provide for regular extermination program for purposes of pest control. Spraying for extermination of pests will be accomplished during non-duty hours or employees will be given the opportunity to work an appropriate distance from his/her work site during such extermination. All employees will be given the opportunity to work away from the site of spraying for a period of 12 hours following such spraying. In addition, employees will be given the opportunity to work away from the site of painting or other activity adversely affecting air quality for a period of 12 hours following such activity;
6. To follow GSA regulations in providing on-site facilities appropriate and adequate to accommodate the needs of qualified persons with disabilities.

27.3 UNION RESPONSIBILITIES

- A. The Union agrees that it will take appropriate action to encourage all bargaining unit employees to work safely with due consideration for the safety, health and comfort of all fellow employees. To avoid preventable unhealthy or unsafe working conditions, the Union will encourage respect and care by bargaining unit employees for the Employer's facilities and equipment and their own work environment.
- B. Each bargaining unit employee has a duty and is encouraged to report any unsafe or unhealthy working condition(s) to his/her immediate supervisor as soon as any such condition(s) come to his/her attention.

27.4 EMPLOYEE REPORTS OF UNSAFE OR UNHEALTHY WORKING CONDITIONS

- A. Any employee who believes that an unsafe or unhealthy condition exists shall have the right and is encouraged to report the unsafe or unhealthy working condition to his/her immediate supervisor. The Employer will assess each report of hazardous conditions and respond in a timely fashion.
- B. The Employer will investigate the reported condition as soon as is practicable, and may refer the situation to (a) the appropriate NAD or USDA office, (b) GSA, (c) the Occupational Safety and Health

Administration (OSHA) of the Department of Labor, (d) the Public Health Service (PHS) Health Unit, or (e) other appropriate official for further investigation. The Union will be given an opportunity to accompany any inspector who responds on such a complaint during the inspector's physical inspection of the work place. The Union representative will be granted official time for this purpose.

- C.** If an employee is assigned duties that he/she reasonably believes could possibly endanger his/her health or well being, the employee will immediately notify his/her immediate or second-line supervisor of the situation. If the supervisor cannot solve the problem and agrees with the employee, the assignment may be delayed and the matter may be referred for appropriate action. Where the supervisor does not agree with the employee's concerns, the employee has the right to contact the Union.
- D.** If the Employer determines that a hazardous condition exists which affects employees, the Employer shall advise the Union and the involved employees as soon as possible. Upon request, the Employer will meet with the Union and to the extent required by law, rule, regulation and/or Executive Order, negotiate with the Union regarding the matter.
- E.** The Employer will take measures to ensure prompt abatement of unsafe or unhealthy working conditions found to exist by the Employer in conjunction with the Department, GSA, OSHA, PHS and/or other appropriate officials. When this cannot be accomplished, the Employer agrees to develop an abatement plan setting forth a timetable for abatement and a summary of interim steps to protect employees. When the hazard cannot be abated without the assistance of GSA or another Federal lessor agency, the Employer agrees to work with the lessor agency to seek abatement.
- F.** The Employer will inform the Union of on-site toxic chemicals that will adversely affect the health or safety of employees, such as paint or pesticides, as soon as it is aware that such chemicals will be used. This notice will be given no later than one full workday before the chemicals are to be used. This notice will also include any warning statements given to the Employer by the organization using the chemicals, or that it otherwise has in its possession.
- G.** No employee shall be subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthy working condition, or other authorized participation in occupational safety and health program activities.

27.5 OCCUPATIONAL INJURY OR ILLNESS

When an employee sustains a job-related injury or occupational illness, the employee will report the injury or illness to his/her supervisor as soon, as practicable. Employees are encouraged to seek medical assistance where necessary. The employee will be advise to contact the HR Staff to obtain information on benefits under the Federal Employees Compensation Act.

27.6 EMPLOYEE ASSISTANCE PROGRAM

- A.** The Employer presently maintains an Employee Assistance Program (EAP), which provides counseling, information and other sources for employees troubled by alcoholism, substance abuse, emotional illness, marital/family problems or financial problems. The Employer will make employees and supervisors aware of the program at least annually.
- B.** Employees whose performance is negatively affected by alcoholism or other forms of substance abuse will be given a reasonable opportunity to obtain professional assistance in overcoming the problem and to participate in programs, such as Alcoholics Anonymous. As required by the program, the Employer will make available to employees, on a completely confidential basis, the services of a qualified counselor specializing in alcohol and substance abuse problems.
- C.** The EAP offers referral services to outside, local alcohol treatment programs, family counseling and substance abuse treatment programs.
- D.** Employees undergoing a prescribed program of treatment for problems recognized under this Article will be granted the appropriate leave to the extent necessary to complete such program on the same basis as any other illness when absence from work is necessary.
- E.** Employees with substance abuse or alcohol problems are encouraged to voluntarily request assistance through EAP and participate in a prescribed program of treatment. When the Employer determines that a conduct or performance problem exists which may be substance abuse or alcohol related and refers the employee to EAP, the Employer may take appropriate disciplinary

or adverse action, consistent with the obligation to provide reasonable accommodation where required by law.

- F. The Employer agrees to continue participating in the EAP in accordance with Departmental rules and regulations. Employees' participation in the EAP will be treated with the utmost confidentiality.

27.7 OCCUPANT EMERGENCY PLAN

In accordance with GSA regulations, the Employer shall maintain an Occupant Emergency Plan that will designate floor monitors, area monitors, stairwell monitors, elevator monitors, monitors to assist persons with disabilities and restroom monitors for each floor, and describes the duties and responsibilities of these persons during an emergency. A copy will be given to the Union upon request. The Employer will establish such programs, if they are not already in existence, in all federally leased/owned or privately leased buildings in which bargaining unit employees work, within 120 days of the effective date of this Agreement. Copies of the plan will also be provided to the Union upon request.

27.8 JOINT HEALTH AND SAFETY COMMITTEE

A joint Health and Safety Committee, comprised of Employer and Union personnel will be established to study and make recommendations to the Employer concerning issues related to the parties' mutual efforts to ensure the good health and safety of all employees. This Committee will consist of up to two members from the Agency and two members from the Union.

ARTICLE 28 - CONTRACTING OUT

28.1 Notification to Union

This Article refers to work currently being performed by bargaining unit employees. The Employer will provide advance notice to the Union prior to implementing a decision to contract out that results in Reduction-in-Force (RIF) or demotion of bargaining unit employees.

28.2 Compliance

The Employer agrees to comply with all controlling laws and regulations relating to contracting out work performed by bargaining unit employees, including Office of Management and Budget (OMB) Circular A-76, as OMB may revise it from time to time. The Employer agrees to follow the requirements of Article 13, RIF, where RIF results from a decision to contract out.

28.3 Statement of Work

The Employer will provide the Union a copy of any Statement of Work that includes work currently performed by bargaining unit employees.

28.4 Access to Regulations

The Employer agrees to provide the Union access to all regulations relevant to contracting out which are maintained on-site.

28.5 Adverse Effects on Bargaining Unit Employees

If bargaining unit employees are subject to RIF or demotion as a result of a decision by the Agency to contract out work presently performed by bargaining unit employees, the provisions of Article 13, RIF, and Agency regulations and guidelines apply.

28.6 Placement Assistance

The Agency agrees to assist in locating suitable employment for bargaining unit employees who are displaced as a result of contracting out including:

- A.** Giving priority consideration for suitable vacant positions, released to be filled, in the Agency in accordance with Agency policies and procedures;
- B.** Paying reasonable costs for training and relocation, subject to availability of funds, when these will contribute directly to placement; and

- C.** Providing available research resources to employees for use in conducting job searches during the period of continued employment with the Agency.

ARTICLE 29 - OFFICIAL TIME

29.1 DEFINITION

- A.** "Official Time" means time expended by the Employer's bargaining unit employees as Union representatives during normal working hours, without charge to annual leave, and granted by the Agency according to 5 U.S.C. 7131(d) for the purposes set forth in Section 27.3 below.

- B.** Requests for Official Time for purposes other than those enumerated in Section 29.3 will be considered by Management and responded to in a timely manner. Such requests should be made by an appropriate Union official to the LR staff. If this office agrees that the request constitutes an appropriate use of Official Time, individual representatives may schedule its usage with their supervisors according to the provisions of Section 29.6 below.

29.2 USE OF OFFICIAL TIME

- A.** Permitted Use of Official Time

Union representatives shall request official time from the Employer, and shall be granted the use of reasonable official time, for purposes defined in Section 29.3. Official time will be approved unless it will interfere with the completion of key work assignments of the work unit.

- B.** Designation of Union official for Use of Official Time

The Union shall have the right to designate 6 representatives and alternates including two (2) elected officers, one of whom will be the Chief Steward. These representatives may be granted official time for representational purposes covered in Section 29.3 of this Article. The representatives and their alternates will provide geographic representation for the work area to which they are assigned. However, this will not preclude the Union from assigning a representative to matters outside of his or her normal area under special circumstances when mutually agreed by the parties. Such circumstances could include a steward's unavailability due to leave, travel, training; and the need for a steward's special expertise; the regularly assigned steward has the grievance or problem; or the need for on-the-job training for a new steward. Management

agrees to give serious consideration to such circumstances when deciding whether to agree to assign a steward to a matter outside of his or her geographic area and will not unreasonably withhold agreement. The regular assignment of representatives and alternates designated at each location will be determined by the Union. In the case where the Union cannot find a representative for a specific location, a temporary representative may be assigned at the Union's election. Officers, including the Chief Steward, will not be restricted by geographic location.

C. List of Stewards and officers

The Union agrees to provide Management with a list of officers, representatives, and their alternates designated to use official time within their assigned location. This list may be updated and modified from time to time. Normally, any changes to the list will be submitted in writing to the Employer's representative three working days before the individual will be recognized by the Employer as having authority to represent the Union and be granted official time for representational duties. In exceptional circumstances, such as when a new steward replaces an existing steward and is immediately confronted with a situation requiring Union representation, the Union may notify the Employer's designated representative orally, but must send a written confirmation within three working days after the oral notification.

29.3 PURPOSES OF OFFICIAL TIME

Official time for representational purposes or representational activities is covered by 5 U.S.C. Section 7131 and shall include the following:

- A.** Any formal discussion between one or more representatives of the Employer and one or more employees in the bargaining unit or their representatives concerning any grievance, personnel policy, practice, or other general condition of employment.
- B.** Any examination of an employee in the bargaining unit by a representative of the Agency in connection with an investigation if:
 - 1.** The employee reasonably believes that the examination may result in disciplinary action against the employee, and
 - 2.** The employee requests representation.

- C.** Any meeting between a Union representative(s) and one or more representatives of the Employer that is initiated by either the Employer representative or the Union representative.
- D.** Participation in bargaining, including mediation and/or the resolution of any bargaining impasse and/or negotiability questions.
- E.** Participation in proceedings of the Federal Labor Relations Authority, Federal Mediation and Conciliation Service, Federal Services Impasses Panel, Merit Systems Protection Board and Arbitration.
- F.** Preparation time for the following:

 - 1.** Filings to the agencies referenced in Section 29.3, Paragraph E above.
 - 2.** Preparation of grievances, adverse actions and other appeals under the relevant Departmental Regulations, and this Agreement.
 - 3.** Preparation of any other negotiation (impact and implementation), grievance or arbitration procedures as outlined in this Agreement.
- G.** Presentation of grievances, adverse actions, and other appeals under the relevant Departmental Regulations, and this Agreement.
- H.** The Employer agrees to grant up to 100 hours of official time each year on a calendar year basis to employees who are Union officers for the purpose of attending Union-sponsored labor relations training that furthers the interest of the Federal Government by improving the labor management relationship. Written requests for official time to attend Union-sponsored labor relations training will identify the names and location of each representative proposed to attend the training and the number of hours requested for each representative. Such requests will be submitted to the Office of the Assistant Director for Administration at least 10 days in advance of the training. The requests will contain a copy of the training agenda and other information concerning the duration and nature of the training. Management reserves the right to approve or deny training requests.
- I.** The Union will be responsible for all costs associated with attendance at the training.

29.4 PROHIBITED USE OF OFFICIAL TIME

Official time shall not be permitted, used, granted or utilized for internal Union business, including but not limited to, the following:

- A. The attendance at meetings for internal Union business;
- B. The solicitation of membership;
- C. The collection of dues;
- D. The election of Union officials;
- E. The preparation and distribution of Union newspapers, flyers, bulletins or other publications; or
- F. The discussion of internal Union business by telephone, in person or otherwise.

29.5 AMOUNT OF OFFICIAL TIME

The Union representative's supervisor may approve official time for the purposes set forth in Section 27.3 in amounts that are reasonably necessary to accomplish the purpose for which official time is requested.

29.6 PROCEDURES FOR REQUESTING USE OF OFFICIAL TIME

- A. The following procedures shall be followed for requesting the use of official time for the purposes set forth in Section 27.3.
 - 1. All requests for the use of official time shall be for finite periods of time and must be made in advance and recorded on OPM Form 71 (OPM-71), Request for Leave or Approved Absence.
 - 2. Requests for the use of official time shall be made by the Union representative completing Other Paid Absence on the OPM-71 with the appropriate code (Code 35, 36, 37, 38) listed in the remarks section and submitting it to his/her immediate supervisor or the second level supervisor if the immediate supervisor is absent or unavailable.
 - 3. Supervisory approval of the period of official time must be obtained prior to the use of such official time and recorded on an OPM-71.

4. In the event the person entitled to the use of official time requires additional time due to unforeseen circumstances, the person shall request an extension of time by telephone or other appropriate means. The request shall be made to the approving supervisor or in that supervisor's absence, to the acting supervisor of the person's unit, section or division.
5. Upon the completion of a period of official time that is reasonable and necessary, the Union representative shall promptly return to work and notify the supervisor who approved the official time.
6. It is understood by the parties that unforeseen needs may arise precluding advance approval, such as unexpected telephone calls to a Union representative. On such occasions, the Union representative will notify the supervisor as soon as possible and fill out an OPM-71 by close of business on the same day.

B. Availability of Official Time in the Case of Disapproval

In the event that a request for the use of official time by a Union representative is disapproved in whole or in part, the decision making official shall notify the representative as much in advance as possible, so that the Union may select an alternate representative, and so that the selected alternate will have sufficient time to prepare, if necessary. If after making a good-faith effort, the Union is unable to designate an alternate representative, Management will make a reasonable effort to reschedule events or modify deadlines that are under Management's control.

ARTICLE 30 - MID-TERM BARGAINING

30.1 DEFINITIONS

- A. I&I (IMPACT AND IMPLEMENTATION) BARGAINING.** Even where the decision to change conditions of employment of unit employees is protected by management's rights, there is a duty to notify the union and, upon request, bargain on procedures that management will follow in implementing its protected decision as well as on appropriate arrangements for employees expected to be adversely affected by the decision. Such bargaining is commonly referred to as "impact and implementation," or "I&I" bargaining, which is the commonest variety of midterm bargaining.
- B. MIDTERM BARGAINING.** Literally, all bargaining that takes place during the life of the contract. Usually contrasted with term bargaining--i.e., with the renegotiation of an expired (or expiring) contract. Midterm bargaining includes I&I bargaining, union-initiated midterm bargaining on new matters; and bargaining pursuant to a reopener clause. It excludes matters that are already covered by the term agreement.

30.2 These procedures cover the negotiations, which flow from changes in conditions of employment, which affect employees in the bargaining unit and which create a mandatory obligation to bargain.

30.3 When the Employer wishes to implement negotiable changes in personnel policies, practices and working conditions, the Employer will provide the Union advanced notice of the proposed changes in conditions of employment.

30.4 When the Employer notifies the Union of changes, notice shall be served as follows:

- A.** When the proposed changes create an obligation to bargain under the Federal Service Labor Management Relations Statute, the Agency will serve notice of the change on the President of AFSCME, Local 3020. Any negotiations will be conducted in accordance with Article 4, Union Rights, Paragraph 4.8.
- B.** Notice shall be provided within a reasonable period of time in advance of the implementation of the proposed changes as required by Article 4, Union Rights, Paragraph 4.8, taking into consideration the nature and scope of the proposed changes and the need for timely implementation. The notice will contain a proposed implementation date. Service may be by certified return receipt mail, e-mail, or facsimile.

30.5 Following receipt of the notice described in A above, if the Union wishes to negotiate concerning the proposed changes, the Union will notify the Employer in writing of its intent to bargain within ten (10) calendar days. Such notice will be provided to the same Employer representative who sent the notice of proposed change to the Union and will be deemed effective upon hand delivery, certified mail (return receipt requested), fax, or other method (e.g., e-mail) that can confirm receipt. The Union will send its proposals to the official designated in the Employer's notice of proposed changes. At this time, the Union will also inform the Employer of its designated representative for purposes of the mid-term bargaining. Negotiations will start shortly thereafter.

30.6 The following will guide the procedures of negotiating mid-term matters:

- A.** By mutual agreement, the Parties may use alternatives to face-to-face meetings.
- B.** Upon request, the Union will be provided a briefing concerning the proposed change within the time limit provided in Section 2(B).
- C.** The Agency may proceed with implementation, if the Union waives its right to bargain by failing to make its intent to bargain known within the time limit provided.
- D.** Nothing herein shall be deemed to waive the Employer's authority as provided by law (e.g., exigencies) to implement proposed changes in conditions of employment before the completion of bargaining.
- E.** At all stages of the process, the Parties will communicate and bargain in a good faith effort to reach agreement in an expeditious manner.
- F.** The Employer shall provide a site for mid-term bargaining when face-to-face negotiations are held. The Employer will pay for up to two (2) Union negotiation team members' travel and per diem expenses incurred for a reasonable period of time to attend negotiating sessions where the Employer agrees that face-to-face negotiations are necessary.
- G.** At the beginning of bargaining, the Parties may notify the appropriate Federal Mediation and Conciliation Service (FMCS) office in each instance of an ongoing matter subject to this process.
- H.** Either Party has the right to request the assistance of an FMCS mediator at the appropriate FMCS office at any time during bargaining. It is understood that a Party will not request FMCS intervention unless it has a basis to believe that bilateral efforts between the Parties will not result in an agreement in a timely manner. The requesting Party should notify the other Party of its intention to request FMCS assistance. The Employer and the Union will share equally all fees charged by FMCS.

- I. When mediation has been requested, the Parties will schedule a mediation session with the mediator as soon as practical, if appropriate. The Parties will make every attempt to hold any mediation sessions, telephonically or in person, as expeditiously as possible.
 - J. If the Parties have not reached agreement, they will then submit their dispute(s) to the Federal Service Impasses Panel (FSIP) for final resolution.
- 30.7** Neither Party waives any right to exercise any of its statutory rights and remedies such as unfair labor practices, negotiability appeals, or Agency head review.
- 30.8** The Parties shall share equally the cost of any mediation/advisory arbitration proceedings under this Agreement where the parties mutually agree to request this process.
- 30.9** The Union and the Employer will incorporate any agreement into a Memorandum of Understanding (MOU), and each party will sign the MOU. Each MOU will contain a provision indicating an effective date and an expiration date. Any MOU will be subject to re-opening upon expiration or renewal of the national collective bargaining contract (this Agreement).
- 30.10** All disputes concerning the interpretation or application of MOUs will be addressed through the Negotiated Grievance Procedure described in Article 19 of this Agreement.

ARTICLE 31 - REOPENER NEGOTIATIONS

The parties may elect to re-open this agreement for negotiations at its mid-point by mutual agreement. At least 30, but not more than 60 days, prior to the mid-point (18 months after the effective date) the moving party will serve the other party with written notice citing the article(s) to be re-negotiated and a brief explanation of why the party wishes to re-open the article(s). If the other party agrees, the parties will move forward with negotiations under the following guidelines:

- A.** Each party may re-open a maximum of three (3) articles on their own volition.
- B.** Article(s) in excess of three (3) articles may be re-opened at the midpoint if the parties mutually agree.
- C.** Within fifteen (15) days of receipt, the parties will meet to establish ground rules to commence negotiations.
- D.** The mid-term bargaining team will be comprised of three (3) members from each party unless otherwise mutually agreed.
- E.** Changes that are negotiated or agreed to pursuant to this section will be reduced to writing, signed by both parties, and incorporated into this Agreement.
- F.** In the event agreement is not reached on any re-opened article(s), the current provisions of the disputed article(s) will remain in full force and effect until a satisfactory resolution of the dispute is attained or a remedy imposed by the Federal Services Impasse Panel (FSIP).
- G.** Official time will be authorized according to Article 29.
- H.** The Employer will provide facilities for negotiations and will pay Union Negotiation Team members' travel and per diem expenses incurred during the negotiating sessions.

ARTICLE 32: DUES WITHHOLDING

Voluntary allotment by employees for the payment of dues to the Union shall be authorized and processed according to the May 3, 1993, Memorandum of Understanding (MOU)¹ between the USDA and the American Federation of State, County, and Municipal Employees (AFSCME), with the exception of paragraphs eight (8) and nine (9)(c) & (d), covering employee dues deduction until superseded. At that time, this Article will be modified to incorporate the conditions of the new MOU. The present MOU is attached to this Agreement as Appendix D. Paragraphs eight (8) and nine (9)(c) & (d) from the 1993 MOU are revised as follows:

8. An employee may voluntarily revoke an allotment for the payment of dues by completing a SF-1188, "Cancellation of Payroll Deductions for Labor Organization Dues" or by memorandum in duplicate, and submitting it to the Human Resources Office (HRO). An employee may submit a SF-1188 Form, in duplicate, for the revocation of an allotment within thirty (30) days of the anniversary date when the bargaining unit employee joined the union. If the employee uses a written request, it must contain all the information required by the SF-1188. After the employee's anniversary date, the processing of revocation requests are processed as follows: The HRO shall process the revocation effective as of the first full pay period after September 1 of each year provided that the revocation was received by the HRO on or before August 29 of each year, and provided the employee has had AFSCME dues withheld for more than 1 year and certifies to that fact. The HRO shall verify the information and forward to the designated Union official a copy of each revocation received as appropriate notification of the revocation.

9. The USDA will terminate an allotment.

- (a) as of the beginning of the first full pay period following receipt of notice that exclusive recognition has been withdrawn;
- (b) at the end of the pay period during which an employee member is separated or assigned to a position not included in an AFSCME bargaining unit;
- (c) at the end of the pay period during which the HRO received a notice from the AFSCME or a Local of AFSCME that an employee member has ceased to be a member in good standing;

¹ All references to the Service Personnel Office (SPO) in the MOU is accepted by the parties to mean the Human Resources Office (HRO).

- (d) consistent with the requirements of paragraph 8 above, annually during the first full pay period after September 1, after receipt of the employee member's written revocation of allotment (SF1188 or memorandum in duplicate), provided that the revocation is received by the HRO on or before August 29 of each year, and provided the employee verifies that he/she has had AFSCME dues withheld for more than one year.

MEMORANDUM OF UNDERSTANDING

National Appeals Division

And

American Federation of State, County and Municipal Employees (AFSCME), Council 26, AFL-CIO, Local 3020

- I. This Memorandum of Understanding (MOU) is entered into by, and between the United States of America, National Appeals Division (hereinafter referred to as "Agency") and the American Federation of State, County, and Municipal Employees, Council 26, AFL-CIO, Local 3020 (hereinafter referred to as "Union").
- II. This MOU shall apply to Article 32, Dues Withholding, paragraphs 8 and 9(d) of the parties' Collective Bargaining Agreement (CBA). The purpose of this MOU is to modify the provision concerning the processing of voluntary dues revocations and replace with a provision that is consistent with 5 USC 7115(a). On October 23, 2007, the parties discussed the referenced provision in the parties' CBA. As a result of these discussions, the parties agreed to the following:
- III. Replace paragraphs 8 and 9(d) to read as follows:
8. An employee may voluntarily revoke an allotment for the payment of dues by completing a SF-1188, "Cancellation of Payroll Deductions for Labor Organization Dues" or by memorandum in duplicate, and submitting it to the Human Resources Office (HRO). An employee may submit a SF-1188 Form, in duplicate, for the revocation of an allotment within thirty (30) days of the anniversary date when the bargaining unit employee joined the union. If the employee uses a written request, it must contain all the information required by the SF-1188. The request will be processed within two full pay periods after receipt of a properly completed form. Following verification of the information, a copy of each revocation received will be forwarded to the designated Union official as appropriate notification of the revocation.
9. The USDA will terminate an allotment.
- (a) as of the beginning of the first full pay period following receipt of notice that exclusive recognition has been withdrawn;
 - (b) at the end of the pay period during which an employee member is separated or assigned to a position not included in an AFSCME bargaining unit;

- (c) at the end of the pay period during which the HRO received a notice from the AFSCME or a Local of AFSCME that an employee member has ceased to be a member in good standing;
- (d) within two full pay periods after receipt of a properly completed Form SF-1188 consistent with the requirements of paragraph 8 above and provided the revocation is received by the HRO within 30 days of the anniversary date when the bargaining unit employee joined the Union.

IV. This MOU shall be considered an addendum to the CBA and subject to its duration, absent mutual agreement of the parties to do otherwise, and effective upon execution by the parties' authorized representatives below. This MOU supersedes any inconsistent provisions of the parties' CBA concerning dues withholding as referenced in section III above. It shall be applied to requests for revocation of voluntary dues withholding (Forms SF-1188) received on or after the date of the signatures of the parties below:

FOR THE AGENCY:

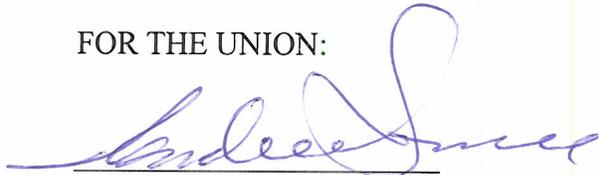


William Pratt, Assistant Director
NAD

11-28-07

(Date)

FOR THE UNION:



Wendell Fennell, President
AFSCME, Council 26, Local 3020

11/19/2007

(Date)

ARTICLE 33 - DURATION AND DISTRIBUTION

- 33.1** Effective date: This Agreement shall take effect no later than 30 days after signature by both parties unless disapproved by the Secretary of Agriculture pursuant to the provisions of 5 U.S.C. Section 7114(c)(2).
- 33.2** This Agreement shall remain in effect for three (3) years from its effective date.
- 33.3** Renegotiation and Renewal: The Employer or the Union may request to renegotiate the Agreement by submitting notice in writing at least 60 days, but not more than 120 days, prior to the expiration date. In the event the parties renegotiate the Agreement, the current terms will remain in effect until superseded by a new Agreement. In the event that neither party submits a notice to renegotiate, the Agreement will be renewed automatically for periods of one (1) year except for provisions that may be in conflict with applicable law, rule, or regulation.
- 33.4** At a minimum, the following ground rules will apply to the negotiations:
- A. The parties will begin negotiations no later than 30 days prior to the expiration date of this Agreement.
 - B. The parties shall meet within 15 days following the notice in Section C to negotiate additional ground rules, as necessary.
- 33.5** Disapproval by the Secretary of Agriculture. If the Secretary of Agriculture disapproves any negotiated language, the Union may petition the Federal Labor Relations Authority (FLRA) to challenge the decision or to reopen negotiations over the topic within 10 days. Otherwise, unaffected portions of the Agreement shall take effect according to Section A of this Article.
- 33.6** Upon any disapproval, the parties will negotiate further pursuant to the ground rules governing the negotiations of this Agreement.
- 33.7** Printing and Distribution. Within 30 days after the effective date of this Agreement, Management will print 150 copies and distribute them to the Union and bargaining unit employees. Each party is independently responsible for the cost of printing any additional copies of this agreement.

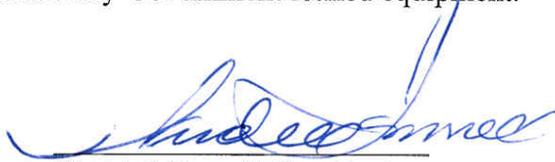
**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U. S. DEPARTMENT OF AGRICULTURE
NATIONAL APPEALS DIVISION
AND
THE AMERICAN FEDERATION OF STATE COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 26, LOCAL 3020**

The parties to this memorandum, the U. S. Department of Agriculture-National Appeals Division (NAD) and the American Federation of State County and Municipal Employees, Council 26, Local 3020 (AFSCME), agree to the following mutually favorable actions for setting up duty station locations and offices for NAD Hearing Officers. This agreement satisfies NAD's statutory obligation to bargain this issue.

1. NAD Management supports alternative worksites for NAD Hearing Officers. Hearing Officers may work out of their homes (alternative worksites), providing their performance and/or conduct meet an acceptable level as determined by the supervisor.
2. It is Management's prerogative in determining official duty locations.
3. Hearing Officers may either work in leased offices (GSA or commercial space) or from designated office space in their homes. NAD official duty locations are within U.S. Census Bureau Metropolitan Statistical Areas (MSAs). In certain parts of the United States, Management may identify an official duty location within a Consolidated Metropolitan Statistical Area (CMSA), Core Based Statistical Area (CBSA) or New England City and Town Areas (NECTA), instead of an MSA.
4. NAD will not require Hearing Officers to work from their homes. If a Hearing Officer advises the supervisor that he or she prefers leased office space, NAD will lease office space for the Hearing Officer. NAD will determine the appropriate leased office space in coordination with the Government Services Agency (GSA). USDA Office of Procurement and Property Management (OPPM), and Animal and Plant Health Inspection Service (APHIS) Administration Services Division, Real Estate Team.
5. Hearing Officers working in leased offices are doing so because: i) they requested leased office space, ii) they demonstrated an inability to work satisfactorily from their homes, or iii) NAD hired them after July 1, 2005.
6. The supervisor will evaluate each Hearing Officer's home office preference for NAD location criteria before final approval.
7. Hearing Officers will not be eligible to work flexi-place. This amends Article 23 – Flexiplace Program, of the NAD/AFSCME Collective Bargaining Agreement.

8. Management determines the location of the leased office space within the assigned MSA. Hearing Officers have flexibility to choose the location of their home office as long as it is within their assigned MSA and NAD Region. Hearing Officers who choose to have their residence outside the assigned MSA and/or NAD Region will not be allowed to work from a home office and will have to work from leased space.
9. Once each year as a minimum, Hearing Officers must self-certify that the home office work site and Government owned equipment are safe and secure and must provide an inventory of such equipment to their respective Regional Offices. Failure to provide such self-certification will result in removal from the home office and placement into leased office space.
10. All Hearing Officers, regardless of home or leased office or distance from regional offices, are subject to official visits by an authorized NAD representative. Such visits shall be at management's discretion and uniformly conducted. Hearing Officer(s) who require training or who are being counseled for performance or conduct will be dealt with on a case-by-case basis.
11. Hearing Officers hired before July 1, 2005, who would like to change their leased office to a home office, or conversely, may file a written request with their supervisor. The request is subject to approval by the supervisor. If the Hearing Officer asks to switch from a leased office to a home office, he or she must wait until the end of the current lease in effect.
12. For a newly hired Hearing Officer (hired after May 1, 2007), the supervisor will seek the Hearing Officer's preference (leased space or home office). The Hearing Officer must state their preference in writing. If the newly hired Hearing Officer prefers to work from a home office, his or her supervisor will consider it as a request. If the supervisor approves the request, the Hearing Officer may work from home as long as the home office remains in the same MSA duty station location and assigned NAD Region.
13. If after the initial request for office preference, a newly hired Hearing Officer would like to change his or her leased office to a home office or conversely, he or she may file a request with the supervisor. If the new Hearing Officer asks to switch from a leased office to a home office and NAD has executed the lease, the employee will have to wait until lease expires.
14. Hearing Officers currently working in home offices that do not fall within an MSA may maintain their current office locations. If at a later date these Hearing Officers request to move their home offices, they must move into an assigned MSA within the NAD Region.
15. All Hearing Officers who work at home offices must complete and sign a TELEWORKING AGREEMENT {Department Regulation (DR) 4080-811-002 (Appendix A)}. In accordance with the Teleworking Agreement, the employee's work

site must meet acceptable standards for the safety of the employee and the security of data and any Government loaned equipment.



Wendell Fennell, President
AFSCME, Council 26, Local 3020

4/24/2007
Today's date



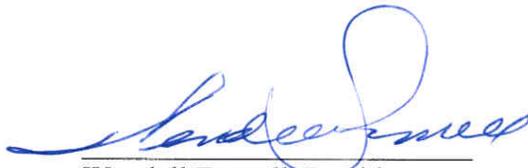
William Pratt, Assistant Director
For Management /USDA-NAD

4/25/2007
Today's date

Hearing Officers Hired July 1, 2005 through May 1, 2007:

The agreement for this group of Hearing Officers expires July 15, 2007.

- a) The supervisor will give Hearing Officers in this group a onetime opportunity to state their office preference in writing - leased offices or home offices.
- b) If a Hearing Officer prefers to work from a home office, he or she may make a request with his or her supervisor to move to a home office. The home office must remain within the assigned MSA duty station location and NAD Region.
- c) If after July 15, 2007, a Hearing Officer seeks to change from a leased office space to a home office (or conversely), the employee may file a written request. If the Hearing Officer asks to switch from leased office space to a home office, he or she will have to wait until the current lease expires.
- d) All Hearing Officers who work at home offices must complete and sign a TELEWORKING AGREEMENT {Department Regulation (DR) 4080-811-002 (Appendix A)}. In accordance with the Teleworking Agreement, the employee's work site must meet acceptable standards for the safety of the employee and the security of data and any Government loaned equipment.



Wendell Fennell, President
AFSCME, Council 26, Local 3020

4/24/2007
Today's date



William Pratt, Assistant Director
For Management/USDA-NAD

4/25/2007
Today's date

APPENDICES

<u>APPENDIX</u>	<u>DESCRIPTION</u>	<u>ARTICLE</u>	<u>PAGE NO.</u>
A.	Form LR-102, Request to Earn Credit Hours	10	82
B.	Form LR – 103, Request for Filing a Grievance	19	83
C.	Form LR-101, Flexiplace Agreement	23	85
D.	Modified Memorandum of Understanding between the U. S. Department of Agriculture and the American Federation of State, County, and Municipal Employees, Council 26	32	89

APPENDIX – A
 UNITED STATES DEPARTMENT OF AGRICULTURE
 National Appeals Division (NAD)
 REQUEST TO EARN CREDIT HOURS

INSTRUCTIONS

FORM MUST BE SUBMITTED FOR APPROVAL BEFORE NOON ON THE DAY YOU WISH TO WORK CREDIT HOURS (BUT NO EARLIER THAN THE PAY PERIOD FOR WHICH YOU ARE REQUESTING TO WORK CREDIT HOURS). YOU MUST WORK AT LEAST ½ HOUR OF CREDIT HOURS AND A MAXIMUM OF 2 HOURS PER DAY. CREDIT HOURS MAY BE USED LIKE ANNUAL LEAVE. CREDIT HOURS MAY NOT BE CONVERTED TO OVERTIME AT A LATER DATE. PLEASE ENTER YOUR CURRENT CREDIT HOUR BALANCE BELOW PRIOR TO SUBMITTING THIS FORM TO YOUR SUPERVISOR. YOU MAY NOT CARRY OVER MORE THAN 24 HOURS AT THE END OF A PAY PERIOD. IF YOU SHOULD CHANGE YOUR MIND AFTER RECEIVING APPROVAL PLEASE NOTIFY YOUR SUPERVISOR IMMEDIATELY.

REQUESTOR'S NAME:		CURRENT BALANCE:
DATE	TIME	TOTAL
MONDAY	FROM: TO:	
TUESDAY	FROM: TO:	
WEDNESDAY	FROM: TO:	
THURSDAY	FROM: TO:	
FRIDAY	FROM: TO:	
SIGNATURE		DATE:

APPROVAL

ABOVE REQUEST APPROVED
 ABOVE REQUEST DISAPPROVED
 ABOVE REQUEST APPROVED

FOR CREDIT HOURS

FOR CREDIT HOURS

IN PART AS NOTED

REMARKS

IF APPROVED IN WHOLE OR IN PART, PLEASE RETURN ORIGINAL TO THE EMPLOYEE AND COPY TO THE TIMEKEEPER. IF DISAPPROVED PLEASE RETURN FORM TO EMPLOYEE

APPROVAL SIGNATURE	DATE
--------------------	------

FORM LR -102

APPENDIX - B

AGENCY USE ONLY
GRIEVANCE
NUMBER _____

GRIEVANCE FORM LR-103

THIS GRIEVANCE IS FILED UNDER THE PROVISIONS OF THE
COLLECTIIVE BARGAINING AGREEMENT

Grievant's Name – LAST		FIRST	Contact Telephone #	
Address to Which Grievance Response Must be Mailed.				
Position Title, Series, Grade, and Duty Station			Regional Office	Check Grievance Step
Date of Alleged Violation	Management Officials' Name Against Whom Grievance Made			Step 1 ___ Step 2 ___ Step 3 ___

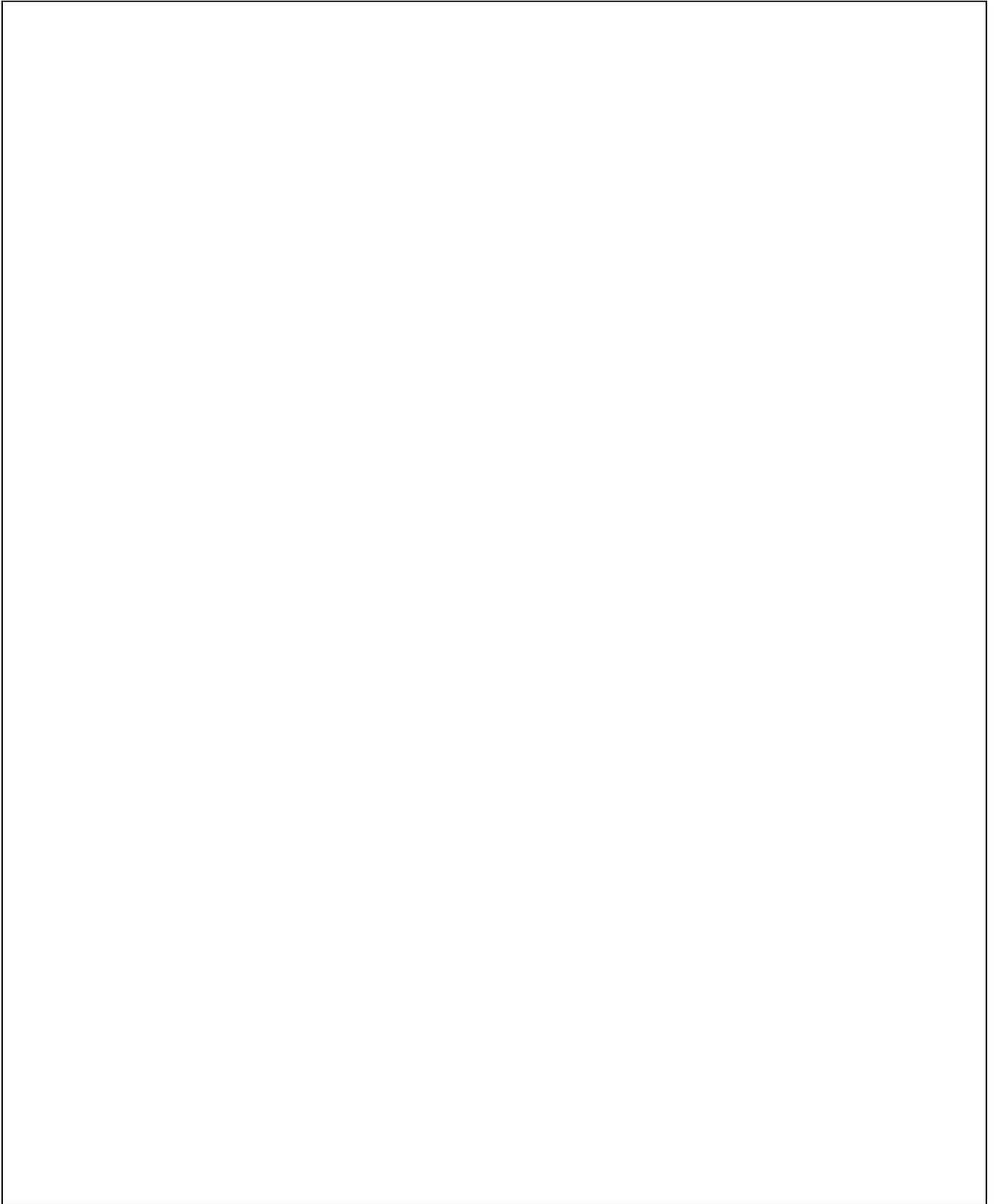
GRIEVANCE DESCRIPTION – Exact terms of the grievance (including dates), applicable law(s), rule(s), regulation(s), Collective Bargaining Agreement Article(s) allegedly violated, reason for dissatisfaction, names and addresses of witnesses, and supporting documents and evidence. (Continue on Reverse)

EFFORTS TO RESOLVE (after step 1)– written description of verbal and written supervisory decisions and why those decisions were not acceptable

PERSONAL RELIEF DESIRED

Grievant Signature	Date
Union Representative's Signature (if represented)	Filing Date
Print Union Official Name, Title, and Location	Telephone No.

CONTINUED FROM PAGE 1



APPENDIX - C

FLEXIPLACE WORK AGREEMENT

The following constitutes an agreement between the United States Department of Agriculture, National Appeals Division and

(Employee):_____

of the terms and conditions of the Flexible Workplace Program

1. Employee volunteers to participate in the Flexible Workplace Program and to adhere to the applicable guidelines and policies. Agency concurs with employee's decision to participate and agrees to adhere to the applicable guidelines and policies.
2. Employee's official duty station is_____.
3. Employee's official tour of duty will be:_____.

The flexiplace work place is:_____

_____.

All pay, leave, and travel entitlements will be based on the employee's official duty station.

4. Management will provide a copy of the employee's flexiplace schedule to the employee's timekeeper.
5. Employee must obtain supervisory approval before taking leave in accordance with the Collective Bargaining Agreement (CBA) and established office procedure.
6. Employee will continue to work in pay status while working at his/her flexiplace work site. If an employee works overtime that has been ordered or approved in advance, he/she will be compensated in accordance with applicable laws and regulations. The employee understands that the supervisor will not accept the result of unapproved overtime work and will act vigorously to discourage it. By signing this form, employee agrees that failing to obtain proper approval for overtime work may result in his/her removal from the Flexible Workplace Program and will subject him/her to other appropriate disciplinary or adverse action.

7. If the employee borrows Government equipment, the employee will protect the Government equipment in accordance with the applicable Government procedures. Government owned equipment will be serviced and maintained by the Government. If the employee provides their own equipment, he/she is responsible for servicing and maintaining it.
8. Once each year as a minimum, employees must self-certify that the flexiplace work site and Government owned equipment, if applicable, are safe and secure and must provide an inventory of the Government equipment, if applicable. Failure to provide such self-certification will result in removal from flexiplace. Management may inspect the Flexiplace worksite at anytime during working hours without prior notice.
9. The Government will not be liable for damages to an employee's personal or real property during the course of performance of official duties or while using Government equipment in the employee's residence, except to the extent the Government is held liable by Federal Tort Claims Act or claims arising under the Military Personnel and Civilian Employees Claims Act.
10. The Government will not be responsible for operating costs, home maintenance, or any other incidental cost (e. g. utilities) whatsoever, except the Government will pay the cost of telecommunication expenses incurred on behalf of the Government. By participating in this program the employee does not relinquish any entitlement to reimbursement for authorized expenses while conducting business for the Government, as provided by statute and implementing regulations.
11. Employee is covered under Federal Employee's Compensation Act if injured in the course of actually performing official duties at either the official or alternative duty station.
12. The employee will meet with the supervisor to receive assignments and to review completed work at any time upon request. If one of the employee's scheduled Official Duty Station (ODS) days fall on a holiday, or a holiday causes the compressed work schedule (CWS) to be moved to a scheduled ODS day, or the employee has scheduled leave or takes unscheduled leave on the ODS day, the employee must report to the ODS either the day before or the day after the holiday or the CWS day or scheduled leave day, or unscheduled leave day, unless the employee's supervisor approves otherwise.
13. The employee will complete all assigned work according to elements and standards as stated in the employee's performance plan. The employee's job performance will be evaluated according to the elements and standards contained in the performance plans. Participation in flexiplace will end at any time when an employee's performance is unacceptable.

Upon supervisory approval, reinstatement will depend upon the Appeals Officer's ability to demonstrate fully successful performance in any element or elements that were unsatisfactory.

14. For Appeals Officers, when a draft determination submitted for consideration requires rewriting or changes as determined by the Supervisory Appeals Officer (SAO) or the Director, the Appeals Officer shall report to the ODS the next work day to complete the rewrite. Rewriting or changes include the following, as determined by the SAO or the Director (but are not limited to):

- Incomplete analysis;
- Misidentification of issue;
- Incomplete/inaccurate findings of fact (evidence);
- Conclusions not supported by facts (evidence);
- Inadequate or incorrect regulations; and/or
- Legal issues.

The Appeals Officer will continue to report to the ODS until such time the rewrite or changes have been approved by either the SAO or the Director. Failure to comply with this requirement will result in removal from flexiplace.

15. For Appeal Officers, Appellant review cases must be submitted 7 days ahead of the statutory required due date. If the case is not at the ODS on the seventh (7th) day, the Appeals Officer must report to the ODS on the next working day and continue to report to the ODS until the case has been completed, submitted for review, and approved. Exceptions may be made only with advance approval from the SAO in situations whereby unforeseen circumstances of the case necessitate such exception. Additionally any unforeseen personal circumstances may be considered. Failure to comply with this requirement will result in removal from flexiplace.
16. Employees who choose to participate in flexiplace will not be held to a higher standard than those employees who choose to remain at the official duty station.
17. Flexiplace employees may not have an individual who is dependent on the flexiplace employee in the home during working hours unless an in-home care provider is present.
18. To enter into a flexiplace agreement, the employee's most recent performance rating of record must be fully successful in all performance elements.

20. Employee will apply approved safeguards to protect Government/agency records from unauthorized disclosure or damage and will comply with the Privacy Act requirements set forth in the Privacy Act of 1974, Public Law 93-579, codified at Section 552a, title 5 U. S. C.
21. Employee is responsible for submitting their time and attendance (T & A) log by close of business on the last day of the pay period. T & A's may be submitted telephonically, electronically, via U. S. Mail or in person. The most efficient and economical method will be used.
22. All flexiplace participants must maintain electronic communication with the ODS.

SIGNATURE PAGE

Employee Signature

Management Official Signature

APPENDIX - D

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. DEPARTMENT OF AGRICULTURE
AND
THE AMERICAN FEDERATION OF STATE COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 26

The parties to this memorandum, the American Federation of State County and Municipal Employees, Council 26, hereinafter referred to as AFSCME, and the U.S. Department of Agriculture, hereinafter referred to as USDA, enter into this agreement for the purpose of establishing mutually beneficial dues withholding agreement.

1. This Memorandum of Understanding is subject to and governed by 5 USC 7115, by regulations issued by the office of Personnel Management (5 CFR 550.301, 550.311, 550.312, 550.321 and 550.322@, and will be modified as necessary by any future amendments to said rules, regulations and law. Reference is also made to DPM 550, Subchapter 3 for procedural guidance.
2. The USDA will permit any employee of the USDA who is a member of AFSCME and included within a bargaining unit for which AFSCME has exclusive recognition to make a voluntary allotment for the payment of dues to AFSCME. This Memorandum of Understanding shall be made a part of every future local or Council 26 agreement and shall be the only authorized method for obtaining dues withholding.
3. The employee shall obtain a SF-1187, "Request for Payroll Deductions for Labor Organization Dues," from AFSCME and shall file the completed SF-1187 with the designated AFSCME representative. The employee shall be instructed by AFSCME to complete the top portion and Part B of the form. No number shall appear in block 2 of the form except the employee's Social Security number.
4. The President or other authorized official of the Local Union or the Council will certify on each SF-1187 that the employee is a member in good standing of AFSCME; insert the amount to be withheld, and the appropriate Local number; and submit the completed SF-1187 to the Servicing Personnel Office (SPO) of the USDA Agency involved. The SPO shall certify the employee's eligibility for dues withholding, insert the AFSCME code (47) and, process the form through the automated Payroll/Personnel Processing System. An employee's initial dues deduction will become effective the first full pay period after the receipt by the SPO of the employee's certified SF-1187, provided it is received three working days before the beginning of the pay period. For SF-1187's received after this cut-off, an attempt shall be made to begin dues withholding effective the first full

pay period after receipt. However, if this is not possible, dues withholding will become effective the following pay period. The SPO will promptly forward a copy of the SF-1187 to the AFSCME designated official. When the SPO determines that a SF-1187 cannot be processed, the SPO shall promptly return the form to the Union, annotated with the reason for its return. In most cases, this annotation will be one word, such as "confidential" or "supervisor". Dues deduction will not be made for an employee who does not receive compensation sufficient to cover the total amount of the allotment.

5. Deductions will be made each pay period and remittances will be made on the Department's payday to the payee designated by the Union. A grace period of seven days will be permitted in unusual circumstances. The NFC shall also promptly forward to AFSCME, a listing of dues withheld. The listing shall be segregated by Local and shall show the name of each member employee from whose pay dues were withheld, the employee's Social Security number, the amount withheld, the code of the employing agency, and the number of the Local to which each employee belongs. The listing will be in alphabetical order of the employee's last name. Each Local listing shall be summarized to show the number of members for whom dues were withheld; total amount withheld, and amounts due to the Local. Each list will also include the name of each employee member for that Local who previously made an allotment for whom no deduction was made that pay period, whether due to leave without pay or other cause. Such employees shall be designated with an appropriate explanatory term.

6. In lieu of the listings provided for in Section 5 of this Memorandum of Understanding, USDA agrees to provide the National Office of the AFSCME a computer tape in a format to be agreed upon at such time as AFSCME has the facilities to process tapes. USDA will be given two (2) months notice to implement this change.

7. The amount of dues certified on the SF-1187 by the authorized Union official (see Section 4) shall be the amount of regular dues, exclusive of initiation fees, assessment, back dues, fines, and similar charges and fees. One standard amount for all employees or different amounts of dues for different employees may be specified. If there should be a change in the dues structure or amount, the authorized Union official shall notify the-appropriate SPO. If the change is the same for all members of the Local, a blanket authorization may be used which includes only the Local number and the new amount of dues to be withheld. If the change involves a varying dues structure, and then a revised rate schedule will, be provided to the SPO. The SPO shall add the AFSCME code (47) and promptly forward the certification to the NFC. The change shall be effected at the beginning of the first full pay period after the certification is received by the NFC which shall be no later than 30 days after the Union provides written notification to the SPO of the change in dues. Only one such change may be made in any 6-month period for a given Local.

8.² An employee may voluntarily revoke an allotment for the payment of dues by completing a SF-1188, "Cancellation of Payroll Deductions for Labor Organization Dues" or by memorandum in duplicate, and submitting it to the appropriate SPO. If the employee uses a written request, it must contain all the information required by the SF-1188. The SPO shall process the revocation effective as of the first full pay period after September 1 of each year provided that the revocation was received by the SPO on or before August 29 of each year, and provided the employee has had AFSCME dues withheld for more than 1 year and certifies to that fact. The SPO shall verify the information and forward to the designated Union official a copy of each revocation received as appropriate notification of the revocation.

9.³ The USDA will terminate an allotment.

- (e) as of the beginning of the first full pay period following receipt of notice that exclusive recognition has been withdrawn;
- (f) at the end of the pay period during which an employee member is separated or assigned to a position not included in an AFSCME bargaining unit;
- (g) at the end of the pay period during which the SPO received a notice from the AFSCME or a Local of AFSCME that an employee member has ceased to be a member in good standing;
- (h) annually during the first full pay period after September 1, after receipt of the employee member's written revocation of allotment (SF1188 or memorandum in duplicate), provided that the revocation is received by the SPO on or before August 29 of each year, and provided the employee verifies that he/she has had AFSCME dues withheld for more than one year.

10. The SPO and the employee members have a mutual responsibility to assure timely revocation of an employee's allotment for AFSCME dues when the employee is promoted or assigned to a position not included in a bargaining unit represented by AFSCME. If the dues allotments continue and the employee fails to notify his/her SPO, the retroactive recovery of dues withheld from AFSCME shall not be made, nor shall a refund be made to the employee.

11. The parties to this agreement recognize that problems may occur in the administration of this agreement and the dues withholding program. The parties agree to exchange names, addresses, and telephone numbers of responsible officials and/or technicians of AFSCME and USDA to facilitate resolution of

² Accepted only as modified in the Article 32, Dues Withholding.

³ Accepted only as modified in the Article 32, Dues Withholding.

problems. These individuals shall cooperate fully in an effort to resolve any issue relating to dues withholding under the terms of this Memorandum of Understanding. This does not constitute a waiver of any legal, regulatory, or contractual right. Grievances or other appeals concerning this Memorandum of Understanding will be filed with or against the parties at the level of recognition.

12. This Memorandum of Understanding shall remain in effect for as long as AFSCME holds exclusive recognition in USDA, except that either party may propose amendments annually, before the anniversary date of the signing of this agreement.

13. The initial dues for the (Farmers Home Administration), Headquarters unit (Case No. WA-RO-30020) will be withheld no later than 6 weeks from the date that this Memorandum of Understanding is signed. For any other unit certified in USDA, initial dues will be withheld in accordance with Section 2.

Agreed to, sign at Washington, D.C. on: May 3 1993.

Larry B. Slagle /s/
Director of Personnel
Department of Agriculture

Carl Goldman /s/
Executive Director
American Federation of
State County and
Municipal Employees,

IN WITNESS THEREOF, the parties hereto have caused this National Labor Management Relations Agreement to be executed on this **8** day of **APRIL**, 2002.

For the National Appeals Division

For AFSCME Local 3020

JONATHAN C. THEODULE
Chief Negotiator
Senior Labor Relations Specialist
FSIS Labor and Employee Relations Div.

JOHN J. GLEASON
Chief Negotiator and
President
AFSCME Local 3020

NANCY L. SMITH
Acting Director
National Appeals Division

BETTINA P. DICKERSON
Vice President
AFSCME LOCAL 3020

WILLIAM P. MILTON, JR.
Director
Labor and Employee Relations Div.
Food Safety and Inspection Service

ELIZABETH M. WEBB
Hearing Officer

JERRY JOBE
Deputy Director of Planning, Training
and Quality Control

SUSAN R. BISHOP
Hearing Officer

WILLIAM CRUTCHFIELD
Regional Assistant Director
National Appeals Division

CHERYL DUNHAM
Senior Labor Relations Specialist
Labor and Employee Relations Div.
Food Safety and Inspection Service

