

Collective Bargaining Agreement
Between the
American Federation of Government Employees,
AFGE Local 3354
and
USDA, Rural Development Oklahoma

Signed August 24, 2001

Stillwater, Oklahoma

Effective September 20, 2001

with Memorandum of Agreement dated January 16, 2003,

and Memorandum of Agreement dated January 8, 2010
amending Article 18 effective August 21, 2009

and Memorandum of Agreement dated/effective July 22, 2010
amending Article 10 section 1

TABLE OF CONTENTS

Preamble

Article 01 - Parties to the Agreement

Article 02 - Agreement Terms

Article 03 - Union and Management Rights

Article 04 - Employee Rights

Article 05 - Mid-term Bargaining

Article 06 - Dues Withholding

Article 07 - Duration of Agreement

Article 08 - Official Travel

Article 09 - Health and Safety

Article 10 - Hours of Duty

Article 11 - Pay Administration

Article 12 - Holiday Work

Article 13 - Union Use of Official Facilities

Article 14 - Reduction-In-Force and Transfer of Function

Article 15 - Training and Career Development

Article 16 - Employee Awards and Recognition

Article 17 - Equal Employment Opportunity

Article 18 - Performance Management

Article 19 - Disciplinary and Adverse Actions

Article 20 - Grievance Procedure

Article 21 - Merit Promotion

Article 22 - Details and Reassignments

Article 23 - Position Classification

Article 24 - Official Time

Article 25 - Leave and Absences

Article 26 - Temporary, Probationary and Part-time Employees

Article 27 - Workers Compensation

Article 28 - Employee Assistance

Article 29 - Official Personnel Files

Article 30 - Alternative Dispute Resolution

Signature Page

Appendix 1 - Federal Service Labor-Management Relations Statute

Appendix 2 - Certificate of Representative and Certification for Inclusion in Existing
Non-Professional Unit

Appendix 3 - Memorandum of Understanding Between Department of Agriculture and
The American Federation of Government Employees

Appendix 4 - Memorandum of Understanding Union Dues Payroll Deductions

Appendix 5 - Record of Use of Official Time

Memorandum of Agreement dated January 16, 2003, settling grievance OK-03-01

Memorandum of Agreement dated January 8, 2010, amending Article 18 effective August 21,
2009

Memorandum of Agreement dated/effective July 22, 2010, adopting Rural Development
Instruction 2051-F and amending Article 10 section 1

Preamble

Pursuant to the policy set forth in the Federal Service Labor Management Relations Statute and subject to all applicable statutes and existing regulations issued by the U.S. Office of Personnel Management, the Labor Management Agreement, together with any and all subsequent supplemental agreements and/or amendments, constitute a total Agreement and is entered into by and between the U.S. Department of Agriculture (USDA), Oklahoma Rural Development, hereinafter referred to as the Agency and the American Federation of Government Employees (AFGE), AFL-CIO, Local 3354, hereinafter referred to as the Union. A copy of the Federal Labor Management Relations Statute is contained in Appendix 1.

It is the intent and purpose of the parties to:

Promote and improve the efficient and effective administration of programs by USDA, Rural Development Oklahoma.

Improve the working conditions of employees within the meaning of the Federal Service Labor-Management Relations Statute (the Statute);

Establish and foster a basic understanding of personnel policies, procedures and practices, and matters affecting the conditions of employment; and,

Provide a means for amicable discussion and adjustment of matters of mutual interest at USDA, Rural Development Oklahoma.

Article 1 - Parties to the Agreement

Section 1 - Recognition

The Agency recognizes the right of Employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them.

The Agency recognizes AFGE Local 3354 as the exclusive representative of all employees in the bargaining unit as defined below, hereinafter referred to as “employees” or “bargaining unit employee(s).”

Section 2 - Bargaining Unit

The unit of recognition covered by this Agreement is that unit certified by the Federal Labor Relations Authority (FLRA) in Case No. DA-RP-90040 approved on December 15, 1999, and Case No. DA-RP-01-0009 dated April 11, 2001. A copy of the Certification of Representative and a copy of the Certification For Inclusion In Existing Non-Professional Unit are contained in Appendix 2. The bargaining unit as reflected on the above-cited Certifications is described as:

Included: All professional and nonprofessional federal employees of the U.S. Department of Agriculture, Rural Development in Oklahoma.

Excluded: All temporary employees with no expected continuation of employment of more than 90 days; management officials; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Section 3 - Federal Labor Relations Authority

The Parties agree that any questions related to the bargaining unit status of any position(s) will be resolved in accordance with applicable rules, regulations and procedures of the Federal Labor Relations Authority.

Section 4 - Coverage

This Agreement covers all professional and non-professional employees. This Agreement does not cover management officials, supervisors, confidential employees, employees engaged in federal personnel work in other than a purely clerical capacity, employees described in Title 5, United States Code, Section 7112(b)(7), and temporary employees with no expected continuation of employment of more than 90 days.

Article 2 - Agreement Terms

Days are calendar days unless otherwise noted.

Article 3 - Union and Management Rights

Section 1 - Union Rights

The Union has not waived any of its statutory rights nor any statutory rights of its Employees by entering into this Agreement.

There shall be no restraint, interference with or coercion against any Union officials or representatives in the exercise of their rights under 5 USC Chapter 71 because of the performance of duties within the scope of this Agreement, or against any bargaining unit member for filing a grievance, or acting as a witness under this Agreement, the Statute or applicable regulations.

Section 2 - Representation

The Union is the exclusive representative of the bargaining unit and is entitled to act on behalf of bargaining unit employees. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to Union membership.

Designated officers or representatives of the Union have the right to represent the employees within the entire bargaining unit. Management will recognize representatives designated by the Union.

The Union will provide, annually or when changes occur, to management a list showing the distribution of representational duties for each officer and steward. The Union will match, to the extent possible, this distribution with each officer and steward's duty station.

The Union has the right to represent an employee or group of employees in presenting a grievance or when raising matters of concern or dissatisfaction with Management.

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.

The Union shall be a party to all formal discussions and grievance proceedings involving conditions of employment.

Section 3- Formal Discussions

The Union shall be given the opportunity to be represented at any formal discussion between one or more representatives of the Agency and one or more employees in the bargaining unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment.

The Union Vice President or designee will be given reasonable notice of, and provided reasonable time, to be present at formal discussions concerning any grievance, personnel policy or practice, or other general condition of employment. The determination of reasonableness will be based upon the circumstances of each case.

Section 4 - Management Rights

Subject to 5 USC 7106(b) nothing in this Agreement shall affect the authority of any management official of the Agency:

To determine the mission, budget, organization, number of employees, and internal security practices.

In accordance with applicable laws:

To hire, assign, direct, layoff and retain employees, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Agency's operations shall be conducted;

With respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion or from any other appropriate source; and, To take whatever actions may be necessary to carry out the Agency mission during emergencies.

Article 4 - Employee Rights

Section 1 - Organizational Rights

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.

Act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to the head of the agency and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and

Engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under 5 USC 71.

Employees have the rights contained in Chapter 7 of the FLMRS, which is contained as Appendix 1 of this Agreement. Nothing in this Agreement is to be construed as waiving any rights under the Statute.

Section 2- Personal Rights

The parties agree that in the interest of maintaining a business relationship, both supervisors and employees will deal with each other in a professional manner and with courtesy, dignity and respect. To that end, all Agency and Union representatives and employees shall refrain from coercive, intimidating or abusive language and behavior.

The Agency shall annually inform bargaining unit employees of their rights under 5 USC 7114(a)(2)(B), including but not limited to posting a notice on the official bulletin boards.

An employee shall not be disciplined or otherwise discriminated against because he or she has filed a complaint or given testimony under the Statute, the grievance procedure, or any other redress procedure available.

Section 3 - Right to Union Representation

If an employee wishes to discuss a problem or potential grievance with a Union representative, the employee shall have the right to contact the Union representative on duty time. The employee may contact the Union representative by telephone, e-mail, fax, or in person. It is understood that the employee in the exercise of this right will not interfere with the normal operations of the office or their work assignments.

The exclusive representative shall be given the opportunity to be represented at any examination of an employee in the bargaining unit by a representative of the agency in connection with an investigation if---

The employee reasonably believes that the examination may result in disciplinary action against the employee; and,

The employee requests representation.

Additionally, Employees shall have the opportunity for Union representation upon request when an Employee is directed by his or her supervisor to attend a meeting for the purpose of discussing

proposed disciplinary or adverse action. A written summary of the meeting will be developed, and a copy will be provided to the Employee. Such a meeting will be conducted privately and in such a manner as to avoid embarrassment of the Employee.

Section 4 - Additional Employee Rights.

No Employee will be subjected to intimidation, coercion, harassment or retaliation by management officials.

Supervisors who retain personnel files on their Employees will do so in compliance with the Privacy Act.

Article 5 - Mid-term Bargaining

Section 1 - Purpose

The purpose of this Article is to establish a complete and orderly process to govern mid-term negotiations. The parties are encouraged to use an interest-based bargaining approach in all mid-term negotiations, ensuring that all their team members are trained in this approach prior to bargaining.

Section 2- Matters Covered by this Agreement

The Parties agree that unless a condition of employment subject to bargaining under 5 USC Chapter 71 is set forth in this Agreement, it is appropriate for mid-term bargaining and may be brought to the table by either party.

Section 3 - General Bargaining Procedures.

A. Management will provide the Union with adequate prior notice of changes in working conditions which may be subject to bargaining with the Union. Such notice will be provided in writing to the Unit Vice President or designee.

B. Following the Union's receipt of notice of proposed changes in working conditions, the Union will have 5 workdays to submit a demand to bargain concerning the proposed changes.

C. The Union will be granted reasonable official time to meet with affected employees within 10 workdays for the purpose of preparing proposals. The Union will present written proposals to Management within 5 workdays after meetings with affected employees have been completed.

D. Following receipt of the Union's proposals, Management will then have 5 workdays to present its written counter-proposals to the Union.

E. Face-to-face bargaining will commence within 3-5 workdays following the Union's receipt of Management's counterproposals.

F. The Parties can alter any of the above time frames through mutual agreement.

G. The Parties agree to be represented at any negotiations by duly authorized representatives prepared to discuss and negotiate on any conditions of employment. In addition, the Parties agree to notify one another at the outset of negotiations concerning any limitations or restrictions on a negotiator's authority to reach full agreement.

H. If, due to a bargaining impasse, the parties are unable to reach agreement within 5 workdays following the initiation of face-to-face bargaining, a mediator will be selected to assist the parties in resolving the impasse. If no agreement is reached through the mediation efforts, remaining disputes may be submitted by either Party to the Federal Service Impasses Panel, if necessary.

Section 4 - Post ADR Process

When both parties in good faith have considered each other's proposals and counter-proposals, cannot reach an agreement, and have considered appropriate ADR mechanisms, then either party may declare impasse and the services of the Federal Mediation and Conciliation Service may be requested. Should the efforts of the mediator fail to resolve the parties' differences and the mediator declares an impasse, either party may petition the Federal Service Impasses Panel (Panel) for assistance. If the Agency intends to implement the proposed change in working conditions, it will give the Union appropriate notice including the effective date. Such notice will provide the Union a reasonable opportunity to seek Panel assistance before the Agency implements the change.

Article 6 - Dues Withholding

The Agency will process properly authorized dues withholding forms for the Union in accordance with the two Memoranda of Understanding between USDA and AFGE dated June 22, 1979 and September 30, 1988, included as Appendices #3 and #4 to this agreement.

Article 7 - Duration of Agreement

Section 1 - Effective Date

This Agreement will be implemented and become effective when it has been ratified, signed by the parties, and approved upon review pursuant to 5 U.S.C. 71 14(c)(2).

Section 2- Duration of Agreement

This Agreement will remain in full force and effect for 3 years from its effective date. However, either party may give written notice and a list of proposals to the other party not more than 105 or less than 60 calendar days prior to the Agreement's expiration date of its intention to reopen and amend, modify or terminate the Agreement. Such notice must be accompanied by written proposals for renegotiating specific portions of the Agreement. Negotiations shall begin no later than 30 calendar days after these conditions have been met. Upon completion of the 3-year term, the Agreement shall be automatically renewed for a 1 year period unless either party gives the other party written notice of its intention to re-negotiate this Agreement no less than 60 days nor more than 105 days prior to its termination date.

Section 3 - Reopening the Agreement

No earlier than 60 days and no later than 30 prior to each anniversary date, either party may reopen one article for re-negotiation.

Other negotiations during the term of this Agreement to amend or modify the subject matter requires the mutual consent of the parties. The terms of this Agreement will remain in effect until superseded by a ratified and approved change.

Section 4 - Printing and Distribution

Within 30 days of the signing of this Agreement, Management will print a sufficient amount of copies for the Union to distribute to all current bargaining unit members and to maintain a supply for future use.

Article 8 - Official Travel

Section 1 - Compensation and Travel

The Agency will follow government travel regulations as applicable.

To the maximum extent practicable, time spent in travel status away from the employee's official duty station will be scheduled by the Agency within the employee's normal working hours. Where it's necessary that travel be performed during non-duty hours, the determination of when such travel constitutes hours of work will be made under 5 USC or the Fair Labor Standards Act, whichever is applicable. The employee will be paid accordingly.

The Agency won't require employees to drive or ride in unsafe vehicles. When an employee is assigned a GOV that is not functioning or equipped properly, the employee shall report the situation to the supervisor or to the GSA official, whichever is appropriate.

Article 9 - Health and Safety

Section 1 - Policy

The Agency and the Union will cooperate in encouraging employees to work in a safe manner and to report promptly any unsafe or unhealthy working conditions to appropriate authorities.

Section 2 - Agency Responsibilities

The Agency with the assistance of the Union will work with all persons, entities or organizations which own and/or control work space to which bargaining unit employees are assigned to ensure that healthy and safe working conditions are maintained and to ensure compliance with applicable laws, rules, and regulations. The Agency 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 Agency agrees to the following:

To provide and maintain occupant emergency plans and equipment on each floor, including smoke detection devices and exit signs that are visible during power failure;

To work with the building manager, the Department, the General Services Administration (GSA), and private lessors, to have safe electrical equipment and adequate ventilation in all work areas; and,

To follow GSA regulations in providing facilities appropriate and adequate to accommodate the needs of qualified disabled employees.

Section 3 - Union and Employee Responsibilities

The Union will encourage respect and care by employees for facilities, equipment and their own work environment. The Union will advise management promptly concerning known safety and

health problems. Each bargaining unit employee has a duty and is encouraged to report any unsafe or unhealthy working conditions to his/her immediate supervisor as soon as any such conditions come to his/her attention.

Section 4 - Employee Reports of Unsafe or Unhealthy Working Conditions

Any employee who believes that an unsafe or unhealthy condition exists has the right to report it to his/her immediate supervisor. The Agency will respond to an employee report of hazardous conditions. It will investigate the reported condition. It may refer the situation to: (a) the appropriate RD or USDA office; (b) GSA; (c) the building manager; or (d) other appropriate officials 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. During the course of any such inspection, an employee may bring to the attention of the inspector any unsafe or unhealthy working conditions.

If an employee is assigned duties that he/she reasonably believes could possibly pose an imminent risk of death or serious bodily harm, the supervisor will delay the assignment and refer the matter through the proper management channels for appropriate action. Where the supervisor does not agree with the employee's concerns, the employee has the right to consult the Union and the right to file a report in accordance with this agreement and the applicable agency and/or departmental regulations. The Agency agrees to assure prompt abatement of unsafe or unhealthy working conditions found to exist by the Agency in conjunction with an inspection by the Department, GSA, or other appropriate officials. When this cannot be accomplished quickly, the Agency agrees to develop, following consultation with the Union, an abatement plan setting forth a timetable for abatement and a summary of interim steps to protect employees. Employees exposed to such conditions shall be informed of the abatement plan and the Union shall be consulted during the implementation of the plan. When the hazard cannot be abated without the assistance of GSA or other lessor organization, the Agency agrees to work with the lessor to achieve abatement.

The Agency shall assure that 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 an agency occupational safety and health program activities.

Section 5 - Union Training

The Agency agrees to provide reasonable official time for Union Stewards to attend Union sponsored Health and Safety training.

Section 6 - Union Access

Officials or other representatives designated by the Union shall be permitted to enter the premises of the Agency during normal working hours to conduct building inspections. The Agency agrees to allow Union representatives who are not employees of the agency. The Union will coordinate these visits ahead of time with Management in the state office and at the local level.

Section 7 - Office Environment

Temperature. The parties recognize that temperature conditions in and around work areas can have a direct bearing on employee's health. The Agency will make reasonable efforts to provide comfortable humidity and temperature control.

Ventilation. Adequate ventilation for employees shall be provided so as to reduce harmful concentrations of chemicals, chemical irritants, or any other type of uncomfortable odors in the workplace. Ventilation systems will be monitored for hazards and working efficiency.

The Agency and the Union agrees that in order to minimize disruption of Agency operations during any of the events described above in this section, field/home work assignments can be made by office supervisors.

Employees operating or riding in Government owned, leased, or privately owned vehicles on official business are to use safety belts (both seat and shoulder).

Article 10 - Hours of Duty

Section 1. General.

The Employer agrees to administer hours of duty and alternative work schedules in accordance with Rural Development Instruction 2051-F, Hours of Duty, dated June 28, 2010, and by any amendments/revisions thereafter, on matters not covered in this Agreement.

Section 2. Alternative Work Schedules.

All Employees are allowed to participate in any of the Alternative Work Schedules (AWS) provided in RD Instruction 2051-F if the following criteria are met:

- (1) Service to the public cannot be diminished,
- (2) Productivity must not decrease,
- (3) Costs of operation must not increase.

An office will not be closed as a result of Employees' Non Work Day (NWD) without prior approval from the State Director. Employees will not be restricted in their choices of work schedules to provide office coverage before 8:00 a.m., or after 4:30 p.m.

Article 11 - Pay Administration

Rural Development Oklahoma employees will continue to be covered by the provisions of FmHA Instruction 2051-H, Hours and Pay, dated May 18, 1988. The Agency will input all travel vouchers within 10 days of receipt in the State Office.

Article 12 - Holiday Work

The following Federal designated holidays will be granted to all bargaining unit members unless changed by law and/or regulation.

Holidays by Federal Statute:

New Year's Day - January 1
Martin Luther King - Third Monday in January
President's Day - Third Monday in February
Memorial Day - Last Monday in May
Independence Day - July 4
Labor Day - First Monday in September
Columbus Day - Second Monday in October
Veterans Day - November 11
Thanksgiving Day - Fourth Thursday in November
Christmas Day - December 25

Article 13 - Union Use of Official Facilities

Approval of properly requested official time will constitute approval of appropriate use of office facilities and services by Union representatives in their normal work area. If the Union wishes to request other facilities, they will do so in writing to the Human Resources Manager (HRM) five (5) days prior to estimated usage. The HRM or, in her absence her designee, will respond within three (3) work days to the Union's principal point of contact, authorizing, denying, or making alternative arrangements for the facilities, services, and official time needed.

It is understood that the Union will use official equipment and facilities only for representational purposes of Rural Development Oklahoma employees when on official time. All internal Union business will be done during non duty hours.

Article 14 - Reduction-In-Force and Transfer of Function

The Agency and the Union recognize that bargaining unit employees may be seriously and adversely affected by a reduction-in-force or transfer of function. In the event of a reduction-in-force or transfer of function, the Agency will notify the Union. The Agency shall provide the Union with all available information related to the reduction-in-force and/or transfer of function to fulfill its obligation to bargain.

Article 15 - Training and Career Development

Section 1 - Statement of Policy

The parties agree that the primary function of training is to assure the optimum use of human resources in attaining organizational needs. Determination of training needs is the responsibility of the Agency. The Agency will provide training necessary for the performance of Employees' assigned duties.

Section 2 - Selection For Training

The parties agree that nomination and selection of Employees to participate in training and career development programs and courses shall be non-discriminatory and made without regard to sex, race, color, religion, age, national origin, disability, or membership or non-membership in an employee organization. Training nominations and selections will be made in a fair and impartial manner in accordance with equal employment opportunity guidelines.

The Agency should provide a basic training program for new Rural Development Employees which normally will be completed within the Employee's first year of service. This program will include an overview of the Rural Development mission, as well as job-related training necessary for Employees to carry out the minimum requirements of the job.

When the Agency requires Employees to attend job-related training courses and attendance at the course will require a change in work schedule or in location, the Agency will make every reasonable effort to grant the Employee notice two weeks in advance of the training.

When the Employee submits a timely request for training, the Agency will make every reasonable effort to notify the Employee prior to the onset of the training whether the request has been approved or disapproved. Such notification shall be in writing.

Section 3 - Individual Development Plan

Individual Development Plans (IDPs) will be developed and communicated to Employees in accordance with FmHA/RD Instruction 2057-D dated December 5, 1990.

Section 4 - Union Training

Unless there are compelling workload demands, administrative leave will normally be granted for approved bargaining unit employees to attend Union sponsored training sessions, provided the subject pertains to matters of mutual benefit to the parties (i.e., conditions of employment) and not to internal business of the Union. Administrative leave will not exceed 320 hours in any 12 month period.

Section 5 - Training Costs

Management will make a reasonable effort within budgetary limitations and program needs to allocate a reasonable amount of training funds to enable the Agency to carry out its responsibility to its employees regarding training needs in accordance with applicable laws, regulations and this Agreement. When the Agency assigns an employee to training, it will pay all authorized expenses in accordance with law and regulations.

Article 16 - Employee Awards and Recognition

Section 1. Employee Recognition Program.

The Agency agrees to establish and maintain an employee recognition program in accordance with Service Center Agencies Directive (SCAD) 4130-01 effective April 1, 1999, and this Agreement.

Section 2. Purpose and Policy of Employee Recognition Program.

It is the policy of the Agency to recognize outstanding performance, teamwork, cost-efficiency, and effective customer service. The purpose of the Employee Recognition Program is to improve Government efficiency, economy, and effectiveness by motivating Employees to increase productivity and creativity by recognizing and rewarding their efforts.

Section 3. Employee Recognition Committee.

The State Director will consider establishing an Employee Recognition Committee. Membership of this committee should include a diverse cross-section of employees and Union representation.

If established, the roles of the committee would be as follows:

- (a) Ensuring consistency in funding of the employee recognition program.
- (b) Ensuring that employee recognition is based on consistently applied guidelines.
- (c) Ensuring nondiscriminatory employee recognition distribution.
- (d) Ensuring recognition is issued in a timely manner.

Section 4. Improving the Employee Recognition Program.

The Agency will strive to devise appropriate ways, besides the use of cash awards, to recognize Employee accomplishments.

Article 17 - Equal Employment Opportunity

Rural Development Oklahoma Employees will continue to be covered by the provisions of FmHA/Rural Development Instruction 2045 X, dated November 3, 1982.

Article 18 - Performance Management

Rural Development Oklahoma employees will ~~continue to be covered by the provisions of the Common Policy SSBD 4140-01, Performance Management System, dated April 1, 1999.~~ [NOTE: by an agreement dated January 8, 2010 (see conformed copy at end of this document), the parties replaced the foregoing language with the following effective August 21, 2009.] be covered by the provisions of the current Department regulations.

Article 19 - Disciplinary and Adverse Actions

Rural Development Oklahoma employees will continue to be covered by the provisions of FmHA/Rural Development Instruction, 2045-GG, dated February 20, 1991.

Article 20 - Grievance Procedure

Section 1 - Purpose

For purposes of this agreement, a grievance means any complaint as defined in 5 U.S.C. 7103(a)(9) of the Statute, except that it shall not include a grievance concerning:

1. any claimed violation relating to prohibited political activities; or,
2. retirement, life or health insurance; or,
3. suspension or removal for National Security reasons; or,
4. an examination, certification, or appointment; or,
5. the classification of any position which does not result in the reduction in grade or pay of an employee.

Section 2 - Procedure for Employee Grievance

A grieving employee will first raise the matter to be grieved to the appropriate Union official in person, if on-site, or by telephone. The Union will raise the issue with the grievant's immediate supervisor within 15 work days of the date of the incident giving rise to the grievance, or within 15 work days of the date the grievant became aware of the incident. The written grievance will include, as a minimum, the known details of the incident being grieved, the remedy being sought, and the designation of a specific Union official representing the grievant.

Within 10 work days of receipt of the written grievance, the supervisor will review the matter being grieved and schedule and hold a meeting to include the supervisor, the grievant and/or the Union official, and another Agency designee, to discuss the issue(s). Within 10 work days of that meeting, the supervisor will forward a written response to the designated Union representative granting or denying the remedy requested.

If not satisfied with the supervisor's response, the Union has 10 work days to request in writing a review by the State Director of the supervisor's decision. Within 10 work days of receipt of the Union's request, the State Director will schedule a meeting to include the Union's Chief Steward/designee and the Union steward and/or grievant originally involved, together with the State Director/designee and the Human Resource Manager. Within 20 work days of the meeting, the State Director or designee will respond with a written decision to the Union's primary point of contact granting or denying the remedy requested.

If the Union isn't satisfied with the State Director's response, it may proceed to arbitration within twenty (20) work days after receipt of the Agency's final response. The Union will request the Federal Mediation and Conciliation Service (FMCS) to furnish the parties a list of five (5) impartial persons qualified to act as arbitrators who practice in Oklahoma. An information copy of the request will be sent to the other party's primary point of contact.

Section 3 - Arbitration

After the parties have received two such lists, they will continue to use those lists for selection purposes until either party requests a new list.

The two primary points of contact shall agree on an arbitrator within fourteen (14) work days after receipt of the list from FMCS. The first grievance where the parties cannot agree on an arbitrator, the moving party will strike first a name from the list of arbitrators. Then the other party will strike a name. This striking process will continue until the remaining individual shall be the duly selected arbitrator. For subsequent grievances where the parties cannot agree upon an arbitrator, the parties will alternate in who strikes the first name from the list of arbitrators. The arbitrator's decision shall be binding on the parties, unless either party files exceptions to an award in accordance with FLRA regulations.

If the parties fail to agree on a joint submission of the issue(s) for arbitration, each shall make a separate submission and the arbitrator shall determine the issue(s) to be heard. The arbitrator's fee and expenses of the arbitration shall be borne by the losing party. If the FLRA or Federal court overturns the arbitrator's decision, the new losing party will reimburse the payee.

A Union or Agency initiated grievance will be processed in accordance with section 2 above.

Section 4 - Timeframes

Time limits indicated above may be modified upon mutual agreement by both parties. Failure to meet agreed upon time limits will allow the Agency to reject a grievance to arbitration as untimely, and will allow the Union to move to the next step in the grievance procedure.

Article 21 - Merit Promotion

Section 1 - Parties

This Memorandum of Agreement is entered into by and between Oklahoma Rural Development, hereinafter referred to as the Agency, and the American Federation of Government Employees, AFL-CIO, Local 3354, hereinafter referred to as the Union, collectively referred to as the Parties.

Section 2 - Purpose

To establish merit promotion procedures for filling vacancies. The provisions of this memorandum may be supplemented or amended at any time by mutual written consent of the Parties.

Section 3 - Positions

The Parties agree to abide by the July, 1999 merit promotion plan of the Agency with the following modifications:

- a) Positions will be announced and filled as career ladder positions. For example, the announcement will be for multi-grade levels. The Agency will continue to ensure there are significant career advancement opportunities for technical and clerical staff.
- b) Oklahoma Rural Development employees may apply by letter for a lateral reassignment, or may apply through merit promotion procedures.
- c) Oklahoma Rural Development employees who apply for these positions will be given first consideration before considering applicants from outside sources.
- d) Vacancy announcements with all attachments will be sent by email to all employees on the work day prior to the opening date.
- e) A hard copy will be mailed to each office one workday prior to the opening date.
- f) A rating scale specifying the Superior (5), Satisfactory (3), and Minimally Acceptable (1) levels will be prepared for each grade level and used to rate all applicants, regardless of the number of applicants.
- g) A promotion panel will be used to rate and rank applicants whenever there are 6 or more basically qualified applicants.

Section 4 - Miscellaneous

Other than the modifications made above, the Parties understand that all other provisions of the Agency's Common Merit Promotion Policy will be followed.

Article 22 - Details and Reassignments

Section 1. Details.

- A. A detail is defined as the temporary assignment of an Employee to a different position or set of duties for a specified period, with the Employee returning to regular duties at the end of the detail. A position is not filled by detail as the Employee continues to be the incumbent of the position from which detailed.
- B. The Agency and the Union agree that the detail of Employees are an important management tool in making effective use of manpower in that they provide an essential flexibility in accomplishing the mission with available resources. As such, the Agency reserves the right to detail Employees in accordance with applicable rules, regulations, and this Agreement.
- C. Details of more than 30 days will be formally documented by the placement of a Standard Form (SF-) 52, Request for Personnel Action, in the Employee's official personnel folder.
- D. The Agency agrees to give employees as much advance notice as practical when they will be detailed to another position resulting in changes to the employee's hours of duty or work location.
- E. For details identified in advance to be in excess of 30 days, a notice would be issued to solicit volunteers. Selection will be based on work assignments, qualifications and cost analysis.

Section 2. Reassignments.

- A. A lateral reassignment is the permanent movement of an Employee from one position to another at his/her current grade level and to a position that has no higher promotion potential than the position currently held.
- B. The Agency agrees to consider Employee reassignment requests whenever opportunities occur. Employees will be provided due consideration of the reasons for the requested reassignment, a written notice that s/he was considered for a position, and whether s/he was selected. When an Employee is interested in being reassigned to a position in another work area, s/he will submit a written request to the Personnel Office with their qualifications. Personnel will review their qualifications, and if basically qualified, will forward the application to the selecting official for consideration.
- C. However, nothing in this article will restrict the Agency from detailing or reassigning an Employee or otherwise adjusting the work assignment of an Employee:
 - 1. because of demonstrated performance problems;
 - 2. when such action is being taken to avert a disruption to the safety or security of the Employees or the work area; or

3. while an Employee's conduct is the subject of a disciplinary inquiry and the Employee's reassignment or detail is determined to be consistent with the safety and security of the operation and its Employees.

Such action will be taken consistent with the provisions of law, controlling regulations, and this agreement.

The Union may represent such Employees.

Article 23 - Position Classification

Rural Development Oklahoma employees will continue to be covered by the provisions of the FmHA/Rural Development Instruction 2048.

Article 24 - Official Time

Section 1 - Rights and Obligation

Both parties recognize the rights and obligations conferred on unions and agencies by the Federal Service Labor-Management Relations Statute (5 U.S.C. Chapter 71, hereinafter referred to as "the Statute"), which will be the basis of resolving any issues not addressed by this Agreement.

Section 2 - Union Official Time

For the purposes of using official time in representing the members of the bargaining unit, the Agency will recognize up to nine (9) Union Officials including those elected and appointed.

For all representational purposes, the Union will have reasonable access to such official time, facilities and services which are reasonable, necessary, and in the public interest. The Agency will pay Union travel and per diem for representational purposes up to \$4,000 per fiscal year. Any funds not utilized or scheduled (indicating the date, purpose and amount of funds) by July 1, of each year will be pooled to allow the State Director discretionary use of funds. For the period of July 1 - September 30, \$500.00 will remain in reserves for representational purposes. Whenever possible and economical, travel within Oklahoma shall be by Agency-provided GSA vehicle if available. If a GSA vehicle is not available, the Agency shall pay personally owned vehicle mileage expenses for representational travel. Subject to workload considerations and availability, this would include access to meeting rooms, duplicating equipment, telephones, facsimile machines, computers, e-mail, normal office supplies, and mail services.

The Union shall keep the Agency advised in writing of the names and titles of its officers and representatives. This notice will also include the geographic area of responsibility, if any, and the subject matter of responsibility. The notice will delineate the level of authority of each Union official in terms of making commitments and signing documents with the Agency. Within 48 hours of a known vacancy in or appointment to a Union position, the Union's designated primary point of contact with the Agency shall notify the Agency in writing. All written communications between the Union and the Agency will be through a single primary point of contact for each party, allowing for alternates in their absence. Until 48 hours after such receipt of official written notification, no official time will be granted to individuals not listed on the most recent written designation, unless there is mutual agreement between the parties' primary points of contact.

The Agency will provide written notice to all bargaining unit members concerning the names of the individual supervisor and alternate who must be provided advance notice prior to use of official time in accordance with this agreement. If neither the supervisor nor the alternate is available and the request is not of an immediate nature, the Employee/Union official should wait for either individual's return to secure release. If the request is of an immediate nature, the Employee/Union official may contact the Human Resources Manager (HRM), or her designee in her absence, to secure release.

Employees may make unscheduled telephone contacts to designated Union officials, and those representatives may receive those telephone contacts, to obtain representation. These initial contacts should not exceed 15 minutes duration per call. Each designated Union representative will record this official time on a form included as Appendix 5.

Official time for approved purposes will be sought by Employees and Union representatives using the agreed upon form. When the immediate supervisor is not available, the form will be submitted to the acting supervisor. If the acting supervisor is unavailable, the form will be submitted to the HRM or, in her absence, her designee. Each Employee and Union official is responsible for notifying his or her supervisor as early as possible when official time will be requested.

All internal business for the Union, including but not limited to solicitation of membership, collection of dues, and campaigning in and conducting elections for Union office, will be performed during non-duty hours.

Supervisors will release bargaining unit employees for appropriate uses of official time as follows:

Provided advance notice (normally 24 hours) has been given, employees will be released at the requested time, unless there is a need for that individual employee's services at that particular time which would prevent the release. In any case, the time will be authorized within 48 hours of the time initially requested, unless mutually agreed otherwise by the HRM/designee and the Union Vice President/designee. Supervisors are required to release bargaining unit employees for appropriate uses of official time for:

negotiations, meetings of joint labor management committees, grievance meetings with management, management initiated meetings or phone calls, meetings or

phone calls initiated by the FLRA, the Panel, or other outside Government authority, or presenting or appearing as a witness in an arbitration hearing.

The Union will take office workload into consideration when assigning representatives for particular representational functions.

Article 25 - Leave and Absences

Rural Development Oklahoma will continue to be covered by the provisions of the FmHA/RD Instruction 2066-A Leave, dated February 23, 1990.

Section 1. Inclement Weather

All Oklahoma Rural Development Employees are to presume that the office is open each regular workday unless specifically announced otherwise. Although Employees are expected to be prepared to deal with most emergencies, conditions might occur which will make the closing of all or some offices necessary.

“Hazardous weather conditions” and “emergencies which disrupt travel” are conditions which are unusually severe and disruptive to normal travel or transportation of employees between their homes and their duty stations (cyclones, floods, blizzards, severe snow or icing on roads, etc).

The State Director for the State Office, Rural Development Managers for the Area Offices, and Community Development Managers for the Local Offices will determine when employees in their respective offices may be excused from duty because of hazardous weather conditions and emergencies.

If an employee’s area of residence or office is affected, the employee may be excused without charge to leave if all of the following apply:

weather conditions in the area of an employee’s residence or office are publicly declared extremely hazardous by an appropriate State or local authority; and

driving has been limited; and

the employee is unable to report to duty and was not on scheduled leave.

Under unusually severe weather conditions, where it is considered reasonably unavoidable, tardiness not in excess of 2 hours may be charged to excused absence. In the case of employees who do not report for duty during hazardous weather, annual leave is to be charged unless the employee’s supervisor or head of the office concerned determines after personal review of the facts, that the employee made every reasonable effort to get to work but was unable to do so

because of hazardous weather conditions or emergencies. In such cases, excused absence may be approved on a day to day basis.

Depending on the circumstances of the particular situation, attempts will be made to make a closing decision and communicate it as early as possible.

When the office is closed all day as a result of hazardous weather, Employees scheduled to work will be entitled to an excused absence for the whole day. Employees in a nonpay status (AWOL, LWOP, suspension) on the day before and after the day of closure and Employees on a compressed day off the day of the closure are not entitled to administrative leave.

When the office closes early or opens late due to hazardous weather, Employees who worked any part of the day will be excused for the period of closure. However, such Employees will be charged appropriate leave for any period of absence on that day which is not covered by the closure. Employees on a compressed day off or on annual or sick leave the whole day are not entitled to administrative leave for any part of the day.

Article 26 - Temporary, Probationary and Part-time Employees

Section 1 - General

All employees of the bargaining unit shall be covered by the terms of this Agreement to the extent consistent with the Federal Service Labor-Management Relations Statute and other applicable laws and regulations.

Section 2 - Temporary Employees

Should the need arise to temporarily employ individuals at other than entry level positions, the Union will be informed prior to the appointment.

Temporary employees may be separated at any time upon notice in writing from the Agency. When it is determined that a temporary employee is to be separated, the employee will be given 2 weeks notice, whenever possible.

Section 3 - Probationary Employees

The Employer agrees to provide probationary employees with the opportunity to develop and to demonstrate their proficiency.

During the probationary period, employees' conduct and performance in the actual duties of their positions may be observed. They may be separated from the service for cause, including matters

discovered by background investigation. The Agency agrees to provide conduct and performance counseling to probationary employees on at least a quarterly basis.

When it is determined that a probationary employee is to be separated, the employee will be given 2 weeks notice of termination, whenever possible, or such notice as the remaining probationary period permits.

Section 4 - Part-time Employees

If a full-time employee wishes to convert to part-time, he/she shall, make a request to his/her supervisor. The Agency will give good faith consideration to the employee's request based on the employee's circumstances and the needs of the organization.

Employees who accept or convert to part-time positions have no guarantee that they will subsequently be converted back to full-time employment. The Agency agrees to consider the employee's request based on the employee's circumstances and the needs of the organization.

The Agency will advise the employee of the effects of changing to part-time employment on benefits and other related matters.

Requests for changes to part-time and full-time employment will be made in writing, considered, and retained for at least 6 months.

Article 27 - Workers Compensation

Rural Development Oklahoma employees will continue to be covered by the provisions of the FmHA/Rural Development Instruction 2069-B, dated September 30, 1992.

Article 28 - Employee Assistance

Rural Development Oklahoma employees will continue to be covered by the provisions of the FmHA/Rural Development Instruction 2063-F dated September 7, 1988.

Article 29 - Official Personnel Files

Rural Development Oklahoma employees will continue to be covered by the provisions of the Rural Development Instruction 2054-V.

Article 30 - Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) is an informal process, which seeks early settlement of workplace differences. The Agency and the Union are committed to the use of ADR problem-solving methods to foster a good labor-management relationship as envisioned by the Federal Service Labor-Management Relations Statute. Union and Management will always explore the use of ADR problem-solving methods as a priority to resolve disputed matters.

Any ADR process will be jointly designed by Union and Management. It should be effective, timely, and efficient. It should focus on conflict resolution and problem-solving and foster a cooperative labor and management relationship. Participation in the A.D.R process must be voluntary with the mutual consent of the parties.

ADR resolution shall not be precedential unless specifically agreed to by the parties.

SIGNATURE PAGE

By the signatures below, the parties have executed this agreement on August 24, 2001, for implementation effective September 23, 2001.

For the Union:

For the Agency:

Steven M. Hollis
President
American Federal of Government
Employees, AFL-CIO
Local 3354

Brent Kisling
State Director
U.S. Department of Agriculture
Rural Development
Oklahoma

**Federal Service Labor-Management Relations Statute
(Ch. 71 of Title 5, U.S. Code, as amended)**

**SUBCHAPTER I—
GENERAL PROVISIONS**

§ 7101. Findings and purpose

(a) The Congress finds that--

- (1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them--
 - (A) safeguards the public interest,
 - (B) contributes to the effective conduct of public business, and
 - (C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and
- (2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

§ 7102. Employees' rights

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any 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 under this chapter, such right includes the right--

- (1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and
- (2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

§ 7103. Definitions; application

(a) For the purpose of this chapter--

- (1) "person" means an individual, labor organization, or agency;
- (2) "employee" means an individual--
 - (A) employed in an agency; or
 - (B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include--

- (i) an alien or noncitizen of the United States who occupies a position outside the United States;
 - (ii) a member of the uniformed services;
 - (iii) a supervisor or a management official;
 - (iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the International Communication Agency, the Agency for International Development, the Department of Agriculture, or the Department of Commerce; or
 - (v) any person who participates in a strike in violation of section 7311 of this title;
- (3) "a "agency" means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Department of Veterans Affairs), the Library of Congress, the Government Printing Office, and the Smithsonian Institution, but does not include--
- (A) the General Accounting Office;
 - (B) the Federal Bureau of Investigation;
 - (C) the Central Intelligence Agency;
 - (D) the National Security Agency;
 - (E) the Tennessee Valley Authority;
 - (F) the Federal Labor Relations Authority;
 - (G) the Federal Service Impasses Panel; or
 - (H) the United States Secret Service and the United States Secret Service Uniformed Division.
- (4) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing

with an agency concerning grievances and conditions of employment, but does not include--

- (A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;
 - (B) an organization which advocates the overthrow of the constitutional form of government of the United States;
 - (C) an organization sponsored by an agency; or
 - (D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;
- (5) “dues” means dues, fees, and assessments;
 - (6) “Authority” means the Federal Labor Relations Authority described in section 7104(a) of this title;
 - (7) “Panel” means the Federal Service Impasses Panel described in section 7119(c) of this title;
 - (8) “collective bargaining agreement” means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;
 - (9) “grievance” means any complaint--
 - (A) by any 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 any 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;
 - (10) “supervisor” means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term “supervisor” includes only those individuals who devote a preponderance of their employment time to exercising such authority;
 - (11) “management official” means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;
 - (12) “collective bargaining” means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation

referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

- (13) “confidential employee” means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;
 - (14) “conditions of employment” means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters--
 - (A) relating to political activities prohibited under subchapter III of chapter 73 of this title;
 - (B) relating to the classification of any position; or
 - (C) to the extent such matters are specifically provided for by Federal statute;
 - (15) “professional employee” means--
 - (A) an employee engaged in the performance of work--
 - (i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);
 - (ii) requiring the consistent exercise of discretion and judgment in its performance;
 - (iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and
 - (iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or
 - (B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;
 - (16) “exclusive representative” means any labor organization which--
 - (A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or
 - (B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit--
 - (i) on the basis of an election; or
 - (ii) on any basis other than an election,and continues to be so recognized in accordance with the provisions of this chapter;
 - (17) “firefighter” means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use firefighting apparatus and equipment; and
 - (18) “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.
- (b) (1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that--

- (A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and
 - (B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.
- (2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security.

§ 7104. Federal Labor Relations Authority

- (a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.
- (b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority. The Chairman is the chief executive and administrative officer of the Authority.
- (c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of--
- (1) the date on which the member's successor takes office, or
 - (2) the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.
- (d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.
- (e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and decisions it has rendered.
- (f) (1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.
- (2) The General Counsel may--
- (A) investigate alleged unfair labor practices under this chapter,
 - (B) file and prosecute complaints under this chapter, and
 - (C) exercise such other powers of the Authority as the Authority may prescribe.
- (3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

§ 7105. Powers and duties of the Authority

- (a) (1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

- (2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority--
 - (A) determine the appropriateness of units for labor organization representation under section 7112 of this title;
 - (B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the according of exclusive recognition to labor organizations;
 - (C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;
 - (D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;
 - (E) resolve issues relating to the duty to bargain in good faith under section 7117(c) of this title;
 - (F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117(d) of this title;
 - (G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title;
 - (H) resolve exceptions to arbitrator's awards under section 7122 of this title; and
 - (I) take such other actions as are necessary and appropriate to effectively administer the provisions of this chapter.
- (b) The Authority shall adopt an official seal which shall be judicially noticed.
- (c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.
- (d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions. The Authority may delegate to officers and employees appointed under this subsection authority to perform such duties and make such expenditures as may be necessary.
- (e) (1) The Authority may delegate to any regional director its authority under this chapter--
 - (A) to determine whether a group of employees is an appropriate unit;
 - (B) to conduct investigations and to provide for hearings;
 - (C) to determine whether a question of representation exists and to direct an election; and
 - (D) to supervise or conduct secret ballot elections and certify the results thereof.
- (2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.
- (f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review

such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of--

- (1) the date of the action; or
 - (2) the date of the filing of any application under this subsection for review of the action; the action shall become the action of the Authority at the end of such 60-day period.
- (g) In order to carry out its functions under this chapter, the Authority may--
- (1) hold hearings;
 - (2) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in section 7132 of this title; and
 - (3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.
- (h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.
- (i) In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

§ 7106. Management rights

- (a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any 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 appointments from--
 - (i) among properly ranked and certified candidates for promotion; or
 - (ii) 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 any agency and any labor organization 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.

**SUBCHAPTER II—
RIGHTS AND DUTIES OF AGENCIES AND
LABOR ORGANIZATIONS**

§ 7111. Exclusive recognition of labor organizations

- (a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.
- (b) If a petition is filed with the Authority--
 - (1) by any person alleging--
 - (A) in the case of an appropriate unit for which there is no exclusive representative, that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or
 - (B) in the case of an appropriate unit for which there is an exclusive representative, that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or
 - (2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;
the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after a reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.
- (c) A labor organization which--
 - (1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;
 - (2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or
 - (3) has submitted other evidence that it is the exclusive representative of the employees involved;
may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.
- (d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose--
 - (1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or
 - (2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

- (e) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.
- (f) Exclusive recognition shall not be accorded to a labor organization--
 - (1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;
 - (2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;
 - (3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless--
 - (A) the collective bargaining agreement has been in effect for more than 3 years, or
 - (B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement; or
 - (4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.
- (g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

§ 7112. Determination of appropriate units for labor organization representation

- (a) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of the agency involved.
- (b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes--
 - (1) except as provided under section 7135(a)(2) of this title, any management official or supervisor;
 - (2) a confidential employee;
 - (3) an employee engaged in personnel work in other than a purely clerical capacity;
 - (4) an employee engaged in administering the provisions of this chapter;

- (5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;
 - (6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or
 - (7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.
- (c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization--
- (1) which represents other individuals to whom such provision applies; or
 - (2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.
- (d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

§ 7113. National consultation rights

- (a) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.
- (b) (1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall--
- (A) be informed of any substantive change in conditions of employment proposed by the agency, and
 - (B) be permitted reasonable time to present its views and recommendations regarding the changes.
- (2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization--
- (A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and
 - (B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.
- (c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

§ 7114. Representation rights and duties

- (a) (1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.
- (2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at--
- (A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or
- (B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if--
- (i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and
- (ii) the employee requests representation.
- (3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection.
- (4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.
- (5) The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude an employee from--
- (A) being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action; or
- (B) exercising grievance or appellate rights established by law, rule, or regulation; except in the case of grievance or appeal procedures negotiated under this chapter.
- (b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation--
- (1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;
- (2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;
- (3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;
- (4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data--
- (A) which is normally maintained by the agency in the regular course of business;
- (B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and
- (C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

- (5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.
- (c) (1) An agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency.
- (2) The head of the agency shall approve the agreement within 30 days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the agency has granted an exception to the provision).
- (3) If the head of the agency does not approve or disapprove the agreement within the 30-day period, the agreement shall take effect and shall be binding on the agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule, or regulation.
- (4) A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement or, if none, under regulations prescribed by the agency.

§ 7115. Allotments to representatives

- (a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.
- (b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when--
 - (1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or
 - (2) the employee is suspended or expelled from membership in the exclusive representative.
- (c) (1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.
- (2) (A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.
- (B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

§ 7116. Unfair labor practices

- (a) For the purpose of this chapter, it shall be an unfair labor practice for an agency--

- (1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;
 - (2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;
 - (3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;
 - (4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;
 - (5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;
 - (6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;
 - (7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or
 - (8) to otherwise fail or refuse to comply with any provision of this chapter.
- (b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization--
- (1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;
 - (2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;
 - (3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;
 - (4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;
 - (5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;
 - (6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;
 - (7) (A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or
 - (B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or
 - (8) to otherwise fail or refuse to comply with any provision of this chapter.
- Nothing in paragraph (7) of this subsection shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

- (c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure--
 - (1) to meet reasonable occupational standards uniformly required for admission, or
 - (2) to tender dues uniformly required as a condition of acquiring and retaining membership.
 This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.
- (d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 7121(e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures.
- (e) The expression of any personal view, argument, opinion or the making of any statement which--
 - (1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election,
 - (2) corrects the record with respect to any false or misleading statement made by any person, or
 - (3) informs employees of the Government's policy relating to labor-management relations and representation,
 shall not, if the expression contains no threat or reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter.

§ 7117. Duty to bargain in good faith; compelling need; duty to consult

- (a) (1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.
- (2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.
- (3) Paragraph (2) of the subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.
- (b) (1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective

- bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.
- (2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if--
 - (A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or
 - (B) the Authority determines that a compelling need for a rule or regulation does not exist.
 - (3) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.
 - (4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.
- (c) (1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.
- (2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by--
 - (A) filing a petition with the Authority; and
 - (B) furnishing a copy of the petition to the head of the agency.
 - (3) On or before the 30th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall--
 - (A) file with the Authority a statement--
 - (i) withdrawing the allegation; or
 - (ii) setting forth in full its reasons supporting the allegation; and
 - (B) furnish a copy of such statement to the exclusive representative.
 - (4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.
 - (5) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall not include the General Counsel as a party.
 - (6) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.
- (d) (1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor

organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

- (2) A labor organization having consultation rights under paragraph (1) of this subsection shall--
 - (A) be informed of any substantive change in conditions of employment proposed by the agency, and
 - (B) shall be permitted reasonable time to present its views and recommendations regarding the changes.
- (3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization--
 - (A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and
 - (B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

§ 7118. Prevention of unfair labor practices

- (a) (1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.
- (2) Any complaint under paragraph (1) of this subsection shall contain a notice--
 - (A) of the charge;
 - (B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the authority and designated for such purpose); and
 - (C) of the time and place fixed for the hearing.
- (3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.
- (4) (A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.
- (B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of--
 - (i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or
 - (ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

- (5) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.
- (6) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.
- (7) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order--
 - (A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;
 - (B) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect;
 - (C) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or
 - (D) including any combination of the actions described in subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of any employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.
- (8) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.
- (b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request, in accordance with the provisions of section 7105(i) of this title, from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management.

§ 7119. Negotiation impasses; Federal Service Impasses Panel

- (a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what matter it shall provide services and assistance.
- (b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse--
 - (1) either party may request the Federal Service Impasses Panel to consider the matter, or
 - (2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasses, but only if the procedure is approved by the Panel.
- (c) (1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.
 - (2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.
 - (3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.
 - (4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.
- (5) (A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either--
 - (i) recommend to the parties procedures for the resolution of the impasse; or
 - (ii) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.
- (B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may--
 - (i) hold hearings;
 - (ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in section 7132 of this title; and
 - (iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

- (C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

§ 7120. Standards of conduct for labor organizations

- (a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for--
 - (1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;
 - (2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;
 - (3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and
 - (4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.
- (b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that--
 - (1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or
 - (2) the organization is in fact subject to influences that would preclude recognition under this chapter.
- (c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.
- (d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section.

- (e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential employee, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.
- (f) In the case of any labor organization which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate finding by the Authority of such violation--
 - (1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or
 - (2) take any other appropriate disciplinary action.

SUBCHAPTER III— GRIEVANCES, APPEALS, AND REVIEW

§ 7121. Grievance procedures

- (a) (1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsections (d), (e) and (g) of this section, the procedures shall be the exclusive administrative procedures for resolving grievances which fall within its coverage.
- (2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.
- (b) (1) Any negotiated grievance procedure referred to in subsection (a) of this section shall--
 - (A) be fair and simple,
 - (B) provide for expeditious processing, and
 - (C) include procedures that--
 - (i) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;
 - (ii) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and
 - (iii) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.
- (2) (A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order--
 - (i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and
 - (ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

- (B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.
- (c) The preceding subsections of this section shall not apply with respect to any grievance concerning--
- (1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);
 - (2) retirement, life insurance, or health insurance;
 - (3) a suspension or removal under section 7532 of this title;
 - (4) any examination, certification, or appointment; or
 - (5) the classification of any position which does not result in the reduction in grade or pay of an employee.
- (d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to section 7702 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.
- (e) (1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.
- (2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.
- (f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7703 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters similar

to those covered under sections 4303 and 7512 of this title which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

- (g) (1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.
- (2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).
- (3) The remedies described in this paragraph are as follows:
 - (A) An appeal to the Merit Systems Protection Board under section 7701.
 - (B) A negotiated grievance procedure under this section.
 - (C) Procedures for seeking corrective action under subchapters II and III of chapter 12.
- (4) For the purpose of this subsection, a person shall be considered to have elected--
 - (A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;
 - (B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or
 - (C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).
- (h) Settlements and awards under this chapter shall be subject to the limitations in section 5596(b)(4) of this title.

§ 7122. Exceptions to arbitral awards

- (a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient--
 - (1) because it is contrary to any law, rule, or regulation; or
 - (2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.
- (b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

§ 7123. Judicial review; enforcement

- (a) Any person aggrieved by any final order of the Authority other than an order under--
 - (1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

- (2) section 7112 of this title (involving an appropriate unit determination), may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.
- (b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.
- (c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.
- (d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

**SUBCHAPTER IV—
ADMINISTRATIVE AND OTHER PROVISIONS**

§ 7131. Official time

- (a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.
- (b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.
- (c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.
- (d) Except as provided in the preceding subsections of this section--
 - (1) any employee representing an exclusive representative, or
 - (2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

§ 7132. Subpenas

- (a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may--
 - (1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and
 - (2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.No subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.
- (b) In the case of contumacy or failure to obey a subpoena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.
- (c) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

§ 7133. Compilation and publication of data

- (a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.
- (b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

§ 7134. Regulations

The Authority, the General Counsel, the Federal Mediation and Conciliation Service, the Assistant Secretary of Labor for Labor Management Relations, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. Provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

§ 7135. Continuation of existing laws, recognitions, agreements, and procedures

- (a) Nothing contained in this chapter shall preclude--
 - (1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or
 - (2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.
- (b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY
DALLAS REGION**

**United States Department of Agriculture
Rural Development Stillwater, Oklahoma
-Activity**

and

Case No. DA-RP-90040

**American Federation of Government Employees (AFL-CIO),
Local 3354
-Petitioner/Labor Organization**

CERTIFICATION OF REPRESENTATIVE

An election was conducted in the above matter under the supervision of the undersigned Regional Director of the Federal Labor Relations Authority, in accordance with the provisions of Chapter 71 of Title 5 of the U.S.C., and with the Regulations of the Federal Labor Relations Authority. A majority of the valid ballots has been cast for a representative for the purpose of exclusive recognition.

Pursuant to authority vested in the undersigned,

IT IS CERTIFIED that the **AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFGE),
AFL-CIO**

has been designated and selected by a majority of the employees of the above-named Activity or Agency, in the unit described below, as their representative for purposes of exclusive recognition, and that pursuant to Chapter 71 of the U.S.C., the named labor organization is the exclusive representative of all employees in the unit.

UNIT:

- Included:** All non-professional employees of the United States Department of Agriculture, Rural Development, in the State, Area, and County Offices in Oklahoma.
- Excluded:** All professional employees; temporary employees with no expected continuation of employment of more than ninety days; management officials; supervisors; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

FEDERAL LABOR RELATIONS AUTHORITY

Redacted
Regional Director
Dallas Region

Dated: December 15, 1999

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY
DALLAS REGION**

**United States Department of Agriculture Rural Development
Stillwater, Oklahoma
-Agency**

and

Case No. DA-RP-01-0009

**American Federation of Government Employees Local 3354, AFL-CIO
- Labor Organization/Petitioner**

CERTIFICATION FOR INCLUSION IN EXISTING NON-PROFESSIONAL UNIT

An election was conducted in the above matter under the supervision of the undersigned Regional Director of the Federal Labor Relations Authority, in accordance with the provisions of Chapter 71, of Title 5 of the U.S.C., and in accordance with the Regulations of the Federal Labor Relations Authority, among the employees of the Activity in the following categories:

INCLUDED: All professional employees of the United States Department of Agriculture, Rural Development, in Oklahoma.

EXCLUDED: All non-professional employees; temporary employees with no expected continuation of employment of more than ninety days, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

The professional employees had an opportunity to vote to be included in the same unit within the non-professional employees currently represented by the **American Federation of Government Employees, Local 3354, AFL-CIO**, or to be a separate professional unit. A majority of the valid ballots were cast for inclusion in the non-professional unit currently represented by the American Federation of Government Employees, Local 3354, AFL-CIO, Pursuant to authority vested in the undersigned,

IT IS HEREBY CERTIFIED the above-described employees are included in the unit of employees currently represented by the **American Federation of Government Employees, Local 3354, AFL-CIO**, as certified in Case No. DA-RP-70011, which will hereafter be described as follows:

UNIT:

INCLUDED: All Professional and Non-Professional Employees of the United States Department of Agriculture, Rural Development, in Oklahoma.

EXCLUDED: All Temporary Employees with no expected continuation of employment of more than ninety days, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

FEDERAL LABOR RELATIONS AUTHORITY

Redacted
Regional Director
Dallas Region

Dated: April 11, 2001

MEMORANDUM OF AGREEMENT

By this Memorandum of Agreement the parties resolve the dispute underlying the Agency's grievance OK-03-01:

(1) the Union will notify the Federal Mediation & Conciliation Service and Messrs. Neas and Williams that their previous appointments as arbitrators in FMCS Case No. 020827-15358-8 (OK-19) and FMCS Case No. 020827-15359-8 (OK-20) respectively have been rescinded by agreement of the parties;

(2) the parties will jointly submit the attached FMCS Forms R-43 requesting new panels in OK-19 and OK-20;

(3) in the space for "Additional Requirements (Optional)" under "Special Requirements" on p. 2, the parties have marked the new R-43's in OK-19 and OK-20 to indicate: "by contract, the parties have agreed arbitrators must practice in Oklahoma but may live elsewhere". All R-43's submitted in the future by either party individually will be completed in this manner. Page 2 of R-43 has been attached.

(4) the parties have marked the new R-43's in OK-19 and OK-20 to indicate in the box following "Select the pool of Arbitrators from:" under #4 on p. 1, that the geographic pool will be "Regional".

(5) the Agency will pay any new fees required by the FMCS for panels in OK-19 and OK-20; the Union will request and pay fees for the mediator/arbitrator panel for Case No. 02 FSIP 170.

(6) the Union will not be required to post any notice nor does it admit any wrongdoing;

(7) the Agency hereby withdraws the grievance.

USDA/Rural Development Oklahoma

/s/ 1-16-2003

Date

Local 3354, AFGE, AFL-CIO

/s/ 1-16-03

Date

MEMORANDUM OF AGREEMENT

Effective immediately, Article 18, "Performance Management", of the Collective Bargaining Agreement that became effective September 20, 2001, and has renewed itself from year to year since its first expiration in 2004, is hereby amended as follows

Article 18 - Performance Management

Rural Development Oklahoma employees will be covered by the provisions of the current Department regulations.

Human Resources Manager
USDA/Rural Development Oklahoma

Unit Vice President,
Local 3354, American Federation of
Government Employees

/s/ 1/8/2010

Date

/s/ 1/8/10

Date

MEMORANDUM OF AGREEMENT

Effective immediately, the Agency (USDA Rural Development/Oklahoma) and Union (Local 3354, American Federation of Government Employees) hereby: (1) adopt the provisions of Rural Development Instruction 2051-F, "Hours of Duty", dated June 28, 2010, and any amendments/revisions thereafter, to govern all bargaining unit employees with respect to the subjects covered by that RD Instruction; and (2) amend section 1 of Article 10 in their Collective Bargaining Agreement by replacing the phrase "dated May 31, 2000" with the phrase "dated June 28, 2010, and any amendments/revisions thereafter".

Management Point of Contact
USDA Rural Development/Oklahoma

Vice President,
Local 3354, American Federation of
Government Employees

/s/ 7-22-2010

/s/ 7-22-10

Date

Date