

U.S. DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION  
SERVICE, VETERINARY SERVICES PUERTO RICO,  
and the  
LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 13  
NEGOTIATED AGREEMENT

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ARTICLE 1  
Parties to the Agreement

This Agreement is made by and entered into by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services Puerto Rico, hereinafter referred to as the “Employer” or “APHIS VSPR” and the Laborers’ International Union of North America, AFL-CIO, Local 13, hereinafter referred to as “Local 13” or the “Union”, both hereafter referred to as the “Parties”.

ARTICLE 2  
Authority and Purpose

Section 1.

Pursuant to the provisions of Title 5 of Public Law 95-454, the policies set forth by the Civil Service Reform Act of 1978 regarding Federal Labor-Management Relations, and in consideration of the mutual covenants herein set forth, the Parties hereto intending to be bound, hereby agree as follows:

Section 2.

The following Articles of this Agreement, together with any and all supplemental agreements and/or amendments which may be agreed to at later dates, constitute a total agreement by and between the Parties for the employees in the unit described below, hereinafter referred to as the employees;

- A. Whereas, the well-being of the employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the implementation of personnel policies and practices affecting the conditions of their employment;
- B. Whereas, collective bargaining through the Union -
  - 1. safeguards the public interest,
  - 2. contributes to the effective conduct of public business,
  - 3. facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment;
- C. Whereas, 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;
- D. Whereas, it is the intent of this Agreement to create an environment conducive to positive/beneficial/productive/amicable/etc. labor-management relations and promote the ease and efficiency of the Employer's operation;

Section 3.

Now, therefore, the Parties to this Agreement, intending to be bound hereby, agree as follows:

The term "seniority" as used throughout this Agreement is based on the employee's service computation date (SCD).

ARTICLE 3  
Recognition and Unit Description

Section 1. Recognition

The Employer recognizes that the Laborers' International Union of North America, Local 13, is the exclusive representative of all employees in the units described in Section 2 below. The Union recognizes the responsibilities of representing the interests of all such employees without discrimination and without regard to union membership with respect to grievances or other matters handled under this negotiated Agreement.

Section 2. The units to which this Agreement is applicable:

Includes –

All nonprofessional employees employed by the U.S. Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, Surveillance, Preparedness and Response Services, including term employees, in Puerto Rico.

Excludes –

All professional employees, management officials, supervisors, and employees described in 5 U.S.C. 7112(b) (2), (3), (4), (6) and (7).

Note: Definitions are those specifically found in 5 U.S.C. 7103 (a).

ARTICLE 4  
Provisions of Law and Regulations

Section 1.

In the administration of all matters covered by this Agreement, the Employer, the Union, and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the code of Federal Regulations (CFR); published USDA (department) policies and regulations in existence at the time the Agreement was approved; and by subsequently published USDA policies and regulations required by law or by the regulations of appropriate authorities (Government-wide regulations).

Section 2.

This Agreement shall become effective after final Agency Head Review approval of the Agreement or 31 calendar days after its execution, whichever comes first.

ARTICLE 5  
Matters Appropriate for Negotiations

Section 1.      Collective Bargaining

This is the performance of the mutual obligation of the representative of the USDA APHIS VSPR and the exclusive representative of employees in an appropriate unit in the Agency (LIUNA or Union) 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 a collective agreement reached. The obligation referred to in this paragraph does not compel either Party to agree to a proposal or to make a concession.

Section 2.      Conditions of Employment

Conditions of employment are the personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions. It does not include policies, practices, and matters relating to political activities prohibited under subchapter III of chapter 73 of title 5 (national security); relating to the classification of any position; or to the extent such matters are specifically provided for by Federal statute.

Section 3.      Management Rights

Matters Excluded under management rights are issues covered under 5 U.S.C. 7106 (a), but subject to the provisions of 5 U.S.C. 7106 (b) as set forth in this Agreement under Article 4, Management Rights.

Section 4.

It is further agreed that this Agreement is not all inclusive and the fact that certain working conditions have not been specifically covered in this Agreement does not alleviate the responsibility of either Party to negotiate with the other on appropriate subjects as stated in 5 U.S.C. Chapter 71.

Section 5.

The Employer agrees not to enter into any discussion or agreement with bargaining unit employees, individually or collectively, which in any way conflicts with the terms or provisions of this Agreement. Any such agreement shall be null and void.

ARTICLE 6  
Management Rights

Section 1.

A. Subject to Section 1 B below, nothing in this Agreement shall affect the authority of any Management official:

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, lay off, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
  - b. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;
  - c. With respect to filling positions, to make selections for appointments from: (i) among properly ranked and certified candidates for promotion; or (ii) any other appropriate source; and (iii) to take whatever actions may be necessary to carry out the Agency mission during emergencies; and
  - d. To take whatever actions may be necessary to carry out the Agency mission during emergencies.

B. Nothing in this Article shall preclude the Agency and the Union from negotiating:

1. 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 Article; or
3. Appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such Management officials.

Section 2.

It is understood that the exercise of such rights may be subject to appeal and grievance procedures where applicable as prescribed by laws, regulations and policies, or appeal and grievance procedures agreed upon hereunder and as set forth by Title 5.

ARTICLE 7  
Rights of Employees

Section 1

- A. Employees in the unit shall be protected in the exercise of their rights freely and without fear of penalty or reprisal, to form, join, and assist the Union, or to refrain from such activity. This Agreement does not prevent any employee, regardless of union membership, from bringing matters of personal concern to the attention of appropriate Management officials in accordance with applicable laws, regulations or Agency policies.
- B. Nothing in this Agreement shall abrogate any employee's right or require an employee to become or to remain a member of the Union except pursuant to a voluntary, written authorization by an employee for the payment of dues through payroll deductions using Standard Form (SF) 1187.
- C. The initiation of a grievance or statutory appeal procedure by an employee will not cause any reflection on his/her standing with his/her supervisor or on his/her loyalty or desirability to the Employer.
- D. The Employer further agrees that there will be no interference, restraint, coercion or discrimination within APHIS VSPR to encourage or discourage membership in the Union. It is also agreed that the rights described in this Article do not extend to participation in the management of the Union or to act as a representative of any such organization where such participation or activity could result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of an employee.

Section 2.

An employee may be represented by an attorney or other representative other than the Union, of the employee's own choosing, in any appeal action not under the negotiated grievance procedure. The employee may exercise grievance or appeal rights which are established by law, rule, regulation, or this Agreement. Employees who represent themselves will be afforded a reasonable amount of official time to prepare and file complaints in private, if otherwise in a duty status.

Section 3.

Employees will be notified of any significant changes in USDA regulations or policies that affect their working conditions. Copies of written agreements with the Union negotiated at the local level will be distributed to all affected employees upon request.

Section 4

Recognizing that significant improvements have been achieved by local officials when they have developed cooperative programs, both Parties to this Agreement encourage such endeavors which invite employee participation in the pursuit of improvement initiatives. These efforts are not to be construed as a change in the Union's rights as the exclusive representative, nor as revoking existing policies and procedures.

## Section 5.

The Employer is obligated to keep employees informed of rules, regulations and policies under which they are required to operate. To assist employees in the performance of their work, Agency manuals normally will be available to employees during working hours, which could be by electronic means. Details concerning access will be arranged between the Union and the Employer.

## Section 6.

No employee will be discriminated against by either the Employer or the Union because of race, color, creed, religion, sex, national origin, age, preferential or non-preferential civil service status, marital status, physical or mental handicap, sexual orientation or lawful political affiliation, as provided by 5 U.S.C. Section 7103 (a)(4)(A).

## Section 7.

All employees deserve to be treated with common courtesy and consideration warranted in an employer-employee relationship by supervisors and Management officials.

## Section 8

- A. An employee may contact a Union representative during duty hours on a representational matter but must first inform and receive permission from his/her supervisor. If the employee wishes to be excused to meet with a Union representative, the immediate supervisor will be advised of the general purpose of the request, how the employee may be reached in case of emergency, and the estimated time of return.
- B. The Employer recognizes the employee's right to assistance in representation by the Union and to discuss any concern with Union representatives in private during duty time. If release is not possible at the time requested due to staffing or work requirements, the employee will be released as soon as possible thereafter. If after release the employee will be delayed beyond the estimated time, he/she will notify the immediate supervisor to request additional needed time. The employee will notify the supervisor upon his/her return.

## Section 9.

The Parties support such community and public service activities as the annual Combined Federal Campaign and Savings Bond Drives. It is recognized that employee participation in these activities is strictly voluntary.

## Section 10.

Counseling and warning sessions involving unit employees will be conducted privately and in such a manner so as to avoid embarrassment of the employee. Official information pertaining to individual employees shall be maintained in accordance with applicable law and regulation.

## Section 11.

The Employer shall take such action consistent with law or regulation, as may be required, in order to inform employees of their rights as prescribed in the Statute (5 U.S.C. Chapter 71) and this Article.

Section 12.

An employee is accountable only for the performance of assigned duties and compliance with standards of conduct for Federal employees. Employees shall have the right to engage in activities of their own choosing, except as prohibited by law or Government-wide regulation without being required to report to the Employer on such activities.

Section 13.

Consistent with this Article, employees who represent themselves will be afforded a reasonable amount of official time to prepare and file complaints, if otherwise in a duty status.

Section 14.

Employees will not be precluded from presenting their views to officials of the Executive branch, the Congress, or other appropriate authority, in accordance with applicable laws and Government-wide regulations. With the exception of visiting Congressional members or providing testimony before Congress, it is understood this activity will normally not be on duty time.

Section 15.

Employees have the right to:

- A. Working conditions that are safe and healthful. Maintaining safe and healthful work environments, as a shared value by the Union and the Employer, is necessary for the accomplishment of the Employer's mission and contributes to a high quality of life for employees. The Employer will provide and maintain conditions and places of employment that are free from recognized hazards and unhealthful working conditions, consistent with the applicable requirements of 29 United States Code (U.S.C.) 668 *et seq.* (the Occupational Safety and Health Act of 1970), Executive Order 12196, 29 Code of Federal Regulations (CFR) Part 1960, and guidance from other applicable safety and health standards including the APHIS Safety and Health Manual.
- B. On a case-by-case basis, the Parties may mutually agree to adopt more stringent safety and health standards to address specific concerns.
- C. In circumstances where there is no legal/regulatory applicable safety or health standard, interim standards such as those found in nationally recognized sources of health and safety criteria, will be utilized. These interim policies will be locally written and shared with the Union and where applicable, negotiated if the policies create a change in working conditions of more than a de minimis nature.

- D. The Employer will continue to publicize safety awareness programs and update the provisions and procedures for the elimination of safety and health hazards. The Parties will continue to encourage employees to seek out additional training on safety awareness by way of AgLearn or successor, or other traditional training opportunities.
- E. The Employer shall, perform continuing analysis of safety incidents and violations to determine causes and appropriate corrective actions concerning patterns of injuries and illnesses.
  - 1. The analysis will be part of the “protocols” that are established for dealing with new agents or processes and will be communicated to employees prior to turning the new work over to the employees to assure safety measures are followed.
  - 2. At least quarterly, the Safety Committee Chairperson and Local President will be provided (written) information on illnesses and injuries and accident trends for development of recommendations to go forward to the Board of Directors in accordance with the current Safety Committee Charter.

NOTE: The information may be redacted to preserve Personally Identifiable Information (PII).

- 3. Changes to the Charter will be subject to Union notification and negotiation as required.
- F. There will be no restraint, interference, coercion, discrimination, or reprisal directed against any employee for filing a report of an unsafe or unhealthful working condition, or for participating in Occupational Safety and Health Program activities, or because of the exercise by an employee on behalf of him/herself or others of any right afforded by Section 19 of the Occupational Safety and Health Act, Executive Order 12196, 29 CFR Part 1960, or any provision(s) of this Agreement.
- G. In service training is subject to the approval by the Employer and the availability of funds.
- H. Employees have the right to:
  - 1. express themselves concerning improvement of work methods and working conditions through their supervisory chain.
  - 2. discuss their problems with the Human Resources management office staff, equal employment opportunity office staff or counselor, Union representative, employee assistance office representative, and/or a person designated to provide guidance on questions of conflict of interest.
  - 3. be informed of what is expected of them, to whom they are directly responsible, and what is expected of them in their work relationships with their fellow employees.
  - 4. privacy in every way consistent with law, regulations and this Agreement.
  - 5. be afforded the rights under law, regulations and this Agreement to take sick and annual leave when needed without threat, harassment or reprisal.

Section 16. Miscellaneous

- A. Employees who perform dirty work, are required to wear uniforms, or personal protective equipment (PPE) will be allowed reasonable time for changing, acquiring or returning equipment, cleaning the work area and washing up as needed.
- B. Consistent with applicable laws, rules and regulations, the Employer agrees to bear the full expense of all PPE that the Employer requires employees to use in performing their duties.
- C. Absent an overriding exigency, employees whose personal effects are to be searched will be notified before the search and allowed to observe. The Union will also be advised and given the opportunity to be present.

ARTICLE 8  
Union Rights and Representation

Section 1.

The Union is the exclusive representative of the employees in the bargaining unit and is entitled to act for and negotiate agreements covering all of the employees in the bargaining unit. The Employer will not communicate directly with employees regarding changes to conditions of employment for which there is an obligation to bargain.

- A. The Employer agrees to respect the rights of the Union and to meet jointly and negotiate with the Union, when requested, regarding implementation of any new policy or change in existing policy affecting employees or their conditions of employment, except as provided by law.
- B. The Union, in accordance with its right to represent, has a right to propose new practices, changes in practices, or resolutions to problems in accordance with this Article. Representation will normally occur at the lowest level at which a matter can be resolved, and the initial point of contact will normally be the lowest Management official and Union representative having responsibility and authority to act. If either Party at the initial contact feels resolution of a matter is outside its jurisdiction, the matter shall be referred immediately to the next higher level.
- C. Consistent with law, Government-wide regulation, and this Agreement, the Union has the exclusive right to represent an employee or group of employees in presenting complaints. An employee or group of employees may present a grievance themselves without representation by the Union provided the Union is a party to all formal discussions and grievance meetings. The Employer will notify the Chief Steward, or designee, before such discussions are held. The Union shall normally be allowed up to twenty-four (24) hours to provide a representative. The representative shall be permitted to present the views of the Union during the discussions.
- D. The Union has the right to have a representative present at all discussions between the Employer and an employee or employees, held in the course of proceedings conducted to resolve complaints or grievances submitted by a member of the unit.

Section 2.

The Employer agrees to recognize Union representatives including local union, district, and regional officials. The Employer will authorize official time for Union representatives in accordance with Article X section X etc.. The Union will supply, and maintain on a current basis, the Employer with an electronic list of Union representatives.

Section 3.

- A. The Union will be given the opportunity to be represented at any formal discussion between one or more representatives of management 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.

- B. The Union shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of the Employer in connection with an investigation if:
1. the employee reasonably believes that the examination may result in disciplinary action against the employee; and
  2. the employee requests representation thereby invoking his/her Weingarten Rights. The Employer agrees to normally give the Union up to 24 hours to provide a representative.

#### Section 4.

A Union representative wishing to use official time will notify his/her immediate supervisor. Such release will not be arbitrarily withheld. The supervisor must be advised of the general purpose of the request (whether the issue is a grievance, negotiations, investigation of a complaint, etc.), how the representative may be contacted and the estimated time of return. If the Union representative will be delayed beyond the estimated time, he/she will notify the immediate supervisor to request additional needed time. The supervisor will also be notified upon the representative's return. If release is not possible at the time requested, due to a work requirement which is pressing, the representative will be released as soon as possible thereafter, normally not later than 24 hours, or the Union at their own request may opt to assign another representative. Union representatives will be allowed a reasonable amount of time to notify the Union when they are assigned to a workplace other than their normally assigned workplace.

#### Section 5.

There shall be no restraint, coercion, or discrimination against any Union representative because of the performance of duties in accordance with this Agreement and the Statute, or against any employee for filing a complaint or acting as a witness under the Agreement, the Statute, or applicable regulations.

#### Section 6. Meetings and Conventions

Arrangements will be made for two (2) Union representatives to take annual leave or leave without pay during the International Convention or other International affairs for times which would not be subject to official time provisions of this Agreement, if at all possible. The Union representatives should notify the Employer sufficiently in advance so that suitable scheduling can be arranged.

#### Section 7. Internal Union Business

Soliciting members, collecting dues, and election of Union representatives will be conducted during non-duty time of the employees involved, which includes before and after work, and lunch periods or periods of annual leave or leave without pay.

#### Section 8.

The Union shall be entitled to receive, upon request, and to the extent not prohibited by law, data which is normally maintained by the Employer in the regular course of business; which is reasonably available and necessary for full and proper discussion, understanding and negotiation of

subjects within the scope of collective bargaining; and which does not constitute guidance, advice, counsel, or training provided for Management officials or supervisors relating to collective bargaining. The Union will provide the Employer with the particularized need for all requested information.

#### Section 9.

- A. Union representatives may be placed on a tour of duty during negotiations to allow the appropriate use of official time commensurate with the needs of the mission. Such schedule changes may be made without regard to contract provisions on hours of duty. Overtime is not permitted for negotiations. This shall include time to present matters to the Federal Mediation Conciliation Service, the Federal Service Impasses Panel, and the Federal Labor Relations Authority, and the Courts as necessary. Union representatives may use reasonable official time to prepare for negotiations as agreed to by the Parties.
- B. Union representatives may use reasonable time, subject to the approval of the Employer, to receive, investigate, prepare and present employee complaints, grievances or appeals during duty hours as provided by law, rule or regulation. The amount of time allowed will depend on the facts and circumstances of each case -- e.g., number and nature of allegations, number and complexity of supporting specifics, the volume of supporting evidence, and the availability of documents and witnesses.
- C. Where travel to another location within the jurisdiction of the Union is necessary for representational activities consistent with the provisions of this Agreement, and to the extent such use is authorized under applicable laws, and the transportation is otherwise being provided to the location for official business, the Union will be allowed access to the transportation on a space available basis and also authorized official time for travel. Where there is no transportation provided by the Employer, the Parties will discuss appropriate travel and per diem at the time.

#### Section 10.

Union representatives will be permitted to wear identifying name plates to include name, official capacity, and Union insignia where the wearing of name tags is otherwise permitted.

#### Section 11.

Union representatives on official time for representational duties will be afforded an area of privacy when meeting with unit employees. The Employer will assist in providing such privacy within or in the close proximity of the employee's work area. Confidential employee and representative meetings may be held in a private location if available.

#### Section 12.

Union representatives shall be permitted a reasonable amount of official time as stated above and otherwise in this Agreement to represent employees in accordance with this Agreement. This official time and any other specified time under this Agreement may be used for any representational function, including but not limited to, handling complaints, and any other functions

addressed in this Agreement, provided such representational functions are consistent with law, rule and regulation.

Section 13. Formal Discussions.

If the Employer has or establishes a work group dealing with conditions of employment affecting bargaining unit employees, the Union will be given the opportunity to designate at least one representative to that group or to otherwise negotiate as appropriate.

ARTICLE 9  
Voluntary allotment of Union Dues

Section 1.

Any employee of the APHIS VSPR who is a member of the Union and is included in the bargaining unit covered by this Agreement may make a voluntary allotment for the payment of dues to the Union.

Section 2.

The employee shall obtain his/her SF-1187, "Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues," from the Union and shall give it to the designated Union representative, who will forward it to the appropriate human resources (HR) office for certification of eligibility for dues withholding and for transmittal to the payroll office. The allotment shall become effective on the first full pay period following receipt by HR. The employee shall be instructed by the Union to complete Part A and B. No other number must appear in the block provided as "Identification Number" except the employee's social security number.

Section 3.

Deductions will be made each pay period by the Employer and remittance will be made by check or direct deposit each pay period to the Secretary/Treasurer of the Union. Remittances shall be accompanied by a listing, in duplicate, one for the International Office and one for the local Union, for each pay period showing the names of the member employees from whose pay dues were withheld and the amount withheld. The listing shall include the facility code number for identification purposes. It will be summarized to show the number of members for whom dues were withheld and the total amount withheld. Each list will also include the name of each employee member who previously made an allotment for whom no deductions were made whether due to leave without pay or other cause. If the Union develops a computerized system for dues withholding, the Parties will meet to determine if the Employer can furnish dues deduction information in a compatible format.

Section 4.

It is agreed that Part A of SF-1187, including the insertion of code numbers of the Union and the appropriate local number, will be executed by a Union representative. The amount certified shall be the amount of the regular dues to be withheld from the employee's pay each pay period. Any initiation fees, assessments, back dues, fines or similar charges and fees will be collected by the Union directly from the employee. One standard amount for all employees or different amounts of dues for different employees may be specified. The Union will notify the servicing payroll office in writing prior to the time when the Union's dues structure or amount changes. The change shall be effected at the beginning of the first full pay period after notification is given to the servicing payroll office. Such a change may not be effected more than two times in any calendar year.

Section 5.

The payroll office of the Employer will terminate an allotment:

- A. As of the first full pay period following receipt of notice that exclusive recognition has been withdrawn;
- B. At the end of the pay period during which an employee member is separated from APHIS VSPR ;
- C. At the end of the pay period during which the payroll office receives notice from the Union that the employee member has ceased to be a member in good standing;
- D. At the end of the pay period that any employee leaves the unit of exclusive recognition. In the event the Union disagrees that an employee is no longer in the Unit and they file a unit clarification petition, the employee's dues will continue to be withheld pending a decision on the petition.
- E. On the first anniversary date of the employee's authorization (date of SF 1187) or during the ten (10) calendar day period immediately preceding the September 1 each year thereafter by submitting a SF-1188 in duplicate to the Payroll Office. Dues revocation may only be received during this 10-day period.

#### Section 6.

The Union will notify the Human Resources Minneapolis (HRM) within 5 working days after the employee ceases to be a member in good standing of the Union. Any written revocation of allotment authorization received by the Union will be sent within three days after it is received to HRM. HRM will send the Union a copy of each written revocation of an authorization that it receives.

#### Section 7.

Employees on dues withholding, who are reassigned temporarily to another APHIS VSPR facility will continue on dues withholding unless the assignment is to last for more than three months.

ARTICLE 10  
Use of Official Facilities and Services

Section 1.

The Employer may permit reasonable use of Employer resources and equipment as noted below for Labor-Management purposes to the extent such use is authorized under applicable laws and directives.

Section 2.

The Employer recognizes the value of a constructive labor-management relationship and the need for the Union to be provided space that is sufficient for the Union to properly represent the employees in its bargaining unit. The Employer will make available suitable space for conducting confidential meetings with employees.

Section 3.

Any use of the computer must be for representational use of the Union and be in accordance with security provisions of the APHIS directives and USDA computer use agreements. Use of e-mail may not be scurrilous, libelous, or in violation of national security. Also, the Union acknowledges that such use of the e-mail system is not confidential and privacy is not insured. Union representatives are authorized to use the system(s) for labor-management relations matters. Inappropriate use may result in individual termination of access.

The following conditions will apply to the use of space and equipment:

- A. Such use will not injure the space and equipment in question.
- B. The space and equipment will be subject to the facility's sanitation and safety inspection program.
- C. Conference rooms will be made available when requested in advance at least five (5) working days.
- D. The Employer will provide a three drawer locking filing cabinet located in the APHIS VSPR Carolina office area for retention of Union files.

Section 4.

In addition to the above, the Union will be authorized the use of copy machines, computers, and fax machines at reasonable times when this equipment is not otherwise being used for normal business. Their use will be limited to communications that are of mutual benefit, such as those necessary for grievance processing or communication between the Union and the Employer. This does not prohibit the Union from being authorized the use of surplus equipment or negotiating for additional access to equipment.

Section 5.

Union representatives may use the facility telephone service for local labor-management activities so long as it does not interfere with the primary official business of the facility.

#### Section 6.

The Union and its representatives may use the internal messenger system for regular representational communications (e.g., grievance correspondence or letters and memoranda to the Employer).

#### Section 7.

The Employer agrees to arrange for printing of this Agreement. New employees covered by this Agreement will, during in-processing, be offered a printed copy and advised where a copy may be reviewed electronically if available. Current bargaining unit employees will receive a copy of the Agreement from the facility if requested, and will be advised that it will be available through existing electronic networks for review.

#### Section 8.

The Union will be provided a bulletin board and/or official bulletin board space in areas normally used for communicating with bargaining unit employees. Each bulletin board will contain a minimal space equivalent to two 8 1/2" by 11" sheets of paper to be reserved for Union use and may be sectioned off and identified as Union space. Consistent with fire and safety regulations, they will be glass enclosed and lockable with a key. The material posted must be clearly identified as that of the Union and must not be scurrilous or libelous.

ARTICLE 11  
Grievance Procedure

Section 1. Common Goals

The Employer and the Union recognize the importance of settling disagreements and disputes promptly, fairly, and in an orderly manner that will maintain the self-respect of the employee and be consistent with the principles of good management. To accomplish this, every effort will be made to settle grievances expeditiously and at the lowest level of supervision. The Parties encourage the use of Alternate Dispute Resolution (ADR) as a cost effective and timely method of solving grievances. The Parties may negotiate additional ADR procedures.

Section 2. Scope

- A. Grievance means any complaint, by any employee, concerning any matter relating to the employment of the employee; by the Union concerning any matter relating to the employment of any employee; or by any employee, the Union, or the Employer concerning the effect or interpretation, or a claim of breach, of a collective bargaining agreement including supplemental agreements; or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- B. This grievance procedure does not apply to:
1. any claimed violation of 5 U.S.C., Chapter 73, subchapter III, relating to prohibited political activities;
  2. retirement, life insurance, or health insurance;
  3. a suspension or removal under 5 U.S.C. 7532 (national security);
  4. any examination, certification, or appointment, which includes the separation of a probationary period employee;
  5. the classification of any position which does not result in the reduction in grade or pay of an employee;
  6. notices of proposed disciplinary/adverse actions;
  7. non-selection for promotion from a group of properly ranked and certified candidates;
  8. voluntary action initiated by the employee, unless under duress; and
  9. the following actions unless there is cause involved –
    - a. involuntary retirement because of disability under Part 831 of this Title,
    - b. termination of appointment on the expiration date specified as a basic condition of employment at the time the appointment was made;

- c. action which terminates a temporary promotion within a maximum period of two years and returns the employee to the position from which temporarily promoted;
  - d. action which terminates a term promotion at the completion of the project or specified period, or at the end of a rotational assignment in excess of two years but not more than five years and returns the employee to the position from which promoted; and
  - e. cancellation of a promotion to a position not classified prior to the promotion.
- C. Employees have the option of raising the following matters under statutory appeals procedures or the negotiated grievance procedure (including ADR), but not both: adverse actions (5 U.S.C. 7512), actions based on unacceptable performance (5 U.S.C. 4303), and discrimination (5 U.S.C. 2302 (b) (1)). An employee shall be deemed to have exercised his/her option under this Section to raise the matter under either a statutory procedure or a negotiated procedure at such time as the employee timely initiates a formal action under the applicable statutory procedure or timely files a grievance or request for ADR in writing, whichever event occurs first.

### Section 3.

An employee who alleges a prohibited personnel practice under 5 U.S.C. 2302(b)(1) (equal opportunity violations) may either:

- A. File a grievance (or request for ADR) pursuant to this Article within 45 calendar days following;
  - 1. The date of the alleged discriminatory incident;
  - 2. The date upon which the aggrieved became aware of the alleged discriminatory incident or situation; or,
- B. Initiate an action under the EEO complaint procedure by filing a formal (or ADR) complaint of discrimination. The Parties encourage the use of ADR procedures as a cost effective and timely method of resolving difficult issues.

### Section 4.

The Union has the exclusive right to represent employees in presenting grievances under the negotiated grievance procedure in this Agreement. A grievance may be undertaken by the Union, by an employee or a group of employees, or by the Employer. Employees in such grievances may be represented by a Union representative designated by the Union. Any employee or group of employees may personally present a grievance and have it adjusted without representation by the Union. The Union will be given an opportunity by the Employer to be present at all discussions with the employee concerning the grievance. A reasonable amount of time during working hours will be allowed for employees and the Union representative to prepare, discuss and present grievances under this procedure. Any such resolution must be consistent with the terms of this Agreement and any subsequent supplemental agreements. In exercising their rights to present a grievance, employees and their Union representative(s) will be free from restraint, coercion, discrimination or reprisal. The right of an employee to present his/her own grievances does not, however, extend to the right to invoke arbitration which is reserved exclusively to the Employer

and/or the Union, nor does it extend to them choosing a representative other than the Union. All grievance time frames and meetings shall be delayed if mutually agreed upon by both Parties.

#### Section 5.

Employees and/or their representative(s) are encouraged to discuss issues of concern to them informally with their supervisors at any time. Likewise, employees and/or their representative(s) may request to talk with other appropriate Management officials about items of concern without filing a formal grievance if they choose.

#### Section 6.

The Employer and the Union recognize and endorse the importance of bringing to light and adjusting grievances promptly. The initiation of a grievance in good faith by an employee should not cast any reflection on his standing with his/her supervisor or on his/her loyalty and desirability to the organization, nor should the grievance be considered as a reflection necessarily on the employee's supervisor.

#### Section 7.

The following procedures are established for the resolution of grievances by an employee or group of employees:

##### A. Informal Procedure:

The issue shall first be taken up by the grievant (and Union representative if he/she elects to have one) with the employee's immediate supervisor or the lowest level Management official with the authority to render a decision. The supervisor will have 10 calendar days to respond.

##### B. Formal Procedure:

1. Step One: If the grievance is not settled informally, a formal grievance will be initiated in writing with the immediate supervisor within ten calendar days after receipt of the supervisor's informal decision, or 30 calendar days of the incident that gave rise to the grievance, or the date the grievant could reasonably be expected to be aware of the incident, whichever is later. A grievance concerning a continuing practice or condition may be initiated at any time. In the case of disciplinary or adverse action, a grievance must be initiated within 30 calendar days of the effective date of the written decision from the deciding official. Either Party may request that a meeting be held on the matter. If the grievant wishes a meeting, the request will be included in the written grievance. If such a meeting is requested, it will be held prior to the decision and not later than 10 calendar days after the request is received. A decision will be given to the grievant in writing within 10 calendar days after presentation of the grievance or after the meeting, if one is requested. Every effort shall be made to insure that the decision is clearly communicated and understood. Included with such decision shall be a written statement indicating the grievant's right to submit a grievance to Step Two.

2. Step Two: If the grievant is dissatisfied with the decision given in Step One, the grievant and/or his/ her representative may submit the grievance in writing to the Assistant Director of APHIS VSPR or designee, within 10 calendar days after receipt of the decision on the Step One grievance. The Assistant Director or designee will furnish the employee with a written acknowledgment of receipt. The Assistant Director or designee (higher than the deciding official in Step 1, unless there is no higher level official between him/her and the Assistant Director) will meet with the aggrieved employee if requested, normally within 10 calendar days after the request is received. The Employer and the grievant or his/her Union representative shall have the right to call a reasonable number of witnesses, who will be on duty time. A written decision will be provided to the grievant normally within 10 calendar days after the meeting. If no meeting is requested, the decision will be provided to the grievant normally within 14 calendar days from the date the Employer receives the Step two grievance. The decision letter shall contain a statement indicating the grievant's right to request the Union to advance the grievance to arbitration, or appeal through any other applicable statutory procedure.
3. Step Three: If the grievant is dissatisfied with the decision given in Step Two, the grievant and/or his/ her representative may submit the grievance in writing to the Director of APHIS VSPR or designee, within 10 calendar days after receipt of the decision on the Step Two grievance. The Director or designee will furnish the employee with a written acknowledgment of receipt. The Director or designee will meet with the aggrieved employee if requested normally within 10 calendar days after the request is received. The Employer and the grievant or his/her Union representative shall have the right to call a reasonable number of witnesses, who will be on duty time. A written decision will be given to the grievant normally within 10 calendar days after the meeting. If no meeting is requested, the decision will be given to the grievant normally within 14 calendar days from the date the Employer receives the Step Three grievance. The decision letter shall contain a statement indicating the grievant's right to request the Union to advance the grievance to arbitration, or appeal through any other applicable statutory procedure.
4. The Parties may mutually agree to refer a grievance to mediation prior to going to arbitration. In such case, the request for mediation must be made to the other Party within 10 days of the final decision in Step 3. A joint request to the Federal Mediation and Conciliation Service (FMCS) or other agreed upon source will be made within 10 calendar days of this request if both Parties agree to proceed. Mediation should be scheduled as soon as possible, but not later than 15 calendar days after the request, unless by mutual agreement. If the attempt at mediation is not successful, the time frame for requesting arbitration will begin the day following the final mediation hearing date. All Parties will be on official time during the mediation process.

#### Section 8.

The Parties may mutually agree to extend any time limits of this procedure. If the due date at any stage falls on a Saturday, Sunday, or a Federal holiday, the due date shall be the next business day. The Employer agrees to respond to grievances within the agreed to time period. However, if in any case The Employer is unable to do so, the grievant will be notified of the reason(s) for any delay and an extension of time will be requested. If there is no request for an extension, and the time limit has been exceeded, the grievant will have the option of proceeding to the next step of the grievance

procedure. If the next step is arbitration and the Employer does not reasonably justify the delay, the remedy sought shall be immediately granted if the employee has a written acknowledgment of receipt and the remedy is legal and reasonable under the circumstances of the grievance. If the grievant fails to pursue a grievance within the prescribed or extended time limit, the grievance may be considered resolved in the last step unless the grievant is able to reasonably justify his/her failure to meet the time limits.

#### Section 9.

A grievance may be initiated at Step Two if the substance of the grievance directly concerns a specific action, directive, or decision made at a higher level than the initial step of the grievance process.

#### Section 10.

At any step of the negotiated grievance procedure, when any Management deciding official designates someone to act on his/her behalf, that designee will have complete authority to render a decision at that step and will render the decision. The designee will never be someone who decided the issue at any previous step.

#### Section 11.

When more than one grievant has an identical or similar grievance, the complaints will be combined and the case will be considered in the same manner as an individual complaint of one employee and the decision will be binding on all complainants. Names of all employees involved in this procedure will be made a part of the record of the case and when a decision is made on the grievance, each employee will be individually notified. One employee will be selected by the group to be the lead in the case.

#### Section 12.

- A. A grievance affecting the entire facility or a group of employees may be filed by the Union within 30 calendar days of an incident (or awareness of an incident) that gave rise to the grievance. A grievance concerning a continuing practice or condition may be filed at any time. The Union will first contact the Employer and attempt to settle the issue prior to filing a grievance or a request for ADR on the issue.
- B. The appropriate Management official for these grievances to be filed with will be the designated representative of the Employer.
- C. The APHIS VSPR designee will render a written decision within 30 calendar days of receipt.

#### Section 13.

The Employer may file a grievance against the Union and the Union may file a grievance against the Employer. Grievances must be initiated in writing within 30 calendar days of an incident, or knowledge of the incident, which gave rise to the grievance. A grievance concerning a continuing practice or condition may be filed at any time. The Employer/Union will first contact the other

Party to try and settle the issue prior to filing a grievance or a request for ADR on the issue. The responding Party will have 30 calendar days from receipt of the grievance in which to render a decision in writing.

Section 14.

In the event either Party should declare a grievance non-grievable or non-arbitrable, the original grievance shall be considered amended to include this issue. The Employer agrees to raise any question of grievability or arbitrability of a grievance no later than the time the Step Two decision is given.

ARTICLE 12  
Arbitration

Section 1.

If the decision on a grievance processed under the negotiated grievance procedure is not satisfactory, the Union, either as the grievant or as the representative of the employee grievant(s), or the Employer, as the grievant, may refer the issue to arbitration. The notification referring an issue to arbitration must be in writing, signed by the Union or signed by the Employer. The notice must be submitted to the other Party within 30 calendar days following receipt of the decision by the aggrieved Party or within 30 calendar days of the date a decision was due, whichever is earlier. Only the Union or the Employer may invoke arbitration. No employee may singularly bring a grievance to arbitration without the Union's sanction. Issues which were not brought up prior to the arbitration hearing will not be brought up at the arbitration hearing.

Section 2.

- A. Within 10 calendar days from the date of the request for arbitration, the Parties shall jointly request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven impartial persons qualified to act as arbitrator. If either Party refuses to participate in the submission, the other Party may make the request. Within 15 calendar days after receipt of such list, the Employer and the Union shall meet to select the arbitrator. If the Parties cannot agree on an arbitrator from the list, each Party shall strike one name in turn from the list. The responding Party shall strike the first name. After each Party has struck three names from the list, the remaining person shall be the arbitrator. If either Party refuses to participate in the selection process, the other Party will make a selection of an arbitrator from the list. Either Party may request another listing prior to striking the names if he/she finds that none of the arbitrators on the list have appropriate Federal experience.
- B. Following the selection of an arbitrator the moving Party will within five calendar days notify the FMCS as to the name of the arbitrator selected. A copy of the notification will be served upon the other Party.

Section 3.

- A. The non-prevailing Party will pay the arbitrator's fees and expenses. If there is no clear prevailing Party, then the arbitrator will determine the percentage of fees to be paid by each Party depending upon percentage of win/loss of issues by each Party. Travel and/or per diem costs shall not exceed those authorized by applicable Agency regulations. Further, the Employer and the Union shall share equally the expenses of any mutually agreed upon services in connection with an arbitration inquiry or hearing. If only one Party requests a transcript, only that Party will be responsible for its costs. If subsequently the other Party wants a copy, then the two Parties will jointly share the total cost of both transcripts.
- B. The arbitrator has full authority to award appropriate remedies, including reasonable legal fees, pursuant to 5 U.S.C. 7701 (g) and the provisions of the Back Pay Act, 5 U.S.C. 5596.

Section 4.

- A. Upon selection of the arbitrator in a particular case, the respective representatives for the Parties will communicate with the arbitrator and each other in order to select a mutually agreeable date for the arbitration hearing. The Parties will endeavor to schedule the hearing within thirty calendar days after arbitration is invoked. The Parties will attempt to jointly submit the issue(s) to the arbitrator. If the Parties fail to agree on a joint submission, each Party shall make a separate submission on the issues only, and the arbitrator shall determine the issue(s) to be heard. Nothing in this Agreement shall preclude the Parties from resolving the grievance during any of these meetings.
- B. The Parties agree that the primary purpose of this arbitration procedure is to provide a swift and economical method of resolving disputes fairly and equitably. The arbitrator shall have the authority to take steps necessary to see that the purpose is fulfilled.
1. Any hearing shall be informal;
  2. There shall be no formal evidence rules;
  3. The Parties may mutually agree to direct the arbitrator to simplify or eliminate a written opinion;
  4. When both Parties agree to the facts at issue and agree that a hearing would serve no purpose, they will stipulate the facts to the arbitrator with a request for a decision based upon the facts presented.
- C. The arbitration hearing or inquiry shall be held on the Employer's premises unless the Parties mutually agree to another site, during the regular day shift work hours of the basic work week. The duty status of participants in an arbitration proceeding shall be consistent with the following:
1. The grievant shall be excused and placed on official time duty during the arbitration proceeding. It is understood that workload and staffing needs may not always permit all grievants in a group grievance to attend the arbitration proceeding at one time. In such cases, the Employer, whenever possible, will arrange the schedules of the grievant necessary to attend and properly present the case and will make a reasonable effort to accommodate the equitable rotation of the other grievant(s);
  2. Normally, fourteen calendar days prior to the arbitration hearing, the Parties will exchange their witness lists and inform the other Party as to who their representative will be. These lists may not be amended except in the event of unforeseen circumstances such as sudden unavailability of a witness or the identification of other witnesses found to have additional information.
  3. All witnesses necessary at the arbitration will be given excused absences if otherwise in a duty status provided the Employer received sufficient advanced notice of at least 14 calendar days. The release of any witness not originally listed will be dependent upon staffing and

workload requirements. The grievant's representative and a technical advisor will also be on official time, provided they are employees of the APHIS VSPR.

#### Section 5.

If inter-facility travel and per diem expenses are authorized for the Employer's representative and/or witnesses, it will also be for the Union's witnesses and/or representative and grievant(s), provided they are APHIS VSPR employees.

#### Section 6.

The arbitrator shall have authority to resolve any questions of arbitrability and interpret and define explicit terms of this Agreement, USDA APHIS policy, or controlling law or regulation, as necessary to render a decision. Questions of arbitrability shall be considered threshold issues on which the arbitrator will hear evidence and argument at the hearing prior to deciding the case on its merits.

#### Section 7.

In the interest of obtaining prompt decisions on matters appealed to arbitration and to implement financial safeguards which will limit back-pay awards, the Parties will move swiftly in selecting and scheduling an arbitrator so that a decision is received timely. An arbitrator will be requested to hold the arbitration hearing and issue a written decision within three months of a Party filing for arbitration.

#### Section 8.

Decisions of arbitrators shall be final and binding subject only to review under the terms of 5 U.S.C. Chapter 71. Either Party may file exceptions to awards of arbitrators to the Federal Labor Relations Authority (FLRA) in accordance with FLRA regulations or, where applicable to the U.S. Court of Claims, U.S. Court of Appeals or Merit Systems Protection Board. However, any dispute over the interpretation of an arbitrator's award shall be returned to the arbitrator for settlement, including remanded awards.

ARTICLE 13  
Negotiations

Section 1.

To the extent that directives within the discretion of the USDA APHIS VSPR may be in conflict with this Agreement, the provisions of this Agreement will govern.

Section 2.

- A. Proposed changes affecting personnel policies, practices or conditions of employment by the Employer will be sent to the Union and vice versa. Normally, 10 working days will be provided from date of receipt for review and response. If either Party requests an extension, it will be granted. The responding Party may request to:
1. Negotiate as appropriate on the material as submitted;
  2. Agree on the proposal(s) as presented; or
  3. Elect not to negotiate at all in accordance with this Agreement.
  4. Where the Union elects (1) above, a copy of the material will be provided by the Employer for bargaining as appropriate. Likewise, where the Union makes a proposal, a copy of the proposed material will be submitted to the Employer. Counter-proposals will be submitted as soon as possible related to the material involved, no later than 15 calendar days after receipt, unless an extended time frame is agreed to by the Parties.
- B. The Parties may initiate mid-term bargaining over issues not in conflict with this Agreement.
- C. Negotiations under this Section will normally commence within 10 working days after the Parties designated representative receive counter-proposals.
- D. If the Union does not request bargaining within the time limit, the Employer may implement the proposed change(s). New or changed policy proposals which are agreed to in bargaining shall be initialed prior to issuance by the Union and the Employer.
- E. The Union will be provided official time, per diem and travel where needed, for Union negotiators, up to the number of Employer representatives for negotiations.

Section 3.

In the event the Parties cannot agree on a negotiable matter and an impasse is reached, either or both Parties may seek the services of the Federal Mediation and Conciliation Service (FMCS). If the services of the FMCS do not solve the dispute, either Party separately or jointly may request the services of the Federal Service Impasses Panel (FSIP) to make a decision.

Section 4.

In the event the Employer declares a matter non-negotiable, the Union may submit the issue to the Federal Labor Relations Authority (FLRA) for a negotiability determination. If the issue is a small part of the subject of negotiations and most of the negotiations have already been agreed upon, the agreed upon provisions will be implemented pending the issuance of the negotiability determination.

#### Section 5.

Past practices that are not a violation of law shall not be abridged as a result of not being enumerated in this Agreement. Where a past practice violates law, the Employer agrees to provide notice to the employees of the violation and the Parties will agree on a date when the practice will be changed.

#### Section 6.

The Employer will provide notice to the Union of any change to a Government-wide regulation with a copy of the regulation including the change. Any change to a Government-wide regulation during the life of this Agreement will be negotiated as appropriate.

#### Section 7.

Where there is a change in law during the life of this Agreement, the Employer agrees to provide a copy of the change and an opportunity to negotiate as appropriate under law on the change for bargaining unit employees. Such time frames for negotiation will be in accordance with Section 2 above.

#### Section 8.

Where specific comments are submitted by the Agency or the Union concerning proposed changes to USDA VSPR or Government-wide regulations, the Employer will notify the Union with a copy (including notices posted in the Federal Register). The Union may submit their comments directly to the Employer in accordance with the posted notice, or may elect to incorporate their comments in the Employer's submission if mutually agreed.

ARTICLE 14  
Awards and Recognition

Section 1. Purpose

Awards and recognition will be utilized to create an environment of inclusion, exceptional performance, effective leadership, and to eliminate barriers to service excellence.

Section 2. Scope

The awards and recognition program will be administered consistent with USDA policy stated in MRP Directive 4451.1 or successor, Departmental Regulation (DR) 4040-451-1 or successor, and the principles set for in 5 U.S.C. 2301- Merit System Principles.

Section 3 Justification and Approvals of Awards.

- A. All awards and recognition recommendations require separate, written justifications.
- B. All awards and recognition recommendations must be approved at a higher level than the recommending official, except for time-off awards of 10 hours or less.
- C. Human Resources will sign awards forms, certifying that the action is in compliance with statutory and regulatory requirements.
- D. The Employer agrees to provide the Union with copies of awards given to bargaining unit employees at the time the documentation is forwarded to the employee and supervisor. If quarterly or annual reports are prepared, the Employer agrees to copy the Union with those reports. Reports may be redacted.

Section 4. Responsibilities

- A. Employees will:
  - 1. Complete accomplishment reports which can be used to help document performance accomplishments, and which may be used to generate justifications for award recommendations;
  - 2. Identify career goals and participate freely in performance discussions; and,
  - 3. Notify timekeepers and provide appropriate documentation of approved time off awards in order to update the employee's leave balance in the time and attendance system.

Section 5. Types of Awards

A. Performance Bonus Awards

Performance Bonus Awards are intended to recognize sustained levels of successful performance over the course of the rating period. Employees who receive a rating of record of

no less than “*Fully Successful*” are eligible for a performance-based award. Performance-based awards for bargaining unit employees usually may not exceed ten percent of the employee’s rate of basic pay. However, for exceptional accomplishments, performance-based awards not to exceed 20 percent of the employee’s rate of basic pay may be granted.

1. Performance-based awards must be given within (90 calendar days of the end of the performance appraisal cycle. An employee may be granted no more than one performance-based award for the same appraisal cycle.
2. The granting of a performance-based award is discretionary on the part of the Employer, not an employee entitlement.
3. Employees who receive a performance rating of “Fully Successful” or above are eligible for a discretionary performance award after the end of the appraisal cycle. Performance Bonus Awards are given to individuals, not to groups.

#### B. Quality Step Increase (QSI)

The purpose of a Quality Step Increase (QSI) is to provide recognition of sustained high-quality performance and faster than normal progression through the step rates of the General Schedule GS pay system. Unlike other forms of recognition, QSI’s permanently increase an employee’s rate of basic pay.

##### 1. Eligibility.

- a. An employee must have received an “Outstanding” rating of record. QSIs are based on the grade level and duties in which performance was measured. A QSI is not required or automatically granted for an “Outstanding” performance rating. A manager/supervisor reserves the discretion to grant a QSI.
- b. QSIs may not be granted if the employee received a QSI within the preceding 52 consecutive calendar weeks.
- c. An employee may not receive a QSI if he/she has received a performance award based in whole or part on a performance rating of record for the same appraisal cycle.
- d. A QSI does not change the effective date of the employee’s normal within-grade increase except when the QSI places the employee in the fourth or seventh step. In this case, the employee would enter into a prescribed longer waiting period. QSI’s may not be granted at the top step of the pay range.

#### C. Extra effort awards

Extra effort awards recognize accomplishments that are in the public interest and have exceeded normal job requirements. The extra effort award is separate from recognition based on the employee’s performance rating.

1. Monetary Extra Effort Awards.

- a. This type of award recognizes a particular accomplishment, such as a superior contribution on a short-term assignment or project, an act of heroism, a scientific achievement, major discovery, or significant cost savings. Dollar amounts are determined by the value of benefit and applications of the contribution to the Agency's mission or goals. Monetary recognition (e.g., a cash award given with a plaque).
- b. This award recognizes individuals or groups who make significant one-time contributions (e.g., special project, task force, etc.) toward achieving the Agency's mission or goals.
- c. These awards provide managers, supervisors and peers with a means of recognizing an employee for a "one-time" act or occurrence that is recognized as a contribution or accomplishment that is within or outside of an employee's job responsibilities. Examples of employee achievements that might be considered for an extra effort award include:
  1. Contributing to emergency response activities;
  2. Making a one-time contribution or accomplishment that is within or outside his/her job requirements; and/or
  3. Making a scientific achievement.
- d. The guidelines for monetary extra effort awards take into account the positive impact of the effort being recognized. In accordance with DR 4040-451-1, award amounts range from \$50 to more than \$10,000 and must be determined in accordance with the Measurable and/or Non-measurable Benefits Scales found at: <http://www.ocio.usda.gov/directives/doc.DR4040-451-1.pdf>. These awards may be for an individual or group contribution. Wherever possible, measurable benefits should be calculated to determine award amounts. The approving official must ensure that funds are available and within budget allocations.

2. Nonmonetary Extra Effort Awards.

- a. A nonmonetary award may be granted to recognize contributions that do not meet the standard for a cash award or in cases where the contributions do meet the standard but the supervisor chooses not to grant a monetary award. Examples of nonmonetary recognitions include time-off awards, honorary awards, information recognition, letters of appreciation or commendation, certificates of appreciation or commendation, and keepsakes (mementos and tokens.)
- b. Employees may receive nonmonetary awards as often as their contributions are considered worthy of recognition, except where limitations are set by Departmental guidelines (e.g., no employee may be granted more than 80 hours of time off during a leave year).

- c. Nonmonetary awards will be nominal in value. The primary value of items should be as forms of recognition, not as objects with monetary value. The limit is \$250 on any one item, with the higher-end amounts reserved for high-level honorary awards or use of non-monetary items for recognition. For more information refer to the USDA Regulation on Employee Awards and recognition:  
<https://www.ocio.usda.gov/document.departmental-regulation-4040-451-1>.

### 3. Eligibility.

All MRP employees are eligible for performance bonuses, Presidential Rank, and Extra Effort Awards (excluding spot and time-off awards.) Former employees are eligible for monetary and nonmonetary awards for recent contributions made while employed by the Agency.

### 4. Justification and Approval.

- a. The AD-287-2 form must be signed by the recommending individual and the approving official.
- b. Recommendations should be prepared and acted upon as soon as possible, normally within 60 calendar days after it is determined that the contribution warrants recognition.

## D. Spot awards are a type of extra effort award that recognize individuals or groups of employees for their day-to-day extra efforts and contributions.

1. Employees may receive more than one spot award within a 1-year period.

### 2. General Requirements.

- a. Managers, supervisors and peers may submit recommendations of spot awards.
  - b. Award amounts range from \$50 to \$750 (in increments of \$5) with no award exceeding \$750. The employee receives the full amount of the spot award. Each program is responsible for calculating the taxes for the award which are based on the individual employee's taxes and benefits: and budgeting for the taxes and benefits.
3. Spot Awards should be awarded usually within three calendar days, but no later than 30 calendar days after the completion of the accomplishment being recognized. A written justification is required separate from the AD\_287-2 (see Attachment 6).

## E. Time-off awards (TOA) may be granted to an employee as an individual or member of a group without charge to leave or loss of pay. A TOA may be awarded to recognize the same types of accomplishments as cash awards. The amount of time off granted must be proportionate to the value of the contribution being recognized.

### 1. Eligibility

Full-time employees may be granted up to 80 hours of time off during a leave year, but not more than 40 hours for a single achievement.

2. General Requirements.

- a. The Time-off Awards Scale found in DR-4040-451-1 should be used to determine the appropriate number of hours for granting time off. A TOA will be given in increments of no less than one hour.
- b. A TOA may be granted along with other forms of awards, as long as the total value of the awards given reflects the value of the contribution being recognized. For example, an employee might receive both a one day TOA and \$50 cash award as an award for a single contributions, as long as the combination of the awards does not exceed the value of the employees' contribution.
- c. A TOA must be scheduled and used within 26 pay periods from the effective date of processing. After the 26<sup>th</sup> pay period, any unused time off will be automatically forfeited and may not be restored or otherwise substituted.

3. Justification and Approval.

- a. A manager or supervisor may grant a TOA of 10 hours or less without a higher level of review or approval. If the award exceeds 10 hours, it must be approved by an official at a higher level than the recommending individual. A written justification is required separate from Form AD-287-2.
- b. A TOA may only be taken after it has been entered in the time and attendance system.

F. APHIS supervisors may not give gift certificates/cards as awards.

ARTICLE 15  
Merit Promotion

Section 1. Purpose

The purpose and intent of this Article is to ensure that merit promotion principles are applied in a consistent manner with equity to all employees and without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, disabling condition, age, sexual orientation, genetic information and status as a parent, or any other non-merit-based factor, unless specifically designated by statute as a factor that must be taken into consideration when awarding such benefits, or retaliation for exercising rights with respect to the categories enumerated above, where retaliation rights are available and shall be based solely on job-related criteria.

Section 2. Actions Covered By Competitive Procedures

In accordance with 5 CFR 335.103, competitive procedures will apply to the following types of personnel actions subject to the exceptions explained in Section 3 below:

- A. Promotions;
- B. Temporary promotions for more than 120 calendar days;
- C. Details over 120 calendar days to higher graded positions or to positions with known promotion potential;
- D. Combinations of actions in B. and C. where total service would exceed 120 calendar days during the previous 12 month period;
- E. Selection for training where a training agreement substitutes training for normal qualification or time-in-grade requirements or when the training is part of a promotion program;
- F. Reassignment, reinstatement, transfer, or demotion to a position with greater promotion potential than the position last held in the competitive service. Exceptions are actions permitted by reduction-in-force (RIF) regulations;
- G. Transfer to a higher graded position; and
- H. Reinstatement to a permanent or temporary position at a higher grade level than previously held in a non-temporary position in the competitive service.

Section 3. Actions not Covered by Competitive Procedures

In accordance with 5 CFR 335.103, competitive procedures will not apply to the following personnel actions which are exceptions to Section 2 above:

## A. Career Ladder Promotions

Career ladder promotions are permitted when an employee is appointed or assigned to any grade level below the established full performance level of the position (i.e., the position has a documented career ladder and promotion potential). These promotions may be made non-competitively for any employee who entered the career ladder by:

1. Competitive procedures;
  - a. Competitive appointment from a certificate of eligibles (through OPM or delegated examining authority); or
  - b. Non-competitive appointment under special authority; e.g., conversion of a Pathways program intern, appointment of former ACTION volunteers or Peace Corps volunteers, conversion of a Veterans Recruitment Authority appointee and Presidential Management Fellows.
2. Promotion based on reclassification when:
  - a. No significant change occurs in the duties or responsibilities of the position and the position is upgraded due to issuance of a new classification standard, or the correction of a classification error; or
  - b. The position is upgraded due to accretion of additional duties and responsibilities and the following provisions are met:
    1. The employee continues to perform the same basic functions;
    2. The duties of the former position are absorbed into the new position;
    3. The current position must be abolished;
    4. The new position has no promotion potential;
    5. The new position is in the same occupational series as the current position;
    6. The new position has the same grade interval as the current position (e.g. one grade interval GS-5/6/7 or two grade interval GS-9/11);
    7. The new position is in the same organizational unit as the current position;
    8. The additional duties and responsibilities assigned or accrued by the incumbent do not adversely affect or impact other positions in the organizational unit;
    9. No other employee(s) in the same organizational unit are performing similar duties prior to the addition of the new duties and responsibilities which precipitated a promotion based on accretion of duties;

10. Promotion is not from an identical additional position within the same organization;
  11. Promotion is not to a vacant, higher level position;
  12. The new position is not a reclassification from nonsupervisory to supervisory status;
  13. The new position is not a reclassification from non-leader to leader status; and
  14. The accretion is supported by a written analysis of the position which involves a position review/desk audit including written, face-to-face, and/or telephonic reviews with the employee and/or the employee's supervisor, or other fact gathering method.
3. Permanent promotion to a position held under a temporary promotion when:
    - a. The assignment was originally made under competitive procedures;
    - b. It was known to all competitors at the time that the assignment may lead to a permanent position.
  4. Temporary Promotion
    - a. Temporary promotion of an employee for less than 120 calendar days;
    - b. Promotion for more than 120 calendar days to a grade level previously held on a permanent basis, unless the employee was demoted for reasons related to performance or misconduct.
  5. Placement as a result of priority consideration when the referral is a remedy for candidates not given proper consideration in a competitive promotion action.
  6. RIF placements which result in an employee receiving a position with higher promotion potential.
  7. Promotion to a grade previously held on a permanent basis in the competitive service from which the employee was separated or demoted for other than performance or conduct reasons and not at the employee's request.
  8. Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement approved under Civil Service Rule 6.7) and did not lose because of performance or conduct reasons.
  9. Promotion as a legal remedy as ordered and agreed upon in a legal or administrative proceeding.

10. Details for 120 calendar days or less to a higher graded position or to a position with known promotion potential.

#### Section 4. Temporary Promotions

- A. Employees will not be detailed and/or temporarily promoted to higher graded positions or positions with known promotion potential for more than a cumulative total of 120 calendar days during any 12 month period without the use of competitive procedures.
- B. Temporary promotions for qualified and eligible employees will take effect the date specified on the SF 52, usually not later than the 11th workday from the beginning of the temporary promotion assignment. Employees must be doing the full scope and performance of the position and be eligible to meet OPM qualifications for temporary promotions. Short term “acting” positions are not considered for temporary promotions unless the employee is expected to perform the full scope and range of the position for a period of time of greater than 10 consecutive working days.
- C. Details to higher grades will not be interrupted for the purpose of avoiding temporary promotions.
- D. Temporary promotions for more than 120 calendar days will be advertised and competed in accordance with OPM regulations.

#### Section 5. Priority Consideration

A. The Employer will exercise priority consideration for eligible employees prior to selection from a competitive certificate. If the priority consideration eligible employee is not selected, the employee will be given, in writing or by e-mail, the reason for non-selection. Copies of the notice will also be provided to the Union and the Human Resources (HR) Office.

#### B. Involuntarily Demoted Employees

Employees who are involuntarily demoted in the Agency without personal cause due to the following events are entitled to consideration for repromotion before using competitive procedures:

1. An error in the prior classification of a position;
  2. A change in classification standards without a change in duties and responsibilities;
  3. A change in duties and responsibilities caused by gradual erosion or by Employer action; or
  4. The application of RIF procedures.
- C. Grade retention entitlement lasts for a period of two years and applies to positions at the employee's former grade or at any intervening grades that are to be filled under competitive

procedures. The right to this consideration does not apply to a position with promotion potential higher than that of the position held at the time of the change to the lower grade.

#### D. Employees Not Given Proper Consideration

An employee who would have been referred but was not given proper consideration due to a procedural violation or error in a previous competitive placement action must be given priority consideration for the next vacancy that the Employer elects to fill in the same series, grade(s), promotion potential, and location as the one for which consideration was lost. This means that the employee must be referred to the selecting official for consideration before using competitive procedures. If selected on the basis of priority consideration, the employee is promoted or reassigned noncompetitively. If the employee refuses priority consideration, the employee forfeits his/her entitlement to priority consideration.

### Section 6. Scope of Competition

- A. Area of consideration for the vacancy will be determined by the Employer and will be broad enough to reach a high quality applicant pool while meeting its obligations under the Employer's outreach and diversity objectives.
- B. The Employer may consider the use of an area of consideration limited to the local commuting area prior to opening a separate case examination announcement open to all U.S. citizens.

### Section 7. Vacancy Announcements

#### A. Publication, Amendments and Time Limits

- 1. Publication of vacancies will be made through the Government-wide electronic recruitment site, [www.usajobs.gov](http://www.usajobs.gov) or successor.
- 2. Notification of amendments, cancellations, or other changes to the vacancy announcement will be accomplished through the Government electronic recruitment site.
- 3. Announcements for bargaining unit vacancies will be posted for a minimum of five working days prior to the closing date.

#### B. Vacancy announcements will include:

- 1. Statement of nondiscrimination;
- 2. Announcement number and posting and closing dates;
- 3. Title(s), series and grade(s);
- 4. Number of anticipated vacancies to be filled;

5. Area of consideration;
6. Type of test(s) to be used, if any;
7. Description of promotion potential, if any;
8. When using an automated recruitment system, each factor/question used to determine the basic eligibility and/or best-qualified candidates;
9. Geographic and organizational location;
10. If relocation expenses will not be paid;
11. Summary of the duties of the position;
12. Summary of eligibility and qualification requirements;
13. Permanent or temporary nature, and, if temporary, the duration and if the promotion may be made permanent;
14. Name and telephone number of the HR staff member to contact for information relating to the announcement;
15. Special working conditions such as tour of duty, travel requirements, expected overtime, etc.;
16. The different levels at which the position may be filled if it is a multiple-level announcement; and
17. Additional specific information relevant to the evaluation of the candidates, e.g., writing samples, portfolios.

#### C. Open and Continuous Announcements

1. Open continuous announcements may be used.
2. An employee may apply at any time as outlined on the vacancy announcement for open continuous announcements.

### Section 8. Employee Applications

#### A. Filing an Application

Employees will follow the requirements for filing an application as outlined in the vacancy announcement.

#### B. Electronic Application

The Parties agree to encourage employees to become familiar with the current electronic application process/technology identified at the link in Section 7 A. (1) above and the associated tools available therein. This will help them set up their profiles, apply for vacancies and to become aware of what they can expect once the application process is initiated.

C. Absence During Posting Period

1. Employees within the area of consideration who are absent during the posting period for legitimate reasons, will be considered for vacancies during their absence. Legitimate reasons include:
    - a. Approved leave;
    - b. Details;
    - c. Training courses;
    - d. Official business;
    - e. Military service;
    - f. Compensable injury;
    - g. Service in public international organizations;
    - h. Intergovernmental Personnel Act assignments; or
    - i. Service in state or local governments.
  2. Employees who so desire may provide contact information to their supervisor so that they can be contacted during their absence and provided additional information if needed. However, it is the employees' responsibility to be aware of open vacancy announcements and to meet application requirements for each announcement.
  3. Employees who are away from their normal duty station for extended periods of time but are interested in vacancies that may occur are encouraged to:
    - a. Check the [usajobs@opm.gov](mailto:usajobs@opm.gov) site for vacancy information.
    - b. Check the Marketing and Regulatory Programs Human Resources home page at <http://www.aphis.usda.gov/mrpbs/hr/index/shtml>.
- D. When an employee applies for more than one announcement, full consideration will be given for each vacancy applied for, regardless of selection for one or more vacancies.

Section 9. Establishing the Best Qualified List

- A. To be eligible for promotion or placement, candidates shall meet the minimum qualification standards prescribed or approved by OPM and selective placement factors identified as essential for successful performance by the closing date of the announcement or from the date of referral from a standing register.
- B. Assessment criteria used to evaluate candidates must be fair, job related, and applied equitably.
- C. Qualified candidates competing for promotion shall be rated to determine their possession of the knowledge, skills, and abilities (KSA's) and/or competencies required to be referred to the selecting official.
- D. Assessment tools shall be based on a job analysis to identify the KSA's and/or competencies needed for successful job performance. Competencies will differentiate superior candidates from other employees or applicants.
- E. Determining Best Qualified

Promotion eligible candidates will be evaluated and rated using the assessment tool selected by the hiring official to measure their possession of the KSA's/competencies identified for successful performance. The best-qualified candidates will be identified based on the scores received in the evaluation process. The identification of best qualified candidates who will be referred for consideration will be determined based on the most logical (natural) break in the scores. Candidates will be referred in alphabetical order.

Section 10. Selection Procedures

A. Interviewing

When a face-to-face interview is not possible, an electronic interview is acceptable.

B. Selection

- 1. The selecting official has the right to select or not select any candidates referred. However, the selecting official will give consideration to the candidates' fitness and qualifications, without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex (including pregnancy and gender identity), national origin, non-disqualifying handicapping condition, sexual orientation, genetic information (including family medical history), age, status as a parent, or any other non-merit-based factor, unless specifically designated by statute as a factor that must be taken into consideration when awarding such benefits, or retaliation for exercising rights with respect to the categories enumerated above, where retaliation rights are available. The selection shall be based solely on job-related criteria.
  - a. When requested by the Union, a written rationale of the selection(s) or decision not to select will be provided. If a rationale is prepared, it will be made a part of the promotion file.

- b. Requests must be made no later than 30 calendar days from the date of notification of selection/non-selection.

#### C. Release and Notification of Applicants

1. The HR office will work with program officials to establish mutually agreeable release dates based on mission and program requirements. Normally, a promotion will be effective not more than 30 calendar days from the date of selection. Employees may be required to provide support to the losing work unit for up to 30 calendar days from the date of selection. When local workforce and program conditions permit, an employee will be released no later than two complete pay periods for reassignment, following the selection.
2. When an employee is nearing the end of a waiting period for a within-grade increase, the employee may request the Employer consider a delay in the processing of the promotion action to obtain maximum benefit of the promotion. Actions will not be delayed for more than 30 calendar days.

### Section 11. Employee Information

#### A. Information Regarding a Selection

The selecting official will not discuss the promotion action until after the HR office has reviewed the selection and notified the selecting official that an offer may be made to the selectee(s).

#### B. Career Ladder

1. Career ladder positions help employees develop to successfully perform higher level duties through training and incremental assignment of more complex work. The responsibilities assigned to the entry levels of career ladder positions will involve more basic skills and knowledge compared to journey-level responsibilities. The responsibilities at each level of the career ladder position will be communicated to employees through the position description or career ladder plan. Career ladder plans (consisting of position descriptions, performance standards, and individual development plans) will be tailored to the complexity of the job duties and will permit employees to learn and assume the full range of duties.
2. A career ladder plan will be established for each career ladder position. The career ladder plan will outline the objective criteria for each grade level which an employee must meet in order to be promoted. The employee will also be advised of his/her earliest date of promotion eligibility. If a change in a career ladder position occurs, the employee will be provided with a copy of any revised career ladder plan within 30 calendar days of such revision.

#### C. Career Ladder Advancement

1. At the time the employee reaches his/her earliest date of promotion eligibility, the Employer will decide whether or not to promote the employee.
  - a. If an employee is rated as “Fully Successful” and is meeting the promotion criteria in the career ladder plan, the Employer will certify the promotion which will be effective at the beginning of the first pay period after the requirements are met.
  - b. If an employee is not meeting the criteria for promotion, the employee will be given a written notice at least 30 calendar days prior to the earliest date of promotion eligibility. The written notice will state what the employee needs to do to meet the promotion plan criteria. Should a career ladder plan require only a three month training period, the above notice shall be a reasonable period prior to the earliest date of promotion eligibility.
    - i. If the employee is making progress, the supervisor will ensure that the employee has the opportunity to acquire pertinent skills and knowledge and to demonstrate that he/she meets promotion requirements as soon as feasible.
    - ii. If the employee is experiencing performance problems the provisions in C of this Section are applicable.
  - c. In the event that the employee met the promotion criteria but the appropriate Agency official failed to initiate the promotion timely, the promotion will be retroactive to the beginning of the first pay period after the pay period in which the requirements were met.
- D. Any time a supervisor and/or employee recognize an employee’s need for assistance in meeting the career ladder advancement criteria, the supervisor and employee will develop a plan tailored to assisting the employee in meeting the criteria. The plan should include all applicable training, as well as any other appropriate support. If a non-probationary employee fails to meet the promotion criteria after the appropriate assistance, the Employer may:
  1. Provide the employee with additional time to meet the promotion criteria;
  2. Assign the employee duties commensurate with his/her current grade. The career ladder plan may end, and the employee will remain at the level he/she attained within the career ladder. The employee may be reinstated back into the career ladder plan non-competitively if the employee remains in the position covered by the career ladder plan.; or
  3. The employee may be assigned to another position at the same grade and step or the Employer may begin performance based action if warranted.

#### E. Maximum Opportunity

Employees in career ladder positions will be given a fair and reasonable opportunity to reach the full potential of their assigned career ladders. Upon placing an employee in a career ladder position, the supervisor will discuss the job requirements and expectations for the employee to reach the next higher level. The supervisor will hold these discussions at each level of the employee’s progression within the career ladder.

#### F. Progression Within a Career Ladder

Career ladders are not automatic; an acceptable level of performance must be demonstrated for progression. Employees in career ladders will clearly demonstrate the ability to perform at the next higher grade level before being promoted to the next grade in the career ladder.

#### G. Timing for Career Ladder Promotions

At the time an employee meets time-in-grade and any other legal promotion requirements, the supervisor will make a decision to promote or not to promote. This decision will be made in a timely manner.

#### H. Ongoing Feedback

The supervisor will periodically provide feedback to the employee about his/her performance in the career ladder position.

### Section 12. Compensation

An employee's level of compensation upon promotion shall be set in accordance with applicable regulations.

### Section 13. Promotion Records for Unit Positions

In accordance with 5 CFR 335.103, a file sufficient to allow for reconstruction of the competitive action will be kept for two years, unless there is a grievance or complaint pending on the particular promotion action, in which case the file will be kept pending final decision of the grievance or complaint.

### Section 14. Information on Promotion Actions

Upon completion of the selection process, the Union may request the information used by the Employer to make the selections. The Employer will provide the requested information consistent with the requirements of law.

ARTICLE 16  
Safety and Health

Section 1.

The Parties agree that safety is of prime consideration in the accomplishment of the Employer's mission and commit themselves to establishing and maintaining safe working conditions. The Employer is committed to maintaining a safety program that meets the requirements of applicable statutes and Government-wide regulations.

Section 2.

- A. Safety and health matters are appropriate subjects for the annual labor-management committee meetings. At such meetings the designated Agency safety and health officer or designee and a Union representative shall be participants if safety and health matters are discussed.
- B. The Union representative will be a full participant on any Safety and Health Committee that handles issues that impact on the bargaining unit. That representative will be provided travel and per diem as necessary. That representative will receive the same training as other members of the committee and will initially receive at least the basic training course in safety and health provided by the USDA APHIS VSPR or designated provider. The Union representative will have access to all information and regulations necessary for him/her to perform the duties of the committee.
- C. The Union representative will be entitled to official time, as needed in order to properly perform all the duties of the position. His/her time is not restricted by Article 6. The Union representative will be the point of contact on all safety and health initiatives at all levels that impact employee safety and health.
- D. The Union representative will be given copies of all designated Agency and local safety and health letters and all other national level communications to the field on safety and health matters as well as all safety manuals and publications.

Section 3.

The Employer agrees to meet with the Union upon request to discuss safety and health matters as the need arises. Such meetings will include the Union safety representative and other Management officials concerned with the matter. LIUNA members of the committee will receive training in their duties and will have access to Agency information necessary in the performance of their duties.

Section 4.

Union representatives will be allowed access to any information pertinent to unit employees' safety that is available within the VSPR. If privacy issues are concerned, the information will be released in a sanitized form to protect individual confidentiality.

### Section 7.

The Employer shall acquire and maintain approved personal protective equipment, safety equipment and other devices as necessary to provide protection of employees from hazardous conditions during performance of their official duties.

### Section 8.

The Employer has the responsibility to provide adequate protections and take measures to reduce the risk and prevent heat-related illnesses and deaths. The Employer will ensure that adequate supplies of potable water are available to employees required to work outside in high heat conditions.

### Section 9.

Employees are required to work safely and to report any observed unsafe or unhealthy conditions to the employee's immediate supervisor. Union representatives, in the course of performing their normally assigned responsibilities, are encouraged to observe and report unsafe practices, equipment and conditions which may represent health or safety hazards. The Employer assures there will be no restraint or reprisal as a result of an employee's reporting an unsafe practice or condition.

### Section 10

The Employer agrees to assure prompt response to employee reports of unsafe or unhealthful working conditions and will require an inspection within 48 working hours after an employee reports an immediate dangerous condition, or within 5 working days for potentially serious safety and health conditions. If any inspection is made, the Union will be informed and given an opportunity to be present and participate during the inspection. Any employee, or Union representative, who believes that an unsafe or unhealthful working condition exists in any workplace where such employee is employed, is encouraged to report the unsafe condition to his/her supervisor and shall have the right to make a report of the unsafe or unhealthful working condition to the appropriate Agency safety and health coordinator and/or OSHA and request an inspection of such workplace for this purpose.

### Section 11.

The term "imminent danger" means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal procedures. In the case of imminent danger situations, employees shall make reports by the most expeditious means available to his/her supervisor or the next higher level supervisor who is immediately available. The employee has the right to decline to perform his/her assigned tasks because of a

reasonable belief that under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures, in accordance with applicable law and Government-wide regulations. If the supervisor believes the condition or corrected condition does not pose an immediate danger, then the supervisor shall request an inspection by the Agency safety and health coordinator as well as contact the Union representative. A Union representative shall be afforded the opportunity to be present at the time the inspection is made. If the Agency safety and health coordinator decides the condition does not pose an immediate danger, the instruction to return to work shall be in writing and contain a statement declaring the area or assignment to be safe. Any refusal to perform such assignment after the Agency safety and health coordinator decision or written instruction to return to work might be cause for discipline, in accordance with applicable law and Government-wide regulations. It is also understood that at any time the Management official finds there is an immediate danger, the employee will not be obligated to return to the assignment until the imminent danger is removed. Any refusal to perform such assignment after the Agency safety and health coordinator decision or written instruction to return to work might be cause for discipline.

#### Section 12.

Employees must report as soon as possible any and all job-related injuries to their supervisor. The supervisor will take appropriate action to insure that:

- A. The employee has the opportunity to report to the facility health unit or his/her personal physician for treatment and to complete necessary reports, etc.
- B. The human resources (HR) office is promptly notified to insure timely processing of necessary reports and employee claims. The Employer agrees that the HRM office shall provide information, and assistance to employees in preparing necessary forms and documents, and if appropriate, to submit the forms to the Office of Workers Compensation Program (OWCP), and also shall inform employees of their rights under the Federal Employees Compensation Act. Information may also be obtained from the employees' supervisors. The Employer will provide employees with assistance in all phases of claims processing, including follow-up contacts with OWCP on the employee's behalf. When the Employer determines that employees are temporarily unable to perform their regular duties due to injury or occupational illness, but may be capable of returning to or remaining in a duty status, the Employer will make a good faith effort to locate a work assignment compatible with the employee's physical condition before sending the employee home. This good faith effort shall include an examination as to whether the employee's regular duties may be temporarily tailored to meet the situation.

#### Section 13.

The Union may request official time for the Union safety representative to attend an annual OSHA sponsored training course.

ARTICLE 17  
Leave

The Employer's every day efficiency is enhanced through a dependable and reliable workforce which is characterized by employees scheduling leave in advance (except for unforeseen illnesses and emergencies), reporting to work timely, and remaining on duty during the full period of their tours unless in an approved leave status. Employees will be afforded the rights under law, regulations, and this Agreement to take sick and annual leave when needed without threat, harassment or reprisal. The amount of leave for an emergency will not be arbitrarily assigned but will depend upon the appropriateness of the situation.

Section 1      Annual Leave

Annual leave shall be earned in accordance with appropriate statutes and regulations. The Employer shall allow each employee to schedule annual leave as he/she requests, subject to approval by the appropriate official based upon workload and staffing needs. Annual leave will be administered in accordance with Department regulations, other applicable laws and regulations, and the following:

Scheduled Leave

- A. Employees are encouraged to take two weeks annual leave for vacation purposes each year, which may be consecutive, for purposes of rest and relaxation. Vacation schedules will be established based upon each Section's operational requirements. Approval or disapproval will be dependent on staffing and/or work load requirements. No arbitrary or capricious restraints will be established to restrict when leave may be requested.
- B. In each calendar year, employees shall be afforded the opportunity to submit one request for priority consideration. Employees may submit a scheduled leave request for additional leave available at the same time they submit the request for priority leave. The leave will normally be approved or disapproved in writing prior to February 1 of the next year. All leave other than the priority leave will be approved on a first-come, first served basis.
- C. When making a routine request for annual leave, the employee need not state the reason for the request. When leave is approved in advance for extended periods, such approved leave will be honored where staffing needs permit. When situations arise where previously approved leave must be canceled, the employee will be given a written statement that explains why the leave was canceled. Those employees will be permitted to reschedule their cancelled leave as soon as staffing needs permit, and consideration will be given to those employees in accordance with the priority list prescribed under priority consideration.

PRIORITY CONSIDERATION

- D. Requests under priority consideration may be for any period, up to 10 days of annual leave, which may be consecutive, excluding regular days off. Requests for holidays off in connection with priority annual leave will be considered as exercising an option for the holiday. Requests for these holidays must be submitted at the time that annual leave is requested for prime vacation time. However, it may not always be possible to be approved for a holiday in

conjunction with your priority annual leave if someone higher on the priority list asks for the holiday alone.

- E. Employees will submit their priority leave request between November 1 and December 15 (to their immediate supervisor) who will approve/disapprove the request in writing normally prior to February 1 of the next year. If there is a conflict, which cannot be resolved on an informal basis, the following priority list will be applied:
1. Employees who were employed at the local facility for the previous calendar year.
  2. Employees who did not have that time scheduled during the previous year;
  3. Employees who have not had a choice from the same group of Holidays (from Section 2. C. this year.)
  4. Employee's service computation date (SCD), and
  5. Employees who have already incurred a substantial financial expenditure for use of that time period (after the leave has already been approved).

#### UNSCHEDULED LEAVE

- F. Approving officials must give appropriate consideration to employees with emergency situations. The amount of leave for an emergency will not be arbitrarily assigned but will depend upon the appropriateness of the situation.
- G. Where unforeseen emergencies arise and the employee requests annual leave, employees must contact their supervisor or designee, either personally or by phone, to request leave within 60 minutes or as soon as possible after the beginning of the regular work shift; or if the situation arises on duty the employee will personally or by phone contact a supervisor from the approved list. If the employee is unable to call the Employer due to unusual circumstances, a family member or other responsible person may call for the employee. This requirement may be waived because of special or unusual circumstances that preclude such notification. The Employer will provide to the employees a listing of supervisors that any employee may contact for this purpose. Employees will normally be informed whether leave is approved or disapproved at the time it is requested by someone on the approved list. This list will be provided to all employees annually on Feb 1<sup>st</sup> or as needed when changes arise.
- H. Any employee in a use or lose status must be given consideration for their leave to be used by the end of the leave year, in accordance with the priority list contained in Section D. The Employer agrees to assist employees in scheduling use or lose leave. Such assistance will include a written notice to employees on or before June 1 of each year. Such notice will advise employees of the importance of requesting an adequate amount of leave to avoid the loss of leave. If the Employer prevents an employee from using previously scheduled and approved leave at the end of the year, that leave will be reinstated (over and beyond the 240 hours of carryover time) to be used in accordance with applicable regulations. Such use or lose leave

must be attempted to be scheduled prior to November 1 of each year in order for the reinstatement to occur.

- I. Once an employee's annual leave has been scheduled, he or she will normally be permitted to change his/her selection only if workload permits and no other employee's choice is disturbed, or if another employee agrees to trade.
- J. Any Employer directed movement of an employee from one work location to other will not normally result in loss of an employee's use of approved leave.

## Section 2 – Holidays.

- A. Holidays for VSPR employees will be those established by Statute or Executive Order.
- B. The Employer acknowledges that more liberal annual leave approval may be appropriate on days before and after holidays.
- C. Holidays shall be divided into three groups as follows:
  - Group 1: Martin Luther King's Birthday, Presidents Day, Columbus Day, Veterans Day.
  - Group 2: Memorial Day, Independence Day, Labor Day
  - Group 3: Thanksgiving Day, Christmas Day, New Year's Day
- D. Employees will normally be permitted to incorporate both Christmas and New Year's Day in their vacation plans.

If a supervisor determines that not all employees who have indicated a preference for a given holiday can be excused on that holiday, the conflict between employees shall be resolved by using the same priority listing outlined under the priority annual leave section.

## Section 3 - Sick Leave

A. Granting Sick Leave. Sick leave shall be granted to an employee for any of the following reasons:

### 1. Sick Leave for Personal Needs

a. When the employee is incapacitated for the performance of duties by physical or mental illness; pregnancy or childbirth;

b. When the employee receives medical, dental, or optical examination or treatment (including adjustment of prosthetic devices); or

c. When through exposure to a contagious disease, the presence of the employee at the place of duty would jeopardize the health of others.

### 2. Sick Leave for Family Care and Bereavement

a. An employee may use sick leave to provide care for, or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such a condition, would justify the use of sick leave by the employee.

b. An employee may use sick leave to make arrangements necessitated by the death of a family member or attend the funeral of a family member. This includes use of sick leave to make arrangements for and attend a funeral or memorial service; necessary travel, pre-funeral and after-funeral/burial gatherings or ceremonies, memorial services; and reading of the will.

NOTE: A full-time employee may use up to 13 days (104 hours) to provide:

Care for a family member who is incapacitated by a medical condition

- Attend to a family member receiving medical, dental, or optical examination or treatment, or
- Make arrangements necessitated by the death of a family member or attend the funeral of a family member

Part-time employees and employees with uncommon tours of duty are also covered, and the amount of sick leave permitted is prorated in proportion to the average number of hours in the employee's scheduled tour of duty each week.

3. Sick Leave to Care for a Family Member with a Serious Health Condition. An employee may use a total of up to 12 administrative workweeks (480 hours) of sick leave each leave year to care for a family member with a serious health condition subject to the following limitations:

a. If an employee previously has used any portion of the 13 days (104 hours) of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week (480 hours) entitlement.

b. If an employee has already used 12 weeks (480 hours) of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days (104 hours) in the same leave year for general family care purposes.

c. An employee is entitled to a total of 12 weeks (480 hours) of sick leave each year for all family care purposes.

4. Sick Leave for Adoption. An employee may use sick leave for purposes related to the adoption of a child. This may include: appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; any periods of time the adoptive parents are ordered or required by the adoption agency or by the court to take time off from work to care for the adopted child; and any other activities necessary to allow the adoption to proceed. Sick leave may not be used by adoptive parents who voluntarily choose to be absent from work to bond with an adopted child.

B. Application for leave and a medical certificate or equivalent will not be required for a sick leave period of three consecutive work days or less unless an employee is suspected of sick leave abuse. Normally employees will be advised in advance in writing of such a requirement. All written notices shall explain in detail why the requirement has been established and what actions must be

taken in order to get it removed. In all cases, the written notice shall be reviewed with the employee no later than six months afterward. If no sick leave misuse is shown during the six month period, the requirement shall be removed, and the notice removed from all records. If the notice is continued, the employee will be notified in writing of the reason for the continuance. Use of all available leave or absence on approved leave on many occasions does not in itself constitute misuse of sick leave.

C. Employees on sick leave for more than three consecutive workdays or on leave restriction must furnish administratively acceptable evidence of their need for sick leave within 15 calendar days after returning to duty. When a medical certificate is not furnished due to a shortage of medical providers, remoteness of locality, or because the nature of illness did not require a medical provider's services, or other valid reason, the employee's signed statement of reasons why other supporting evidence is not furnished will normally be accepted in lieu of a medical certification. However, if an employee is on leave restriction, the Employer may require a medical provider's statement for every use of sick leave.

D. It is the responsibility of an employee who is incapacitated for duty to report or to have a responsible person report his/her illness as soon as possible to the supervisor, or any designee from the leave approving list. This must be accomplished as soon as possible after the employee is scheduled to report for duty unless there are mitigating circumstances, but normally not later than two hours thereafter. An employee who expects to be absent more than one day shall inform the supervisor of the approximate date of return to duty, if possible. If he/she does so, daily reports will not be required. An employee will not routinely be required to reveal the nature of illness as a condition for approval. Failure to furnish the nature of illness will not, in itself, serve as a basis for disapproval.

#### Section 4 - Maternity/Paternity Leave

Sick leave, annual leave, or leave without pay may be granted as appropriate to any employee who is pregnant during delivery, confinement, and for care of the infant. Annual leave or leave without pay may be granted to male employees in order to aid or assist in care of his minor children or the mother of the newborn child in relation to confinement for maternity reasons. Sick leave, annual leave, or leave without pay, as appropriate, also may be granted to any employee when adopting a child.

#### Section 5 - Military Leave

A. Employees will be granted military leave in accordance with 5 U.S.C. 6323., Employees will be provided advice on leave benefits by the human resources office upon request. To use military leave an employee must:

1. Notify his/her supervisor as soon as possible after receiving notification of the training or active service.
2. Give the supervisor advance written or verbal notice. This notice and a copy of the military order should be provided as early as possible.

Exception: No notice is required if it is precluded by military necessity or, under all relevant circumstances, giving notice is impossible or unreasonable.

3. Request military leave, annual leave, compensatory time or leave without pay as appropriate in WEBTA or successor.
  4. Furnish a certification of completion of training or active service from the military commander or superior upon returning to his/her civilian position.
- B. Employees will be granted military leave, annual leave, compensatory time, or leave without pay for all required military time, including drill weekends. Requests to perform active or inactive duty for training that is in addition to required military duty will not be viewed as requiring automatic approval, but will be considered on a case-by-case basis.

#### Section 6      Administrative Leave or Excused Absence

Consistent with Agency policy, the Employer may grant absences from duty without charge to leave. The MRPBS Human Resources Desk Guide (HRDG) lists other instances when excused absence may be authorized. Administrative leave is treated as time worked for all purposes, except that the employee is excused from his regular assigned duties. The following are some of the activities for which excused absences will normally be authorized (this is not an all-inclusive list):

- A. Infrequent or brief periods of absence or tardiness of less than one hour due to circumstances beyond the employee's control in accordance with 5 CFR 630.
- B. Employees who give blood without compensation may be excused without charge to leave for any portion of the day blood is donated, for travel to the donation site, donation and recovery. Normally this will not exceed four hours unless travel time is required.
- C. For registering to vote and/or voting in governmental elections when the polls are not open at least three hours either before or after an employee's regular hours of work. In this situation, the employee may be granted an amount of excused absence to vote which will permit the employee to report for work three hours after the polls open or to leave work three hours before the polls close, whichever requires the lesser amount of time off.
- D. Non-duty status when allowing the employee to continue working would be dangerous to life or property, or otherwise inconsistent with the fulfillment of the Agency mission;
- E. Severe weather and emergency situations (everyone must be treated the same);
- F. Emergency treatment due to an on-the-job injury;
- G. When an employee requires emergency treatment due to an on the job injury, the employee will remain in pay status until released from the emergency room or until the end of the scheduled shift.

H. Employees will not be required to use their leave after exposure to contagious disease during initial medical examination or treatment related to a duty related illness.

Section 7 Jury, Court and Other Related Duty

Consistent with HRDG 4630 - Absence and Leave - Section D - Subsection a, Management officials may grant absences from duty without charge to leave for:

- A. Jury duty;
- B. Court leave;
- C. Serving as a witness in the employee's official capacity as a Federal employee, or serving as a witness when the Employer or the United States is a party, in compliance with applicable regulations.

Section 8 Leave Without Pay

Employees who do not have leave to their credit and wish to take leave for emergencies or other necessities may be granted leave without pay (LWOP) upon request. Employees may also be granted LWOP upon request if they have leave to their credit but choose not to take it. LWOP may be granted on an extended basis for educational purposes, while awaiting action on a disability retirement or OWCP claim, and may be granted while serving as an officer or representative of the Union when involved in matters other than those covered by official time. Requests will be considered on an individual basis. LWOP may be granted for other reasons consistent with HRDG 4630 - Absence and Leave - Section E - Subsection a. The Employer will notify each employee of the effect that taking a period of extended LWOP (more than 30 days) would have upon his/her employment status and benefits. This will be done prior to the time the leave is scheduled to commence and is actually taken, when the leave is requested in advance.

Section 9 Wounded Warrior Sick Leave

In accordance with The Wounded Warriors Federal Leave Act of 2015 (P.L. 114-75, Nov. 5, 2015) (5 U.S.C.6329): and HRDG 4630 - Absence and Leave - Subsection d – Wounded Warrior Sick Leave; if a Wounded Warrior employee presents an official statement from a duly-constituted medical authority that medical treatment is required, then he/she must be granted sick leave, annual leave, or LWOP if necessary. The employee must give prior notice of the period during which absence for treatment will occur.

- Is also known as “Disabled Veterans Leave” (DVL).
- Creates an additional but temporary sick leave category for 30% or more disabled veterans.
- Is for new employees.
- Entitles veterans with a 30% or more service-connected disability to 104 hours of sick leave while undergoing medical treatment for the disability.
- Makes the sick leave available on the first day of employment and continues for a 12-month period.

**Note:** Such new appointees are concurrently accruing sick and annual leave.

Section 10 Voluntary Annual Leave Transfer Program

A. This program allows employees to donate annual leave for the use of other employees for medical emergencies as stipulated by regulations and local policy.

B. Employees may participate and request leave under the voluntary annual leave transfer program in accordance with HRDG 4630 - Absence and Leave - Section J - Subsection a. VSPR Management will not directly or indirectly solicit, encourage, or discourage employees under their supervision to donate leave under this program. The donation of leave is entirely voluntary. However, an employee may not donate leave to his/her immediate supervisor. If requests for annual leave under this program are denied to employees, the Union reserves the right to grieve the action after receipt for the denial.

ARTICLE 18  
Pay, Leave Statements and Per Diem

Section 1

The Employer will assist any employee who does not receive a paycheck in a timely fashion. The Employer will initiate immediate action, in accordance with U.S. Treasury and USDA APHIS regulations, to secure a pay check for employees whose paycheck does not arrive timely, including requesting a duplicate check if the regular pay check is more than 3 days late. Whenever the Employer's error results in the failure of an employee to receive full salary payment on time, the Employer will take immediate action to expedite payment to the employee. This might include payment from petty cash, duplicate check, partial check, etc., to the extent that may be authorized.

Section 2      Pay Check and Leave and Earnings Statements

A. Employees will normally have their paychecks delivered by Direct Deposit (DD) or Electronic Funds Transfer (EFT) to a financial institute of their choice. In unusual circumstances, an employee may elect a different procedure, where appropriate, including when there is no financial facility in the immediate area that will provide services without a fee.

Section 3      Per Diem

Under normal conditions, the Employer will plan trip assignments far enough in advance so that if an employee needs a per diem advance, sufficient time will be available to request and receive the advance to use on the assigned trip. It is understood that employees who are considered frequent travelers will be issued a credit card for Government employees, and will be required to follow the provisions governing its use. Each employee will be told the per diem rates applicable to their trip as soon as the Employer ascertains which rates apply. Employees will be reimbursed for expenses involved in official business in accordance with regulations. If an employee who does not have a travel card is not notified of travel in time to receive an advance from the normal financial source, a cash advance of funds will be granted to the extent permissible by appropriate regulations. If the employee has paid travel expenses out of pocket and has not received reimbursement within 30 calendar days after submitting a properly completed travel voucher, The Employer will initiate a follow-up with the appropriate fiscal authority in an effort to secure payment. Employees who are required to use their automobile for the performance of official duties will be reimbursed for mileage and parking expenses in accordance with applicable laws and Federal Travel Regulations. Employees who are not reimbursed for travel expenses in a timely manner and are charged fees and/or expenses for paying their credit card late, will be reimbursed a late fee by the Employer in accordance with Government-wide regulations and law.

ARTICLE 19  
Performance Appraisal and Pay Increase System

Section 1 Purpose

A high level performance by the Employer's employees is essential to the efficient operation of the Employer and is necessary for the achievement of its goals and programs. The purpose of this Article is to set forth a fair and equitable procedure to be utilized by supervisors when informing employees of their performance. The Employer's employee performance appraisal system will be administered in accordance with the requirements of 5 U.S.C. 4301 et seq. and 5 CFR, Part 430 as amended and in accordance with the HRDG 4430 - Performance Management, as supplemented by this Agreement.

Section 2 Policy

The Employer has a department-wide performance appraisal program. If the Department proposes to change from the current system, the Employer will provide Official Notice to the Union for negotiations as appropriate.

Section 3 Performance Plan

- A. Employees and their supervisors will be involved in the development of performance plans, including establishment of and changes to performance standards and elements. Although performance standards may be modified during the appraisal cycle, such changes will normally be kept to a minimum. Before any element is changed or added, the Employer will actively solicit employee input and will make every effort to develop a mutually agreeable element before changes are made. Any newly established standards and critical elements must be established and communicated to the employee within 90 days of the implementation from a higher level. When requested, the Employer and the employee(s) will meet to discuss the draft and review any responses/comments, and respond to any questions received prior to issuing final standards.
- B. Supervisors will meet with affected employee(s) to promote a common understanding of what is required for satisfactory performance and how employees may exceed the standards prior to implementation. Employees who enter unit positions or are promoted, demoted, or reassigned to a different unit position should have their new performance standards communicated to them as soon as possible, but normally no later than 30 days after assuming the duties of the new position. Use of official time will not be considered as part of the rating of Union representatives for the purposes of downgrading a rating.

Section 4 Performance Standards

- A. To the extent feasible, each employee's performance plan will permit the accurate evaluation of job performance on the basis of objective criteria related to the employee's job and will be applied fairly and equitably. Performance standards will be defined at the acceptable level for each critical element to be used in the summary rating of each employee. If standardized Position Descriptions are utilized for a group of employees, then the performance plans will reflect that same standardization.

- B. A performance standard is an expression of the performance requirement that must be met to be appraised at the acceptable level. A performance standard should be job-related and measurable, and may include criteria such as quality, quantity, timeliness, or manner of performance. Other duties as assigned must be identified and measurable in order to be included in the employee's performance rating.

## Section 5 Performance Rating Procedures

The evaluation of employees shall be objective to the extent possible.

- A. Employees will be rated on a five tier system: Unacceptable; Minimally Satisfactory; Fully Successful; Superior; and Outstanding. If an employee fails a critical element, the overall rating will be Unacceptable. Where an employee meets all the critical elements of the position, but does not meet one or more of the non-critical elements, the rating will be Minimally Satisfactory. If an employee meets all the critical and non-critical elements of the position, the rating will be Fully Successful. If the employee meets all the non-critical elements of the position and exceeds all of the critical elements, the rating will be Superior. If the employee exceeds all the non-critical elements and the critical elements, the rating will be Outstanding. Performance plans must include at least one mission results oriented critical element linked to the strategic goals and objectives of the organization. Alignment statements should be listed under the performance element(s) to show linkage to organizational or work unit goals.
- B. Employees will be required to submit an accomplishment report providing information related to their performance during the appraisal period. The rating official will consider all information such as assignments of any duration, abnormal work situations, and factors beyond the employee's control. Any discussions held with employees at this time concerning their performance will be conducted in private surroundings.
- C. Within 30 calendar days after the end of the appraisal period, a written rating of record shall be prepared and given to the employee. A copy of the final rating will be forwarded to the Human Resource Office in accordance with administrative timeframes.
- D. In the interest of providing for objectivity in an appraisal, an employee should have been working under the same supervisor for at least 90 calendar days. When this is not possible, the rating official will considered criteria from the previous supervisor; if none is available, the rating will be deferred until these time frames are met.
- E. The rating official shall normally be a supervisor/Management official who has direct knowledge about the employee's performance and the type of work performed, and has had access to all of the employee's performance records.
- F. The rater will discuss the employee's job performance in private surroundings where available on a continuing basis, but at least twice in conjunction with the appraisal cycle prior to the final rating. The supervisor will meet with individual employees to discuss their scheduled annual performance appraisals at the time they are given. The review shall be documented on the appraisal form. The employee will sign and date the form, indicating only that the evaluation and discussion process took place. A signature does not constitute agreement with the rating.

- G. Employees will be rated annually through September 30 unless another rating cycle is mutually agreed upon. Employees will be required to submit an accomplishment report providing information related to their performance during the appraisal period 30 calendar days prior to the close of the appraisal period. The rating official will consider all information such as assignments of any duration, abnormal work situations, and factors beyond the employee's control. Any discussions held with employees at this time concerning their performance will be conducted in private surroundings where available.
- H. If the rating official has identified shortcomings in the employee's performance, the employee shall be notified when the problem is perceived. The supervisor will arrange a meeting with the employee to discuss the performance in question, and to determine the efforts and/or training required to improve the employee's performance. Where performance is less than satisfactory, the rating official will suggest ways for the employee to improve his/her work in order to more satisfactorily perform duties at expected levels.

Section 6      Performance Improvement Plan (PIP)

- A. Employees who are determined to be performing at the Unacceptable level (less than acceptable) will be given an opportunity to improve prior to the initiation of a performance-based reduction in grade, removal or other action under 5 CFR 432. Rating officials are required to assist employees whose performance is less than acceptable during the rating period. A formal PIP will be prepared for employees whose performance is less than acceptable, explaining how their performance is less than acceptable, what specific assistance will be provided to assist them in improving their performance, exactly what needs to be improved to bring up their performance and that they have a specific period of time (normally 30 calendar days unless the Employer in its sole and exclusive discretion determines otherwise) to improve their performance to the acceptable level.
- B. If the performance level is brought up to the acceptable level during the PIP, that level must be maintained for at least a 12-month period. The Employer is not obligated to provide more than one PIP in a 12-month period. If an employee fails to improve his/her performance to the acceptable level during the PIP, the Employer may propose a performance-based adverse action or other alternative action.

Section 7

To protect the integrity of the policies and procedures of the performance appraisal system, all time period requirements in the process shall be observed, consistent with applicable laws, rules and regulations.

Section 8      Access to Documentation

The employee or the Union acting on the employee's behalf, may request the reasons, records, and documentation relied upon to make any rating using a 7114 (b) (4) information request. Such documentation shall be made available in an expeditious manner to the employee or his/her Union representative. The employee will have adequate time to review and respond to the reasons, record and documentation relied upon.

Section 9      Performance Increases

- A. Employees who receive an outstanding rating will receive their regular pay increase plus be considered for a performance bonus. If performance awards are given, they will be equitably distributed to all employees receiving the same rating. An Outstanding rating will be given only to those employees who consistently perform above and beyond their expected Fully Successful requirements in their permanently assigned duties.
  
- B. Details and special projects may be recognized under the Employer's special contribution/incentive award program. Performance under a detail or special project is not normally considered as consistently performing above and beyond expected Fully Successful requirements on regular duties unless the employee is given performance standards that address the detail or special project.

ARTICLE 20  
Action Based on Unacceptable Performance

Section 1 Performance based actions do not apply to -

- A. The reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed one year of current continuous employment; or
- B. The reduction in grade or removal of an employee in the excepted service who has not completed one year of current continuous employment in the same or similar position.

Section 2

- A. Prior to proposing an action under this Section, based upon unacceptable performance, a formal 30 calendar day opportunity for improvement period shall be given to the employee provided no such prior opportunity was granted as provided under Article 17, Section 6. Such notification shall specify what the employee must do to bring his/her performance to a successful level during the opportunity period and what assistance will be offered to the employee in this effort.
- B. If at the end of an opportunity period the individual is performing at a successful level, he/she must maintain this level for one year from the beginning date of the opportunity period. Failure to do so may result in a proposal to demote or remove without benefit of another opportunity period. If the performance during the opportunity period increases to a successful level, the employee will, upon request, be notified in writing that improvement has occurred.
- C. An employee whose reduction in grade or removal is proposed is entitled to;
  - 1. 30 calendar days advance written notice which identifies:
    - a. Specific instances of unacceptable performance by the employee on which the proposed action is based;
    - b. The critical element(s) of the employee's position involved in each instance of unacceptable performance.
  - 2. Union representation;
  - 3. A reasonable amount of time to answer orally and in writing (not less than 14 days); and
  - 4. written decision which;
    - a. Specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based; and
    - b. Is approved by an employee who is in a higher position than the employee who proposed the action;

- c. Specifies the employee's appeal right(s); and
- d. Will be delivered at least five calendar days prior to the effective date of the action.

Section 3. Employees have the right to request review of an unacceptable performance appraisal (Rating) and to have a Union representative present during the review. A request for review must be submitted within 15 working days from the date of receipt of the notice of unacceptable performance. The employee's official personnel folder and material used to support the appraisal shall be made available for review by the employee and/or his/her representative.

Section 4. Employees who are reduced in grade or removed because of unacceptable performance may appeal the matter under the statutory procedure of 5 U.S.C. Chapter 43 or 75 or under the negotiated grievance procedure in this Agreement (including ADR).

ARTICLE 21  
Disciplinary and Adverse Actions

Section 1

A. The public interest requires the maintenance of high standards of conduct. Action taken against employees will be taken for just and sufficient cause, consistent with applicable laws, and be fair and equitable. Adverse actions will be taken only for such cause as to promote the efficiency of the service. The concept of discipline is designed primarily to correct and improve employee behavior, rather than to punish. A more serious penalty than the least available may be taken whenever required by law or regulations, or required to correct the attitude or conduct of the employee. Employees will not be subjected to arbitrary or unreasonable acts by supervising personnel.

B. Alternative Discipline (AD)

The Parties recognize that traditional discipline may not be appropriate in all cases. In many situations, AD techniques may provide a more constructive approach to positively influencing future behavior. In these cases the Parties are encouraged to consider using such techniques.

Section 2 - Preliminary Investigations

In every case, prior to initiating disciplinary and adverse action against an employee, a preliminary fact-finding or inquiry will be conducted by the immediate supervisor or other appropriate official to assure himself/herself of the facts in the case and to determine what action is warranted. Such inquiry will be made into the incident or situation as soon as possible. The employee who is alleged to have committed the offense and any other persons who may have pertinent information about the case will be questioned, and signed statements ordinarily will be obtained. Information will be developed impartially, and reasonable effort will be made to reconcile conflicting statements by developing additional evidence. In all cases, the information obtained will be documented. Written material such as supervisory notes may not be used to support a disciplinary action of an employee if such material has not been shown to the employee in a timely manner after the occurrence of the act or a copy provided to the employee upon request after the action has been proposed. If the findings indicate that disciplinary action is warranted, a discussion will be held promptly with the employee, provided he/she is available, prior to the issuance of a formal proposal of disciplinary or adverse action. The Employer will advise the employee of his/her rights to Union representation. All proposed action shall be initiated within a reasonable time from the date of the act or occurrence of the Employer's first knowledge of the act or occurrence. The Union shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of the Employer in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary or adverse action against the employee and the employee requests representation.

Section 3 –

For the purpose of this Article, disciplinary actions are taken to correct misconduct and to enforce prescribed rules of behavior. Discipline will be promptly administered based upon the circumstances and complexity of each case. Discipline includes admonishments, reprimands, and

suspensions of 14 days or less. Adverse actions are a removal, suspension for more than 14 days, furlough for 30 days (22 non-continuous days) or less, or reduction in grade or pay effected by the Employer for either disciplinary or non-disciplinary reasons, except for those which are excluded by law or regulation (see 5 CFR, pt. 752). The following definitions apply:

#### A. Disciplinary Actions

1. Admonishment. A written statement of censure given to an employee for a minor act or misconduct.
2. Reprimand. A written statement of censure given to an employee for repeated or more severe misconduct.
3. Suspension of less than 15 days: A suspension of 14 days or less is an enforced temporary non-pay status and absence from duty. Such action is given for serious misconduct. It may also be given for continued or repeated acts of misconduct of a less serious nature.

#### B. Adverse Actions

1. Suspension of more than 14 days: A suspension of more than 14 days is an enforced temporary non-pay status and absence from duty. Such action is given for serious misconduct. It may also be given for continued or repeated acts of misconduct of a less serious nature.
2. Reduction in grade for disciplinary reasons: A reduction in grade imposed for disciplinary reasons is proper when such action would be effective in correcting a situation and thus serve to retain a valuable and trained employee.
3. Removal for disciplinary reasons: Removal for disciplinary reasons is an involuntary separation taken for serious misconduct or for continued or repeated acts of misconduct of a less serious nature.
4. Non-disciplinary reasons resulting in removal or reduction in grade or pay: An action may be non-disciplinary, but at the same time adverse to the employee. For example, the removal of an employee because of refusal to accompany the activity to a new location is an adverse action even though no disciplinary element is involved. Demotion or separation due to the employee's failure to meet the physical requirements of the same position is another example of an adverse action which did not grow out of a disciplinary situation.
5. Demotion or removal based on combination of performance and non-performance related factors: Adverse actions based on a combination of performance and either misconduct or inability to do the work of the position because of disability are processed under this Article.
6. Furlough for 30 days or less: This is a non-disciplinary adverse action taken on the basis of an emergency situation, lack of work or funds, or other non-disciplinary reasons. Furloughs are appropriate only when motivated by temporary concerns.

#### Section 4 –

Normally admonishments will be retained for six months to one year. Normally reprimands will be retained for one to two years. In extraordinary circumstances, the time frames may be shortened or lengthened by the issuing official. The employee may, after six months, make a written request to the issuing official that the admonishment be withdrawn. The employee may, after one year make a written request to the issuing official that the reprimand be withdrawn. The removal of these actions depends upon the employee's record being clean during the time of retention and the seriousness of the offense.

#### Section 5 - Procedures

A. Letters of admonishment or reprimand: An admonishment or reprimand will be in the form of an official letter to the employee describing the action taken and why it was taken, including the policy, regulation, or law violated. It will advise the employee that a copy of the disciplinary action and any written explanation or comments regarding the disciplinary action will be placed in the employee's Official Personnel Folder (OPF). The disciplinary action will contain a statement advising the employee of the right to appeal the action under the negotiated grievance procedure, the right to a Union representative, and will inform the employee of the withdrawal provisions. The employee will also be informed that they may discuss the matter with his/her supervisor.

#### B. Suspension of 14 Days or Less and Adverse Actions:

1. Prior to receiving suspensions of 14 days or less and adverse actions, employees will be given advance written notice of the action proposed. The advance notice period for an adverse action will be not less than 30 calendar days unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. In these instances the advance notice may be limited to seven days. All advance notices of proposed action will contain, at a minimum, the following information:

- a. The nature of the action proposed;
- b. The specific charges upon which the proposed action is based, including names, dates, places, and other data sufficient to enable the employee to fully understand the charges and to respond to them;
- c. Any specific law, regulation, policy, procedure, practice or other specific instruction that has been violated as it pertains to the charge(s);
- d. The right to review the material relied upon to support the reasons for the proposed action, including any prior applicable discipline or adverse actions;
- e. The right to reply orally, in writing, or both, and to submit affidavits and other documentary evidence in support of the reply;
- f. The right to a reasonable amount of time to submit the reply. The employee will have seven days to respond on a proposed disciplinary action and 14 days to respond on a proposed adverse action;

g. Identification of the official who will receive any oral and/or written reply; and

h. The right of any employee to choose his/her own representative, or to represent themselves.

2. The employee will be given a written decision as soon as possible after his/her reply has been fully considered or after the expiration of the time allowed for reply should the employee not reply. Time limits for the employee's response may be extended upon request. After carefully considering the evidence and the employee's response, if any, including any mitigating factors, the deciding official shall make a timely decision. Such decision may not be more severe than that which was proposed.

3. The decision letter shall contain, at a minimum, the following information:

a. A statement of the reason(s) for the action being taken;

b. A statement of how long and where the letter will be retained, (admonishment or reprimand);

c. A statement of what was considered in arriving at the decision;

d. A statement that the employee may grieve the action under the negotiated grievance procedure or any statutory procedures, the time limits for filing under each procedure, and that the employee will be deemed to have exercised his/her option to raise the matter under one procedure over the others at the time the employee timely files a written grievance, a formal written EEO complaint, or whatever you do for mspb, if applicable; and

e. A statement that the employee has the right to be represented by an attorney, Union representative or other representative of the employee's choice at all stages of the process, except for a grievance under the negotiated grievance procedure, in which case only a Union representative may be chosen, or the employee may choose to represent him/herself.

Section 6 - A duplicate copy of a letter of admonishment or reprimand, and notice of proposed action and decision will be furnished to the employee to give to the Union representative.

ARTICLE 22  
Employee Assistance Program

Section 1 - General

The Employer shall maintain an effective Employee Assistance Program (EAP) meeting the requirements of applicable laws, regulations and guidelines found in 42 U.S.C..

Section 2 - Policy

- A. The Employer recognizes alcoholism, other drug or chemical dependencies, and mental illness as illnesses. Employees who have these illnesses will receive the same careful consideration and respect as employees who have any other illness. The Employer will respect an individual's right to privacy.
- B. It is the basic function of a supervisor to identify poor job performance and to take corrective action. The Employer recognizes, however, that supervisors may not have the professional qualifications to diagnose such problems as alcoholism, drug dependency, or mental illness.
- C. Diagnosis and/or treatment should be accomplished by referral of employees to professional treatment and assistance sources.
- D. Confidential handling of problems under this program is essential.

Section 3 - Responsibilities and Guidelines

The following program provisions will apply:

- A. A supervisor shall immediately refer to the program any employee who acknowledges having a medical or behavioral problem either of his/her own or of a family member, which is affecting the employee's performance or conduct. If the supervisor reasonably suspects that the employee has a problem in this area, he/she should refer the employee's name to the program advisor. Once a supervisor makes a referral, the supervisor will follow up with the program advisor in order to keep abreast of available information regarding the employee's progress.
- B. Employees may voluntarily seek assistance under the program.
- C. A coordinator or counselor will be made available upon request within a reasonable time period to employees at all locations.
- D. Participation in the program shall not jeopardize an employee's job security or his/her opportunity for promotion.
- E. Sick leave, annual leave, or leave without pay will be granted for treatment or counseling sessions consistent with practices for other illnesses or circumstances.

- F. If an employee wants to be accompanied by any individual (such as a Union representative, family member, clergyman, or clergywoman) at the initial discussion with a program counselor, the additional person may attend.

#### Section 4 - Confidentiality

The confidential nature of medical records of employees with medical/behavioral problems shall be maintained. Neither counselor nor any Management official shall reveal the name of a person voluntarily seeking assistance without the employee's written consent.

#### Section 5      Publicity

The Employer is committed to providing an effective EAP that instills confidence in employees that rehabilitation is available and that positive efforts will be made to return employees to full performance. The Employer will provide reasonable publicity about EAP aimed at enhancing employee understanding of the program. The Employer shall post its written policy on EAP, news about the program, and assurances of confidentiality for participants on official bulletin boards.

#### Section 6.

The Union may have a representative at any training program provided for employees concerning EAP. The Union representative will be provided official time if otherwise in a duty status for such attendance. At the option of the Employer, Union representatives may be invited to management training on the program. If the Employer elects not to invite Union representatives, to the Employer will provide the Union with a briefing on the training conducted.

ARTICLE 23  
Equal Employment Opportunity and Upward Mobility

Section 1.

The Parties agree that they are mutually committed to the principle of equal opportunity in employment or conditions of employment for all persons. Discrimination because of race, color, religion, sex, national origin, age, or non-disqualifying physical or mental disability is prohibited. The Employer agrees to promote the full realization of equal employment opportunity through a positive and continuing effort.

Section 2.

The Employer agrees to maintain access to EEO counselors through the Employer's EEO program, who are properly trained, available and accessible to all employees. All counselors will be specifically informed of the employee's right to file a grievance under the negotiated grievance procedure or file an EEO complaint either formally or under the ADR procedures.

Section 3.

An employee may have a representative of his/her choice at any stage in the processing of an EEO complaint, except that only a Union representative may represent the employee under the negotiated grievance procedure. Where the employee chooses to proceed through the EEO procedure, his/her designation of a representative shall be in writing. In cases where the representation of a complainant or agency would conflict with the official or collateral duties of the representative, the Commission or the Employer may, after giving the representative an opportunity to respond, disqualify the representative. For example, an employee may not serve as an EEO counselor, investigator, or EEO specialist and be a Union or personal representative on the same case. Such would be considered a conflict of interest. A Union representative will be provided information necessary to properly represent the employee, in accordance with law, regulation and this Agreement.

Section 4.

The goal of the upward mobility program is to provide opportunities for employees to advance so as to perform at their highest potential consistent with the needs of the Employer. Subject to these needs and available resources, the Employer will evaluate situations where vacancies can be filled at lower grade trainee levels. When positions are identified, the positions will be announced at grade levels below the target level and employees' performance potential for the target grade will be considered as a primary evaluation factor in the rating and ranking process. Employees selected for such positions will be provided specialized training geared to assist them in reaching satisfactory performance in the target position. Employees may seek guidance from their supervisor or the human resources office if they are interested in learning about career opportunities.

Section 5.

Any employee engaging in discriminatory practices against other employees shall be subject to prompt disciplinary action.

Section 7.

The Employer agrees to allow the Union an opportunity to review and comment on the local facility Affirmative Employment Plan. The Union will also be given an opportunity to review and comment on a Federal Employment Opportunity Recruitment Program plan prior to its implementation.

Section 8 – The Union will be given an opportunity to review any EEO settlement before it is final, and to be at any meeting, as required by law, where there is a possibility of settlement of an EEO complaint.

ARTICLE 24  
Position Descriptions

Section 1.

Each unit employee is entitled to a complete and accurate position description which shall be reviewed annually by the employee and Employer. Duties and responsibilities which may have an impact on the series, grade level, or performance standards of the position shall be promptly incorporated in the position description to insure that the accuracy of the classification is maintained. This provision in no way precludes the Employer from including additional though unrelated duties in the position description nor is it intended to prevent the Employer from assigning work.

Section 2.

The Union will be provided a copy of new or revised position descriptions upon written request. Upon request, the Union may review the material utilized to arrive at the assigned title, series and grade.

Section 3.

The Employer agrees to provide the Union with copies of any new classification standards for bargaining unit positions, and when requested, copies of any position classification audits performed on unit positions resulting in a change of series and/or grade.

Section 4.

Any employee who feels that he/she is performing duties outside the scope of his/her position description or that his/her position is inaccurately described or classified, may request, through the immediate supervisor that the position be reviewed. In conducting such reviews, the reviewer will consider the employee's written or oral comments. The employee, if he/she chooses, may be assisted or represented by a Union representative. If the employee, or the employee's Union representative, is not satisfied with the accuracy of the position description after discussion with the supervisor, he/she may present his/her views to the HR official responsible for the classification. That person will look into the position and advise the employee, or his/her representative, of the findings. If the employee is not satisfied with the results of such a review, he/she shall be furnished, in writing, information on appeal rights and procedures, upon request. An employee who files a classification or job grading appeal to the Department shall have their appeal decided in a timely manner. Employees or their representative will be provided, upon request, a copy of the classification or job grading appeal file.

Section 5.

Employees who believe that the position description does not accurately reflect the duties the employees actually perform, may grieve through the negotiated procedure to have the position description corrected. Classification (title, series and grade) is not grievable. Employees who agree with the content of the position description but disagree with the classification of the position (title,

grade, and series) may appeal to the Agency HR office and/or OPM for a classification review of their positions.

Section 6.

Offers of positions outside the local commuting area to employees whose positions have been downgraded, and who are entitled to saved grade or saved pay protections in accordance with 5 U.S.C. Chapter 53, may be declined by the employee and shall not affect the entitlement to saved grade or saved pay. The distance involved in the local commuting area shall be the community or geographic area that regularly supplies the workforce.

ARTICLE 25  
Hours of Work and Alternative Work Schedules

Part I – Standard Workweek

Section 1.

Within each administrative workweek, the “basic workweek” for fulltime employees shall be 40 hours in length. The basic workweek is scheduled on five eight hour days, exclusive of the unpaid meal period, Monday through Friday when possible. Consistent with 5 CFR 610.111 and 5 CFR 610.121, where employees are on eight hour tours, the work schedule should not normally be for more than six consecutive days, with two consecutive days off. On occasion, it may be necessary to schedule one day off in order to accommodate an employee’s request to be scheduled off for a particular weekend. A change in the administrative workweek and changes in the regularly scheduled administrative workweek are considered changes in conditions of employment for purposes of the notice requirement of Article 6, Rights and Responsibilities. Where there is a conflict with law(s) that exempt certain employees, those law(s) and Government-wide regulations shall apply. It is further agreed that the Union shall retain the right to request negotiations as appropriate on any change as set forth in this Article.

Section 2.

Normally, during each eight hour shift, employees will be allowed a 30 minute unpaid meal period. A meal period during which employees are regularly and totally excused from their official duties may not be considered as an official duty period for which compensation is payable. When an employee is required to perform work during his/her prescribed meal period at the direction of his/her supervisor and for the benefit of the Employer (or the employee is allowed to “suffer and permit” working his/her meal period with the knowledge of the Employer, but not requested), the employee will be entitled to compensation under appropriate regulations. If an employee’s regular schedule does not allow him/her to leave the work area for a meal period, then the employee may be given up to 20 minutes to eat his/her meal at the work station. In such cases, the employee will work a straight eight hour day.

Section 3.

Employees may interrupt their work to obtain refreshments or relief from fatigue or constant attending to duty. Work breaks may be taken in 15 minute increments for each four hours worked. Breaks will normally be taken as close as possible to the middle of each four hours of work. (i.e. If an employee starts work at 8 AM and has lunch at 12 noon, the break will normally be taken around 10 AM.) No additional breaks will be provided for smoking. Employees may be permitted to partake of refreshments at their desks or other work space except where good judgment would indicate otherwise.

Section 4.

In scheduling hours and tours of duty for employees, primary consideration will be given to efficiency in management and conduct of Employer functions, including treatment of individual

employees. When tours of duty must necessarily vary from the normal tour, employees will be given the opportunity of discussing their assignment and having their views or personal problems arising in connection with such assignment considered. Tours of duty will not be changed arbitrarily, and when possible, employees will be given notice of any change in their work schedules at least two administrative workweeks in advance.

#### Section 5.

Where more than one tour of duty exists for any category of employees in an organizational segment, employees affected shall be afforded the opportunity of rotation. Periodic rotation on an impartial and reasonable basis is encouraged so that all employees concerned will share in assignments between the less desirable and more desirable tours of duty. However, consideration will be given to all employees who volunteer for a specific scheduled tour of duty, with senior employees being given the first consideration for rotation.

#### Section 6.

Temporary changes from established tours of duty with respect to both days and shift hours will be avoided to the fullest extent possible, as intended by regulations.

#### Section 7.

Employees may not combine meal and/or break periods for use either at the beginning or end of their tour of duty.

#### Section 8.

Employees will be granted a reasonable amount of time for changing into and out of uniforms (if not permitted to wear the uniforms to work), washing-up, returning tools and cleaning the work area.

#### Section 9.

Employees who are assigned to working locations not within reasonable distance from their shop areas will be permitted by the supervisor involved to leave their working locations in time to return to the vicinity of their shop area by their normal quitting time. Such provision is subject to an unusual or emergency work requirement.

#### Section 10.

Employees may normally have at least 12 hours off-duty time between work tours subject to the needs of the mission. This provision will not preclude overtime.

#### Section 11.

Work performed by an employee within the first 80 hours under a Maxiflex schedule is considered regularly scheduled work for premium pay and hours of duty purposes. Any additional hours of

officially ordered or approved work within the administrative work week are premium pay. (This does not include emergency work.)

## Section 12. Religious Observances

In accordance with law, rule and regulations, an employee whose personal religious beliefs require that he/she be absent from work during his/her scheduled work period may request, subject to the approval of the overtime approving officials, to engage in overtime work for time lost, and be granted (in lieu of overtime pay) compensatory time for the hours missed for religious observance.

## Part II – Alternative Work Schedules

### Section 1 - Work Schedule Options (AWS and Credit Hours)

A. General - This Section sets forth the procedures to be followed for Alternative Work Schedules (AWS) including flextime, compressed work schedules, and credit hours. This Section also provides a menu of options for employees to participate in these plans. AWS means a schedule other than the traditional eight hour fixed shift. Flexible work schedules and compressed work schedules are included within the definition of an AWS.

#### B. Flextime

1. Flexible work schedule means an eight hour work day in which the employee may vary the time of arrival and/or departure. A flexible work schedule includes core time and a flexible band. Flexible time and flexible bands mean the specific periods of the workday during which employees may opt to vary their arrival and departure times. Whenever possible, the flexible bands shall be 6 a.m. to 6 p.m.
2. Modified flextour is a type of flextime where an employee selects a starting time within the established flexible time band. This establishes the employee's assigned schedule; however, the employee is allowed 15 minutes flexibility on either side of the selected arrival time. For example, an employee selecting 7:30 a.m. as a starting time under modified flextour may report for work any time between 7:15 a.m. and 7:45 a.m... Changes in starting time must be approved by the supervisor.
3. Flex-in/flex-out - Employees working a flexible schedule will be allowed to flex out and in during the workday, subject to supervisory approval. If a combination of an employee's starting time and the amount of time the employee is away from the worksite precludes the completion of a full workday prior to 6 p.m., the employee will be placed in the appropriate leave category at their request or charged AWOL, as appropriate.
4. Core hours means the period of time when all employees on a particular shift are expected to be at work.

#### C. Compressed Work Schedule

1. Compressed Work Schedule (CWS) means, in the case of a full time employee, an (80 hour biweekly basic work requirement that is scheduled for less than 10 workdays; and, in the case

of a part time employee, a biweekly basic work requirement of less than 80 hours that is scheduled for less than 10 workdays and that may require the employee to work more than eight hours in a day.

- a. 5-4-9 is a work schedule that includes eight workdays of nine hours each plus one workday of eight hours within the biweekly pay period.
- b. 4-10 is a work schedule that includes eight workdays of 10 hours in each biweekly pay period.

## Section 2

To the extent practicable, AWS may be established in accordance with applicable law and regulations and subject to the following conditions:

- A. When the Employer makes a determination to implement, change, or terminate a compressed workweek/flex time schedule, the Union will be notified. The Union may initiate the implementation of any change in flexible work schedules or compressed work schedules. There are situations that may not readily accommodate a plan described in this Article. In order for any AWS to be approved, there must be an adequate number of staff to provide full coverage for customer service hours. AWS will not be approved if doing so will cause disruption of services or would require additional staff. The number of staff required to provide full service will vary from office to office. The Employer will make final decisions regarding adequate staff coverage. If the Employer proposes to change or eliminate the AWS, the Union will be advised and the Parties will meet to try to settle the issue. If the Parties cannot settle this issue through cooperative efforts, the issue will be submitted to the FSIP in accordance with 5 U.S.C. Section 6131.
- B. All employees enrolled in educational courses may request an exception to work schedules and tours of duty.

## Section 3      Requests for AWS

- A. Each employee desiring to work under an AWS should submit a written request to his/her supervisor for a decision. The Employer will act upon these requests as soon as possible, but in no case later than 30 days after the request is made.
- B. All new employees or re-hires will be given the opportunity of requesting participation in an AWS.
- C. Once operational needs are taken care of, any other conflicts in scheduling will be resolved in favor of the employee who has seniority based upon SCD at the facility.
- D. Employees who wish to terminate or change their participation in an AWS may do so at the beginning of any pay period after notifying their supervisor at least one pay period in advance. Hardship situations will be considered.

- E. Employees currently participating in an AWS arrangement may continue at their option.
- F. Conflicts in scheduling that involve more requests for a particular day off than can be accommodated will be handled in accordance with the provision of subsection C above. Hardship situations will be considered.
- G. Existing policies and practices remain in effect unless in conflict or inconsistent with this Article.

#### Section 4. Credit Hours

- A. Credit hours are those hours in excess of the employee's daily tour of duty while on an flexible work schedule which are performed at the employee's option with approval of his/her supervisor so as to vary the length of another workday or workweek.
- B. Procedures
  - 1. Participating employees, including flextime/flextour participants and part-time employees (employees on a fixed CWS are not eligible to earn credit hours), will be authorized to earn up to three credit hours per day, provided that there is work available for the employee and it can be performed at the requested time(s).
  - 2. Credit hours may be earned in 1/4-hour increments and may be used in 1/4-hour increments.
  - 3. The maximum number of credit hours which a full-time employee may carry over from pay period to pay period is 24 hours. A part-time employee may not carry over more than one quarter of the hours in their basic bi-weekly work schedule from pay period to pay period.
  - 4. Request to Work Credit Hours
    - a. Normally, the employee will request to work credit hours during the workday preceding the day they wish to work. This request will be submitted to the supervisor or designee. The request will be documented as approved or denied by the supervisor or designee as soon as possible, normally on the same day as submitted.
    - b. The above procedure does not preclude the working of same day credit hours upon mutual agreement of the supervisor and the employee.

#### Section 5. Adverse Impact

If a work unit experiences an adverse impact pursuant to 5 U.S.C. 6131 with either the AWS or credit hours, the Parties will attempt to resolve the impact to both Parties' satisfaction. If there is no agreement, the Parties will proceed to the FSIP in accordance with 5 U.S.C. Section 6131(c).

#### Section 6 - Temporary Suspension of AWS and/or Credit Hour Plan

Temporary suspension of AWS and/or credit hours may be made for up to fourteen days by the Employer for a bona fide emergency, subject to immediate negotiations with the Union.

- A. AWS may be suspended when employees are attending and/or conducting training with beginning and ending times which conflict with their AWS schedule. If necessary, the schedule of the employee will be changed only for that pay period.
- B. An employee will continue to participate in an AWS while in travel status unless there is a need to change the work schedule; for example, the hours of operation at the travel site differ from those of the employee.

#### Section 7 - Miscellaneous

- A. If the Employer proposes to make any change to the AWS plans (including the CWS Plan and Flextime Plan) or to credit hours for employees or to restrict the application of AWS to any new position, the Union will be notified and given an opportunity to bargain.
- B. In the performance of labor-management activities, employees who are Union representatives will be given the opportunity to work an AWS and credit hours in accordance with the provisions of this Agreement.
- C. In maintaining adequate staffing coverage, it is agreed and understood that the Employer will approve AWS's in a fair and equitable manner.
- D. The Employer will provide the Union with advance written notice of any survey or study concerning AWS including credit hours in which information is sought from employees.
- E. This Agreement does not preclude an employee from requesting an altered tour of duty for specific personal reasons.
- F. Seniority among employees with comparable qualifications will be the determining factor for access to a preferred tour.
- G. Excessive use of overtime in any area will be evaluated by the Union and the Employer to review staffing options.

ARTICLE 26  
Overtime

Section 1 - Employee's will receive overtime or compensatory time in accordance with applicable laws and regulations for work performed after the employee's normal daily or weekly tour.

- A. Irregular and occasional overtime is creditable in increments of 15 minutes. Any period of eight minutes or more is creditable as a 15 minute increment and any period of less than eight minutes is disregarded. However, that does not give the Employer the right to routinely request overtime of employees for less than eight minutes without compensation. Regular and recurring overtime is credited by the minute.
  
- B. Consistent with law and Government-wide regulation, employees covered by the Fair Labor Standards Act (FLSA) may elect to receive overtime pay or compensatory time for directed overtime. Employees covered by FLSA may be asked by the Employer to perform overtime work for compensatory time. However, such covered employees may elect to work or not work on compensatory time. An employee may agree to work for compensatory time in lieu of overtime if he/she requests it in writing. The Employer cannot mandate non-exempt employees to work for compensatory time. Exempt employees whose rate of basic pay is at or below the maximum rate of GS-10 may elect or be mandated to receive compensatory time instead of overtime pay.

Section 2 - Overtime will be administered in a fair and equitable manner among all employees within the bargaining unit with the same job, series, grade, and/or specific skills required for the assignment. Employees may work overtime outside of their assigned work area provided they possess the specific skills required for the assignment.

Section 3 - Records showing the overtime distribution shall be maintained. The Employer will make available to the Union, upon request, available records of overtime assignment of unit employees, subject to the routine user provisions of the Privacy Act.

Section 4

- A. When on-call duty tatus is mandated for a particular occupation and/or unit, on-call status will be scheduled first by volunteers and then in a fair and equitable manner among qualified employees.
  
- B. An employee who is called back to work while in an on-call status will be paid a minimum of two hours overtime. On-call status shall be suspended during the actual period of overtime duty; when released from overtime duty the employee shall return to the remaining scheduled on-call duty, if any, and receive on-call pay accordingly. When the period of call-back overtime merges with the employee's regular tour of duty, two hour minimum overtime pay does not apply. To be entitled to a second overtime payment, the employee must have left the work location prior to being called back.
  
- C. On-call employees shall be compensated if called in for duty. Employees may be temporarily removed from on-call status in advance of being called in by contacting the Employer for appropriate arrangements.

Section 5. In accordance with applicable regulations, when overtime work is necessary, an employee will be given as much advance notice as possible. Normally notice will be provided at least one week in advance. An employee will not be required to work overtime without at least one days' notice, unless the Employer could not foresee the need at that time. Whenever operationally feasible, volunteers will be requested for any overtime work.

Section 6. When an unforeseen situation develops (such as emergency leave of an employee) and overtime will be necessary to replace that employee, volunteers will first be solicited from employees who normally work in that work area rather than pulling from another work area. If there are no volunteers from that area, then the Employer may solicit volunteers from other work areas where similar work is performed. In no case will the same employee be required against his/her will to perform overtime work on a regular basis where there are other employees who can perform the work.

ARTICLE 27  
Reduction in Force and Reorganization

Section 1 - The Parties recognize the desirability of maintaining the stability of employment for employees.

Section 2 - The Employer agrees to notify the Union in writing at least 90 calendar days prior to the effective date of any reduction in force, reorganization, transfer of function, or change in duty station. At that time, the Employer will advise the Union of the reasons for the reduction in force, reorganization, transfer of function, or change of duty station, the number, title, series and grades of positions which they expect to be abolished, and the measures which the Employer proposes to take to reduce the adverse impact on employees. The above notices to the Union will be provided prior to any notification is given to employees. Notice to employees shall comply with the requirements of 5 C.F.R. Part 351, MRP Directive 4351.1 or successor, any other written USDA APHIS policies, and this Agreement. Employee notification shall include information regarding the employee's appeal rights. Implementation may be accomplished after 30 calendar days if Union and the Employer can reach an agreement.

Section 3 - The Employer will provide employees with a 60 calendar day written notice before the effective date of release except if the reduction in force is caused by circumstances not reasonably foreseeable; then the Employer, with approval of the Office of Personnel Management, may shorten the notice period to a period of not less than 30 calendar days before the effective date of the release.

Section 4 - The Employer has an obligation, consistent with the Statute, to negotiate with the Union, if requested, on any reduction in force or reorganization prior to implementation.

Section 5 - The Union and the Employer will jointly encourage each employee to verify that his/her personnel file and SF-171, Optional Form (OF) 612 resume or other reasonable facsimiles are up to date as soon as the reduction in force, reorganization, transfer of function or change of duty station as listed in Section 2 is announced. The Employer will add appropriate changes or amendments to the personnel file if requested by the employee. The personnel file, with appropriate qualification documents, will be used as needed to match employees with vacancies.

Section 6 - Although the Employer is not obligated to fill vacancies in a reduction in force or reorganization:

- A. To the extent possible, necessary and continuing vacancies will be used to provide placement opportunities for employees who will be adversely affected by a reduction in force or reorganization. When the Employer chooses to offer vacancies, qualifications may be waived in accordance with MRP Directive 4351.1 or successor and any applicable regulations. All vacancies offered under this provision must not be more than three grades or grade levels below the positions held by released employees.
- B. Employees may be offered lower-graded positions. Employees who are offered and accept such positions will be granted grade and pay retention in accordance with applicable regulations.

Section 7 - All actions involving reduction in force shall be administered in accordance with 5 C.F.R. Part 351 and other written APHIS VSPR policies and this Agreement.

## ARTICLE 28 Outplacement

Section 1 - In the event career or career-conditional employees are being separated as a result of a reduction in force, transfer of function or change in duty station, the Employer will establish a program of outplacement assistance consistent with the requirements of 5 CFR, Chapters 330 and 351 and the Career Transition Assistance Program where applicable. The primary aim of the program will be to find continuing Federal employment for affected employees.

Section 2 - The Union and the Employer will jointly encourage each employee to see that his/her personnel file and SF-171, Optional Form (OF) 612, resume or reasonable facsimile are up-to-date as soon as the RIF, transfer of function, change in duty station or reorganization is announced. The Employer will add to the personnel file appropriate changes or amendments requested by the employee. The personnel file, the SF-171, OF 612, resume or reasonable facsimile will be used as needed to match employees with vacancies.

Section 3 - The Human Resources office will review the folders of employees being separated to identify the specific grades and series of positions for which the employees qualify, and determine the interest of employees in order to develop the best opportunities for continued employment. The Union, with the employee's permission, may review the above mentioned files.

Section 4 - An eligible employee may participate in the program unless he/she is removed for a reason noted at 5 C.F.R. § 330.209, § 330.707 or such other applicable law, rule or regulation...

## ARTICLE 29 Training

### Section 1.

The training and development of employees is of primary importance to the Parties and through the Employee Training Act and other existing rules, regulations and laws, the Employer shall seek the maximum training and development of all employees within available resources. Consistent with its needs, the Employer agrees to develop and maintain effective policies and programs to achieve this purpose, including the provisions of this Agreement.

### Section 2.

Although it is expected that employees are qualified to perform the duties of their positions as a prerequisite to employment, the Parties recognize the possible need for additional training, retraining or continuing education to maintain the competence of the workplace. The Employer will remind employees, at least annually, of the availability of training, and the nomination procedure.

### Section 3.

The Employer is responsible for ensuring that employees receive sufficient training (as determined by the Employer) for the purpose of performing the duties of their positions. Supervisors are responsible for assessing the training needs of employees in their respective work units, but employees may bring to the attention of the supervisor any perceived training needs relating to their work assignments.

### Section 4.

Once job-related training needs are determined to exist, appropriate methods for meeting those needs within available resources will be the responsibility of the Employer. Training may be conducted "on-the-job" or through formal training courses.

### Section 5.

A. Training may be required by the Employer for the primary purpose of improving skills, knowledge and abilities of employees needed to perform competently in their current positions.. The required training will be scheduled during work hours.

B. When the primary objective of the training is improvement of general skills, knowledge, abilities, or career growth, the employee may request a work schedule adjustment to accommodate the education or training program.

### Section 6.

Evidence of completed training furnished by the employee will be recorded electronically and uploaded in AgLearn or successor for his/her individual development plan.

Section 8.

Notice of training, seminars, workshops, etc., will be provided a reasonable time in advance.

Section 9.

Reference material related to the performance of the duties of an employee's position will be maintained in a location reasonably accessible to the employee.

Section 10.

Consistent with budget and staffing restrictions, the Employer will make every effort to provide training to any employee whose position is adversely affected by reorganization or changes in mission, budget, or technology, in order to assist in the placement of the employee in existing or projected vacancies.

Section 11.

To assure that the requirements of the law will be effectively implemented, the Employer will provide appropriate training and information to employees on the performance appraisal process.

Section 12.

When training is provided which will prepare an employee for advancement or promotional opportunities and all employees who want to attend cannot be released for the training, a roster of volunteers will be maintained for the next available training opportunity and will be reviewed for qualifications. The selection will be in accordance with those requirements for the training.

ARTICLE 30  
Labor-Management Relations Training

Section 1.

- A. Official time will be granted to Union representatives for the purpose of attending Union sponsored training and other training sessions which pertain to labor relations, and are of mutual benefit to both Parties (e.g. contract administration, grievance handling and information relating to labor relations laws, regulations and procedures, Agency policy, working conditions, work schedules, performance ratings, employee grievance procedures, pay, adverse action appeals and negotiated agreements) and where there is not a mission necessity which would prevent the release of a specific individual. The employee's request for official time should include an agenda of the scheduled LMR training, and should be submitted as soon as practical, but normally not later than two weeks prior to the training session.
- B. The amount and use of official time for labor-management relations training, other than joint labor-management relations training, will be that necessary for the Union representatives to obtain the training needed to fully perform and represent employees in the bargaining unit to the fullest extent possible. Training which relates to internal Union business will not be conducted or attended on official time. Normally, Union representatives will not use more than 40 hours of official time per year.
- C. Scheduling arrangements for the use of official time for training will be determined consistent with the needs of the service.
- D. Costs (except for salary otherwise payable) and arrangements for the training (other than joint training) will be the responsibility of the Union.

Section 2.

Joint Employer/Union sponsored training sessions will be provided on this Agreement not more than 90 days after this Agreement has been finalized. The Employer will provide travel and per diem for employees to attend this training, if applicable.

Section 3.

The Employer and the Union will conduct joint informative sessions relative to the administration of this Agreement as needed.

ARTICLE 31  
Orientation of New Employees

Section 1.

During initial processing, all employees will be informed by the Employer that the Union is the exclusive representative of employees in the unit. Each new employee will be offered a copy of this Agreement from the Employer. Employees will be informed where the Agreement is electronically available. The Employer shall also provide each new employee the most current list of Union representatives.

Section 2.

A Union representative shall be afforded up to 20 minutes to speak to all new employees at scheduled group orientation sessions and to provide such employees with an introduction to the role of the Union. The Union representative may not solicit membership during this presentation but is permitted to hand out a package of material to each new employee to be reviewed at a later time.

Section 3.

The Employer shall furnish the Union, on a monthly basis, the following information regarding all new employees who are members of the bargaining unit:

- A. Full name;
- B. Position title and grade;
- C. Organizational assignment;
- D. Date of entrance on duty.

ARTICLE 32  
Probationary/Trial Period Employees

Section 1.

The probationary/trial period is a highly significant step in the examining process that provides the final and indispensable test, that of actual performance on the job of an individual's fitness for permanent Federal service.

Section 2.

Within one week of entrance on duty, a probationary/trial period employee will be informed by the Employer of the duties of the position, the training that will be made available, the rate of progression, if appropriate, and what will generally be expected of the employee.

Section 3.

The Employer will periodically review the employee's performance during the probationary/trial period and shall inform the employee of any shortcomings, deficiencies in performance, or instances of misconduct perceived by the supervisor. Although persons selected for employment are presumed to possess the skills and character traits necessary for satisfactory performance as a permanent employee, during the initial period of employment, supervisors and human resources officials must make a sincere effort to orient new employees and provide essential training in the new work situation.

Section 4.

Probationary/trial period employees shall be given a full and fair opportunity to demonstrate their fitness for permanent Federal employment. When it is determined that a probationary/trial period employee has failed to demonstrate their fitness for continued Federal employment after having been provided such an opportunity, action may be initiated by the Employer to separate the employee during the probationary/trial period. Such action may be based on deficiencies in work performance, lack of aptitude or cooperativeness, misconduct, or undesirable suitability characteristics evidenced by activities either during or outside official working hours.

Section 5.

When the Employer makes a decision to separate an employee during his/her trial period, the employee will be provided a written notice which summarizes the reasons for the Employer's determination. Normally a notice of separation will be given to the employee not less than five working days prior to the effective date of separation unless the circumstances indicate that a shorter notice period would be appropriate.

Section 6.

Termination of an employee during his/her probation or trial period may not be grieved nor is it subject to arbitrator review.

ARTICLE 33  
Sexual Harassment

Section 1.

Sexual harassment is a form of workplace misconduct that undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes in the work productivity of its victims and co-workers; it requires immediate and sensitive action by those to whom the problem is made known.

Section 2.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- C. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Section 3.

The Employer is required to submit affirmative employment program plans and will include as part of that plan an outline of reasonable action for the prevention of sexual harassment. A copy of the plan will be reasonably available and accessible for review by employees. The Union will be provided a copy of that plan and be given an opportunity to negotiate as appropriate.

Section 4.

Employees are encouraged to report any incidences of sexual harassment to the appropriate supervisor, Union representative, EEO Manager, Human Resources employee and/or the local police.

Section 5.

An employee may grieve an incident of sexual harassment or file a complaint of discrimination regardless of whether the incident results in the loss of an economic or employment benefit.

ARTICLE 34  
Temporary Duty TDY

Section 1.

Employees on Temporary Duty (TDY) assignment performing bargaining unit work, retain their rights under this Agreement as if working at their duty station.

- A. TDY is considered as any duty or function, away from the official duty station, requiring a period of time longer than 12 hours in accordance with the Agriculture Travel Regulations (ATR). A TDY roster of all qualified personnel will be maintained and used in the selection process by the Employer for TDY assignments. Such roster will be posted listing employees by SCD and qualifications, and will be maintained on a rotational basis in accordance with the APHIS Emergency Mobilization Guide or successor.
- B. To be considered as qualified, the individual must appropriately meet or exceed the qualification according to or outlined in the Employee Qualification System standards.
- C. The following employees will normally be considered exempt from TDY assignments: employees on approved leave and/or vacation; persons already on TDY status; persons enrolled in an Agency training program of more than eight hours; other approved situations.

Section 2.

Working hours on TDY will be set at the beginning of the assignment, to the best of the Employer's ability to do so. If possible, the scheduled daily hours of work will be the same for a minimum of one week. Overtime will be paid as stated in Article 27 of this Agreement when the employee is required to work his/her regular days off while on TDY. The Employer may not change the employee's regular days off for the purpose of avoiding overtime payment except as agreed in Article 27.

Section 3.

Employees on TDY will be eligible for a daily meal per diem allowance and daily room allowances as stated in the ATR and for mileage allowances permitted by Employer policy for a given location for the period of actual deployment.

- A. An employee assigned TDY to a foreign country, excluding an emergency deployment, who does not have a Government credit card, may receive the maximum per diem advance permitted by Employer policy prior to departure for the location in question, upon request.
- B. Employees who travel five days or more within the United States and do not have a Government credit card may be eligible to receive a travel advance equal to the daily meal per diem for each day of travel, up to a maximum of \$2,000.

#### Section 4.

All employees on deployment are covered by the same insurance as they are covered by while working at their official duty station (including life insurance, accidental death and dismemberment insurance and worker's compensation insurance). Such coverage is subject to any exemptions or exclusions stated in each policy listed.

- A. Employees who are assigned to TDY and are required to travel will be compensated at their normal rate of pay including overtime and premiums for all time spent in travel.
- B. The length of any deployment shall be determined by the Employer. The Employer agrees whenever a domestic deployment is of such duration as to involve multiple deployments of the same individual, the length of each deployment required shall normally not exceed 30 days, including travel, unless by mutual agreement between the Employer and the employee.
- C. No employee will be required to go on TDY more than once every six months unless all other qualified and available employees have been rotated on TDY during that cycle except in cases of emergency as determined by the Employer.
- D. Employees will be provided the necessary special clothing and safety equipment required by the conditions of the TDY. All required special clothing and safety equipment will be shipped to the TDY site at no cost to the employee.

ARTICLE 35  
Within Grade Increases

Section 1.     Definitions

- A. Applicability – This Article applies to all General Schedule, Wage System, and Title 5 employees in the unit of recognition and will be used in conjunction with Article 19, Performance Appraisal System.
- B. Acceptable Level of Competence – An employee will be considered to have attained an acceptable level of competence when they are performing at the fully successful level or better under the performance appraisal system, and such performance is documented by a rating of at least fully successful.
- C. Waiting Period – The term waiting period refers to the minimum time requirement of creditable service to become eligible for a within-grade increase (WIGI).
- D. WIGI – The term WIGI means a periodic increase in an employee’s rate of basic pay from one step of the grade of his/her position to the next higher step.
- E. Equivalent Increase – This term means an increase in an employee’s rate of basic pay which is equal to or greater than the amount of one within-grade increase. An equivalent increase is based on the step rate held by the employee before his/her advancement to the next step of the grade of his/her position. An equivalent increase does not include:
  - 1. A statutory pay adjustment,
  - 2. The periodic adjustment of a wage schedule,
  - 3. The establishment of special salary rates,
  - 4. A quality step increase or other incentive award,
  - 5. A temporary or term promotion when returned to the permanent grade or step, or
  - 6. An increase resulting from placement of an employee in a supervisory or management position who does not satisfactorily complete a probationary period under 5U.S.C. S.3321 (a)(2).

Section 2.     Grant of WIGI

- A. The determination to grant or withhold a WIGI will be based on the employee’s appraisal of record and his/her current performance under a performance plan in accordance with applicable law, rule and regulation.
- B. The WIGI will be granted as soon as the employee is eligible if he/she has met an acceptable level of performance.

### Section 3. Performance Determination

- A. Communication of Performance Requirements – Employees shall be informed of the specific performance requirements that constitute an acceptable level of performance within the time frames and means of communication of performance standards established under the performance appraisal system.
- B. Acceptable Level of Performance Determinations
  - 1. An acceptable level of performance determination shall be based on the current rating of record. This rating, used as the basis for an acceptable level of performance determination, must have been assigned no earlier than at the end of the most recently completed annual appraisal period. The current performance will be reviewed to ensure that the rating of record reflects current performance unless the employee is entitled to a waiver of an acceptable level of competence determination pursuant to applicable law, rule and regulation.
  - 2. When it is determined that current performance is not at an acceptable level, a Performance Improvement Plan (PIP) must be prepared to document current performance.
  - 3. Notification – Employees shall be provided with an acceptable level of performance determination as soon as possible after the completion of the required waiting period.
  - 4. Favorable Determination – The SF-50B, Notification of Personnel Action, shall be used to advise employees that they have achieved an acceptable level of performance and will receive a within-grade increase.
  - 5. When it is determined that the employee’s performance is not at an acceptable level of performance, the employee shall be given a written notice which includes the following:
    - a. The reasons for the negative determination and the aspect in which the employee must improve their performance (PIP), and
    - b. Inform the employee of their right to request reconsideration of the negative determination.

### Section 4. Reconsideration of Performance Determination

- A. Time Limits – An employee or an employee’s Union representative may file a written request for reconsideration of a performance determination not later than 15 calendar days after receiving the notice of a negative determination. The time limit to request reconsideration should be extended when the employee shows he/she was not notified of the time limit and was not otherwise aware of it or that the employee was prevented by circumstances beyond his/her control from requesting reconsideration within the time limit.

- B. Reconsideration File – When an employee or his/her Union representative files a request for reconsideration, a reconsideration file shall be established which contains all pertinent documents relating to the negative determination including:
1. The written negative determination and the basis thereof;
  2. The employee's written request for reconsideration;
  3. The report of investigation, when an investigation is made;
  4. The written summary or transcript of any Union presentation made; and
  5. The final decision on the request for reconsideration.
  6. Written Exception - The reconsideration file shall not contain any document that has not been made available to the employee or his/her Union representative. The employee will be given an opportunity to submit a written explanation or summary of the employee's personal position.
  7. Preparation of Response – An employee in a duty status shall be granted a reasonable amount of official time to review the material to support the negative determination and to prepare a response to the determination, not to exceed 16 duty hours unless mutually agreed upon.
- C. Final Decision – The employee will be provided a written decision within 10 working days after receipt of the employee's response. This decision could include the right to grieve under the negotiated grievance procedure.

ARTICLE 36  
Alternative Dispute Resolution (ADR)

Section 1. ADR - Employee Optional Procedure

- A. An employee may choose to submit his/her complaint to the ADR Panel instead of the negotiated grievance procedure or statutory procedure. In such case, the employee must specifically elect the ADR Panel in writing over the grievance or statutory procedure. Time frames for filing a grievance will be used to elect ADR and will not be waived to file under another procedure. The Employer will notify the Union within five calendar days that the grievant has elected the ADR Panel. The Union and the Employer may mutually agree that the issue involved is not appropriate for ADR and the employee will be advised to choose another procedure.
- B. When a grievant (complainant) elects to resolve his/her issues through an ADR Panel, within five working days, the Employer will provide to the Union a list of three Management officials and the Union will provide to the Employer a list of three Union representatives. Of these, the Employer will choose two from the Union's list and the Union will choose two from the Employer's list. The final four will be selected to serve as the Panel, review the issues, and make a decision. If the Panel cannot reach a decision through consensus, the Parties will contact the MRPBS Collaborative Resolution Program (CRP) for assistance. If a decision cannot be reached with the involvement of the CRP, the Union reserves the right to go to Step 2 of the grievance procedure and file a grievance. If a consensus decision is reached by the Panel, the decision is final and no further appeal can be made, except in termination actions in which the employee may file an appeal to the MSPB or EEOC.
- C. Panel members will be instructed in their duties by Union and Employer representatives. The Panel will work as a team and their decision should normally be submitted to the Assistant Director or designee within 15 calendar days. Time frames may be extended when all Parties and witnesses are not sufficiently available. Panel members may reach a decision by fact-finding, informal hearings, review of documents, and testimony as needed. The Employer and the Union will cooperate with the Panel in providing needed documentation and regulations on the issue involved.
- D. Definition of Consensus – A group reaches consensus when all members agree upon a single alternative, and each group member can honestly say:
  - 1. I believe that you understand my point of view and that I understand yours;  
and
  - 2. Whether or not I prefer this decision, I support it because it was reached fairly and openly, and it is the best solution for us at this time.

Union and Employer members who volunteer and are appointed by the Parties to serve on the ADR Panel will be thoroughly trained in interest based problem solving procedures before being assigned to a Panel. This training will be requested through the Federal Mediation Conciliation Service.

ARTICLE 37  
Miscellaneous Provisions

Section 1.

Employees may have personal items that are in good taste in or on their desk as long as space required for needed manuals, files, forms and supplies is not sacrificed. Desks may be subject to inspections for safety, sanitation, and security reasons. The Employer is not responsible for the loss of or damage to personal items.

Section 2.

The Employer will make a reasonable effort to provide, within available space and resources, suitable lounge/break rooms and eating facilities in close proximity to employee's worksites. Employees using these facilities will be responsible for policing and maintaining proper sanitary conditions.

Section 3.

The Employer will maintain an Electronic Official Personnel Folder (eOPF) for each employee. An employee may review his/her eOPF at any time online. If any document which is, or may be considered to be derogatory to an employee (e.g., a memo for record, warning letter, etc.) is placed in an employee's personnel folder, the employee will be provided a copy at the time the document is included in the eOPF. Copies of employee grievances shall not be filed in an eOPF. Requests for review or copies of documents by the Union in a representational status will be subject to 5 U.S.C. Section 7114(b)4. A Union representative must have the employee's written authorization to review the information. The Employer may require that a Management official or designee be present when the OPF is being reviewed. All information received by the Union in this capacity is considered confidential and will be treated accordingly.

Section 4.

The use of student volunteers that impacts on bargaining unit employees will be in accordance with applicable law.

Section 5.

The Employer will not intentionally realign bargaining unit positions solely for the purpose of removing them from the bargaining unit. If the Employer proposes to remove a position from the bargaining unit, they will notify the Union first and provide the Union an opportunity to review the proposal and offer comments and recommendations. If the Employer still decides to remove the position from the bargaining unit, the Employer will submit a clarification of unit petition to the Federal Labor Relations Authority for a determination and will not remove the employee from dues withholding until a decision is received that the position is out of the bargaining unit.

ARTICLE 38  
Duration of Agreement and Re-Openers

Section 1.

This Agreement shall become effective on the date of approval by the head of the Department or designee or on the 31st day following the date on which this Agreement is executed by the Parties, whichever occurs first.

Section 2.

After this Agreement has been in effect for 18 months, each of the Parties may propose to reopen a total of 5 articles. In order to reopen the Agreement, the Party wishing to reopen will serve the other Party with a written notice of its desire to amend or modify the Agreement. The Parties will meet within 30 calendar days after a change in law in order to correct the contents of this Agreement to reflect the new provisions of law. This Agreement may be amended by mutual consent of the Parties at any time.

Section 3.

This Agreement shall remain in effect for a period of three years, and will automatically renew itself for three year intervals, unless either Party serves the other Party with a written notice of its desire to amend, modify, or negotiate over the Agreement. Such notice must be given no less than 60 or more than 105 calendar days prior to any expiration date. If such notice is given and negotiations are not completed by the expiration date, this Agreement will be extended until the changes have been negotiated and approved.