PREAMBLE

SECTION 1. Pursuant to the policy set forth in the Civil Service Reform Act of 1978, these Articles together with any supplements, shall constitute an Agreement between the Commander, U.S. Army Engineer District, Buffalo, hereinafter referred to as the Employer, and the American Federation of Government Employees Local 2930, AFL-CIO, hereinafter referred to as the Union.

SECTION 2. It is the intent of the parties to promote and improve the efficient administration of the federal service and the well being of the employees, to meet relative to personnel practices, policies and procedures, and matters affecting working conditions, and to provide for amicable discussion of matters of mutual interest and adjustment of disputes.

SECTION 3. Unless stated otherwise, use of the word "days" means "calendar days" throughout this Agreement.

ARTICLE 1

DURATION OF AGREEMENT

SECTION l. This Agreement will remain in full force and effect for three (3) years from the date of approval by the Chief of Engineers. The Agency will be permitted up to thirty (30) days to review this Agreement in accordance with 5 USC 7114(c). In the event that the Agency head does not approve this Agreement or any portion thereof, both parties will be notified and negotiations will reopen on disapproved Articles on a date mutually agreeable to the parties. It is understood that any approved portion(s) of this Agreement will be effective in accordance with the terms of this Agreement.

SECTION 2.

a. Either party may give written notice to the other, not more than one hundred twenty (120) or less than sixty (60) days prior to the expiration date and each subsequent expiration date for the purpose of renegotiating this Agreement. The present Agreement will remain in full force and effect during the renegotiation of said Agreement, and until such time as a new Agreement is consummated.

b. Rules for renegotiating this Agreement are as follows:

(l) Upon timely notification, the parties will enter into negotiations within thirty (30) days.

(2) Notification will include the specific Article(s) to be renegotiated, and may include the initiating party's proposal(s).

(3) If agreement is not reached before thirty (30) days have elapsed beyond the expiration date of this Agreement, impasse procedures will be initiated.

(4) When an impasse is reached, the following procedures will be applied in sequence:

(a) Each party will appoint one "fact finder" to review the item in question. These individuals will be given five (5) working days to jointly develop recommendations, alternative proposals, or other solutions to the impasse, after which they will present same to the parties at the opening of the next negotiation session. These individuals may be selected from any source; however, if either is a District employee, official time will be limited to four (4) hours per day per individual. Any other expenses incurred will be borne by the appointing party. If the parties do not reach agreement on the item by the end of the next two (2) negotiating sessions:

(b) The services of the Federal Mediation and Conciliation Service (FMCS) will be requested, but not until all Articles reaching impasse have been identified. The purpose of this is to limit the use of FMCS to one comprehensive effort at

mediation. If agreement cannot be reached with the assistance of a mediator:

(c) The Federal Services Impasse Panel (FSIP) will he asked to authorize binding arbitration in order to settle the impasse(s).

SECTION 3. If neither party serves notice to renegotiate this Agreement, the Agreement shall be automatically renewed for one year periods, subject to the other provisions of this Article.

SECTION 4.

a. This Contract Reopener will be used for negotiation on those issues properly proposed and declared nonnegotiable by the Employer in the following circumstances:

(l) The Employer or the head of the Agency withdraws their claim of non negotiability (Section 2424.5, FLRA Rules); or

(2) The FLRA declares the issue negotiable (Section 2424.8, FLRA Rules).

b. Negotiations shall commence within thirty (30) days of a decision in (1) or (2) above. Negotiations shall he conducted under the ground rules described in Section 2b. above. Any agreement reached will be included as part of this Agreement and will have the same duration.

ARTICLE 2

RECOGNITION & UNIT DETERMINATION

SECTION 1. The Employer recognizes the Union as the exclusive representative of all eligible employees in the unit. The Union will act for, and negotiate agreements for, the bargaining unit employees identified below.

SECTION 2. Unit of Recognition:

Included: All General Schedule professional employees including temporary employees and all non-professional civilian employees of the U.S. Department of the Army, Corps of Engineers, Buffalo District.

Excluded: Employees engaged in Federal personnel work other than clerical; guards; employees in marine units held by maritime unions (NMU, MEBA, MMP): non-professional employees assigned to the Cleveland Boatyard and Project Office; and non-professional employees temporarily assigned to the Buffalo District; management officials; supervisors; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

ARTICLE 3

EMPLOYER RIGHTS

Nothing in this Agreement shall affect the authority of any management official:

a. to determine the mission, budget, organization, number of employees, and internal security practices of the Agency;

b. in accordance with applicable laws, regulations, and policies:

(1) to hire, assign, direct, layoff, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(2) to assign work, to make determinations with respect to contracting out and to determine the personnel by which Agency operations shall be conducted;

(3) with respect to filling positions, to make selections for appointments from:

(a) among properly ranked and certified candidates for promotion, or

(b) any other appropriate source; and

(4) to take whatever actions may be necessary to carry out the Agency mission during emergencies.

ARTICLE 4

EMPLOYEE RIGHTS

SECTION 1. Each unit member has the right freely and without fear of penalty or reprisal, to form, join, and assist the Union or to refrain from any such activity, and each unit member shall be protected in the exercise of this right. The right to assist the Union extends to participation in management of the Union and acting for the Union in the capacity of a Union representative, including presentation of its views to officials of the Executive Branch, the Congress or other appropriate authority.

SECTION 2. Nothing in this Agreement shall 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 deduction.

SECTION 3. All employees shall be treated fairly and equitably and with dignity in all aspects of personnel management, without regard to political affiliation, race, color, religion, national origin, sex, marital status, age or handicapping condition, and with proper regard and protection of their privacy and constitutional rights. The parties also agree that employees shall not he treated unfairly as a result of conduct unrelated to the employee's performance or conduct that does not affect the well-being of the workforce. It is agreed that the Employer and the Union will endeavor to establish working conditions which will be conducive to enhancing and improving employee morale and efficiency.

SECTION 4. Employees shall have the right to direct and/or fully pursue their private lives, personal welfare and personal beliefs without interference, coercion or discrimination by the Employer so long as such activities do not conflict with any laws or regulations governing their employment. The standard of nexus shall apply.

SECTION 5.

a. Each employee shall have the right to be represented by the Union at an examination of the employee conducted by a representative of the Employer in connection with an investigation if:

(l) The employee reasonably believes that the examination may result in disciplinary action against the employee; and

(2) The employee requests representation.

b. Upon request by an employee for representation, the examination will cease and the Union will be notified of the employee's desire for representation.

SECTION 6. The parties agree to the arrangement for voluntary dues withholding, pursuant to Appendix A of this Agreement.

SECTION 7. In the event that an employee receives a work assignment or instruction from one management official that conflicts with a work assignment or instruction given by another management official, the following procedure will apply:

a. As a minimum. the employee will inform the management official who issued the conflicting order of the conflict, and will make a good faith effort to inform the other management official of the apparent conflict in assignment/instructions.

b. It is the responsibility of the Employer to determine which assignment/instruction is to be carried out.

c. The employee will await clarifying instructions as to what assignment he/she will perform.

d. The Employer retains accountability for activities performed in accordance with the instructions given.

SECTION 8. Employees recognize their responsibility to promptly comply with all orders and instructions from their supervisors. If an employee reasonably believes that an order or instruction patently violates any law, rule or regulation, he/she has the right to state those beliefs to the supervisor. If the instruction remains unchanged, the employee has the right to state concisely his/her beliefs promptly and orally to the next higher level of management available. If the order or instruction is confirmed by that higher level of management or if the higher level of management is not readily available, then the order or instruction will be carried out promptly by the employee. The Employer retains its accountability for activities performed in accordance with the instructions given.

ARTICLE 5

MIDTERM BARGAINING

SECTION 1. The parties agree that matters subject to negotiation are personnel matters, practices and policies that affect working conditions. On matters concerning management rights reserved under 5 U.S.C. 7106, it is understood that bargaining applies to the impact and implementation resulting from the exercise of these rights.

SECTION 2. In the event that the Employer proposes changes in conditions of employment, the following procedures shall apply with regard to negotiations of those changes:

a. The Employer shall notify the Union prior to the planned implementation date of any proposed change in conditions of employment, giving the Union thirty (30) calendar days from the date of receipt of the notification, to deliver to the Employer its request for bargaining.

b. If the Union does not request bargaining within the time limit, the Employer may implement the proposed changes.

c. Upon timely request by the Union, the Employer shall enter into good faith negotiations within ten (10) calendar days of receipt of the request.

d. If, after thirty (30) calendar days from the Union request for negotiations, agreement has not been reached on the proposals, the following procedures will be applied in sequence:

(1) The services of the Federal Mediation and Conciliation Service (FMCS) will be requested. If agreement is not reached with the assistance of a mediator:

(2) The Federal Services Impasse Panel (FSIP) will be asked to authorize binding arbitration in order to settle the impasse.

SECTION 3. Any costs to resolve an impasse under this Article will be equally shared by both parties.

SECTION 4.

a. The Union may initiate mid-term bargaining by proposing changes in conditions of employment provided:

(1) The proposed changes do not address a subject already covered by this Agreement, or

(2) The proposed changes do not address a subject over which the Union has waived its right to bargain during the negotiation of this Agreement. In this regard, a

subject will be considered to have been waived by the Union only if this Agreement specifically prohibits bargaining on the issue, or if the Union raised and then dropped the issue during the negotiation of this Agreement.

b. Notice of changes in conditions of employment proposed by the Union will be served on the Employer in consolidated packages on a quarterly basis. Such notice will be due to the Employer within five (5) workdays of April 1, July 1, October 1, and January 1 of each year, respectively.

SECTION 5.

a. Nothing in this Agreement shall serve as a waiver by either party of the right to negotiate over matters that are affected by a change (during the life of this Agreement) to the Federal Service Labor- Management Relations Statute that expands or contracts the scope of bargaining in the Federal Sector.

b. Such bargaining may be initiated at any time after thirty (30) days from the effective date of the statutory change.

ARTICLE 6

UNION REPRESENTATIVES AND OTHERS PERMITTED ON GOVERNMENT PROPERTY

The parties recognize that from time to time representatives and agents of the Union, who are not employees of the Agency, are required to enter on Government property for the purpose of representational duties or for internal Union business. These individuals will be permitted on the premises of the Employer under the following conditions:

a. All security regulations will be adhered to.

b. The Buffalo District Commander or his designee will be notified in advance of the expected visit.

c. Representatives will register, in writing, at the time of entry and departure from the premises.

d. Entry during non-business hours will be only after prior arrangements for the function have been made and approved.

e. Local Union officials accept responsibility for conduct and actions of non-employee visitors.

f. The Government is not liable for injuries to any non-Buffalo District employee Union members or agents resulting from accidents during the occupation of Employer's premises.

ARTICLE 7

LABOR-MANAGEMENT RELATIONS (LMR) COMMITTEE

SECTION 1. The parties recognize the value of establishing a system for the exchange of views on matters affecting the Employer and its employees. The parties, therefore, agree to participate in joint labor-management relations meetings.

SECTION 2. The primary purpose of the labor-management relations committee shall be to promote and facilitate understanding, and constructive and cooperative relationships between the Union and the Employer. The parties agree to share information at the earliest predecisional stage, in order to afford both parties the opportunity for involvement in decisions that affect them. Committee meetings shall provide the parties with a structured opportunity to hold informal discussions and consult on personnel policies and practices and other working conditions.

a. Items that may be discussed during these meetings include but are not limited to:

(1) Interpretation or application of the language In this Agreement that deals with personnel policies and practices and other working conditions;

(2) Problems that may arise in the implementation and administration of this Agreement;

(3) Matters of mutual concern and interest with respect to personnel policies and practices or matters affecting working conditions not specifically addressed in this Agreement;

(4) Issues of concern to the workforce at large;

(5) Pre-decisional information concerning plans and initiatives that affect the workforce;

(6) The impact and implementation of decisions made by the Commander, in areas where bargaining is prohibited by law;

(7) The merit and substance of the negotiable items contained in 5 U.S.C. 7106(b)(1);

(8) Issues concerning improvement of the District's ability to deliver the highest quality service to the public.

b. The consultation or informal discussions that take place during these meetings shall not prejudice either party from exercising its bargaining rights should the consultation or informal discussion cover a mandatory subject for bargaining.

SECTION 3. The committee shall consist of two (2) representatives from each party. Additional members, consistent with the subject(s) to he discussed. may be in attendance by mutual agreement.

SECTION 4. Meetings shall he held at a time and place mutually agreed to by the parties, but not less than once each quarter. The Union President and the Employer's Labor Relations Officer, or their designees, shall be responsible for making meeting arrangements.

SECTION 5. Agenda items will he exchanged at least five (5) work days prior to the meeting.

SECTION 6. Minutes will be alternately recorded and submitted to the other party for concurrence.

SECTION 7. The parties intend to create an alternative non-adversarial forum as a supplement to the traditional bargaining relationship and establish a new partnership between the parties. This partnership may be implemented and sustained by establishment of a Partnership Council.

ARTICLE 8

SAFETY, HEALTH & WELFARE

SECTION 1. The Employer will provide and maintain a safe and healthful work place to include equipment and vehicles, and will comply with Corps of Engineers and applicable OSHA safety standards.

SECTION 2.

a. The Employer agrees to take prompt action to abate any unsafe or unhealthy working condition.

b. When a hazard cannot be abated without assistance of another Federal agency, the Employer will contact and act with that agency concerning abatement.

c. Whenever the Employer cannot abate such conditions within thirty (30) calendar days, it will develop an abatement plan, including a proposed timetable for the abatement, and a summary of steps being taken in the interim to protect employees from being injured as a result of the unsafe or unhealthful working conditions. Employees exposed to the conditions will be informed of the provisions of the plan, and action will be taken to prevent their exposure to the conditions.

SECTION 3. In the case of clear imminent danger situations, the person(s) reporting such situations shall make the report(s) in the most expeditious manner available. The employee has a right in these cases to decline to perform his or her assigned tasks because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm, and that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures. In the case where employees are working or will work on HTRW projects, said employees will be given 40 hours of initial training with an eight hour annual refresher course before employees will be allowed on site.

SECTION 4.

a. The Union shall be given the opportunity to select one or more bargaining unit members to serve on the District Safety and Occupational Health Advisory Council Committee.

b. The parties understand and agree that:

(1) the Union member represents one segment of the total non-management workforce, namely, the employees of the bargaining unit;

(2) the Employer shall select and appoint the management representatives on the Committee.

c. The Committee shall meet at least quarterly and on such other occasions as the Chairperson may determine necessary. Meetings will usually be conducted during normal office hours.

d. The Employer shall provide specialized training as is necessary, in accordance with 29 CFR 1960.59 (b).

SECTION 5. The Union representative(s) on the Safety and Occupational Health Advisory Council Committee may provide any safety and health issues which have been identified by bargaining unit members to the Employer's Safety Officer. The written concerns will be investigated by the Safety Officer during periodic work inspections. The Employer agrees to allow the Union representative to accompany the Safety Officer on safety inspections to permanent field offices and installations with bargaining unit members covered by this Agreement. During these inspections, any employee may bring any unsafe or unhealthy working condition concerns to the attention of the Safety Officer or the Union representative. The Union representative will be on official time and in a duty status.

SECTION 6. In the interest of safety, the Employer will attempt to minimize situations where employees are required to work alone. In those cases where the Employer assigns an employee to work alone, reasonable efforts will be made to periodically, throughout the workday, check on that employee.

SECTION 7.

a. The Employer, in accordance with Executive Order 12196 and the Basic Program Elements for Federal Employee Occupational Safety and Health, and other applicable directives, will provide approved and properly fitted safety equipment, approved and properly fitted personal protective equipment and other devices necessary to provide protection of employees from hazardous conditions encountered during the performance of official duties.

b. Protective devices will include, but are not limited to, safety glasses (prescription, if necessary), safety-toed shoes, hearing protectors, respirators, aprons, foul weather clothing, and protective gloves. Where possible, foul weather gear will be obtained from the Federal Supply surplus list.

SECTION 8.

a. When the Union believes that a local work situation warrants coverage under payable categories of Appendix J of FPM Supplement 532-1, subchapter S-8-7, it will notify the Employer of the title, location, and the nature of the hazard to justify payment

of environmental differential.

b. When the Employer determines or proposes that a local work situation is such that it should be included or excluded from coverage under payable categories of Appendix J of FPM Supplement 532-l, subchapter S-8-7, it will notify the Union of the title, location, and nature of the hazard and will provide in writing the reason for any denial of payment of environmental differential.

SECTION 9.

a. The parties recognize that the maintenance of good physical health of employees has a direct relationship to the ability to perform one's job. In this regard, the Employer agrees to provide health service and exercise programs that promote the physical fitness of employees.

b. The health services program will include medical examinations paid for by the Employer, under the following conditions:

(1) The examination will be provided once between the age of 35-39, then beginning at age 40, every two years.

(2) The examination will include:

(a) a "hands on" physical examination

(b) an eye examination (vision screening and color)

(c) routine urinalysis (if requested by the employee); and

(d) for employees age 40 or over, an EKG

(3) An employee whose current Federal Health Benefits plan provides for a comparable or better physical examination will be disqualified from participating in the provisions of this section.

(4) Should the examination reveal any evidence of communicable disease(s), and if in the professional judgment of the examining physician such disease(s) pose a threat to the general workforce, the Employer will be entitled to this information. This information will be released only to those individuals who have a need to know.

(5) The Employer agrees to provide an annual physical for employees working on HTRW projects. These physicals will be conducted in accordance with law and regulations.

c. The exercise program will include the following, to be provided by the Employer:

(1) a dedicated 360 square foot (out-to-out) enclosed workout area (without a ceiling) on the garage floor (Building 5), defined by portable partitioning, equipped with floor padding, six light commercial grade aerobic exercise machines, a multi-station universal machine or equivalent, five sets of dumbbells of different weights, a bulletin board and space for posters, and additional exercise equipment (but only if actual usage clearly indicates a need). If an alternative space becomes available, then the parties agree to reopen negotiations on this Article and Section.

(2) a good quality moveable basketball standard, backboard, rim, net, and ball(s), to be set up daily by users at a location to be determined;

(3) a grass or sand volleyball court behind Building 5, good quality standards, net, and ball, unless precluded by property ownership/right of way issues;

(4) employee access to existing showers in Building 5, following use of the above facility and equipment;

(5) maintenance, repair, and replacement of the above; and

(6) a revised version of BR 215-1-1 to include policies and responsibilities relative to the use of the above exercise facility and equipment, and the three-part "Fit To Win" program to be implemented if 20 or more first-time employees (i.e., no repeaters) indicate an interest and willingness to commit to the full program.

d. The details relevant to Subsection c. above will be finalized in a separate Memorandum of Understanding. The Union will fully support and actively promote these health services and exercise programs.

SECTION 10.

a. The Employer agrees to provide reasonable first aid treatment, and up to date first aid kits placed throughout the workplace. The Union agrees to provide, upon the Employer's request, one or more volunteers' names for possible appointment to the District First Aid Team.

b. Inoculations will be provided to employees, on a voluntary basis, when a competent medical authority recognizes a clear and present need which threatens the general health and welfare of employees.

SECTION 11. The Employer agrees to make a reasonable effort to maintain the toilet facilities in a sanitary condition with adequate toilet tissue, hand towels, soap and hot water, and proper ventilation.

SECTION 12. In the interest of safety, the Employer agrees that the assignment of an employee to repair, adjust or operate machinery will be consistent with proper competency and qualifications. A "Competent" or "Qualified" person means one who can identify existing and predictable hazards in the working environment which are

dangerous to personnel and has the authority to promptly eliminate them. This person is one who, by degree, certificate, professional standing, or extensive knowledge, training and experience, has demonstrated his/her ability to resolve problems related to the work.

SECTION 13. The Employer and the Union recognize that matters of discomfort to employees which do not necessarily rise to the level of serious health or safety hazards are still important. The Employer will take prompt action to remedy matters such as sub-standard ergonomic conditions, uncomfortable temperatures, odors, drafts, and similar negative environmental factors in the workplace. The Employer may consider, but will not be limited to, such remedies as relocation of work station(s), reassignment of work and/or in extreme circumstances, temporary excusal from duty. The parties will devise contingency plans for reacting to the above problems.

SECTION 14. The Employer and the Union endorse the principles of the Parking Association. In this regard, the parties agree to actively encourage employee membership in same. The Employer agrees to reserve one parking space for the Union in close proximity to those reserved for the Employer's key managers.

SECTION 15. Employees contemplating retirement will, upon their request and with two weeks' notice to the Civilian Personnel Advisory Center (CPAC), receive retirement counseling within one year of their eligibility for optional retirement.

SECTION 16.

a. A fifteen (15) minute rest period (total time away from the work place) will be provided during the first and second half of each day, normally two (2) hours after the start of the work day and two (2) hours after lunch. In the case of a remote or unusual workplace, the Employer agrees to be flexible in granting time for rest periods.

b. The employee will be allowed to consume the rest period at the place of his/her choice. However, employees are encouraged to exercise discretion in their selection of a location, taking into consideration such things as visibility to members of the public.

SECTION 17. The parties agree that work consisting of repetitive or routine tasks involving use of a Video Display Terminal (VDT) may expose employees to a greater than normal fatigue factor. When these conditions exist, and in an effort to reduce the fatigue factor, the Employer agrees to provide affected employees upon request, a fifteen (15) minute period for every continuous one (1) hour period of work performed, during which time the employee will be assigned other work tasks or if otherwise appropriate, allowed the rest period specified in Section 16 above.

ARTICLE 9

OFFICIAL TIME

SECTION 1.

a. The parties agree that the use of official time by the Union is necessary in order for the Union to properly carry out its representational functions. In this sense, it is understood that the use of a reasonable amount of official time, as agreed to below, shall serve to further a sound labor-management relationship. The Employer agrees to recognize authorized Union representatives, and other authorized representatives, when designated by the Union.

b. An individual ' s entitlement to official time under this Article is limited to those situations in which the individual is otherwise in a duty status. Reasonable efforts will he made to limit the instances where use of non-duty time is required.

SECTION 2. The Union agrees to furnish the Employer a list of employees designated to serve as Union representatives. This list will include the title and location of each designated representative. The Union further agrees to update this listing as changes occur.

SECTION 3. Union representatives shall be provided official time, as determined by the Federal Labor Relations Authority (Authority), for participation for, or on behalf of, the Union in any phase of proceedings before the Authority during the time the representative would otherwise be in a duty status.

SECTION 4. Union representatives shall be granted official time for participation for, or on behalf of, the Union in the meetings with the Employer (including time to travel to and from such meetings) described in Section 5 below. The Employer agrees to pay travel expenses and per diem in accordance with Volume II, Joint Travel Regulations and other applicable regulations, in connection with these meetings.

SECTION 5. The meetings referred to in Section 4 above are:

a. meetings with the Employer concerning personnel policies, practices or other general conditions of employment or any other matter covered by 5 USC 7114(a)(2)(A);

b. meetings to discuss or present unfair labor practice charges or unit clarification petitions;

c. oral replies to notices of proposed disciplinary, adverse or unacceptable

performance actions;

d. meetings for the purpose of presenting reconsideration replies in connection with the denial of within-grade increases;

e. examinations of employees 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;

f. grievance meetings and arbitration hearings; and

g. meetings of committees and/or panels on which Union representatives are authorized membership pursuant to this Agreement.

SECTION 6. For other activities associated with the maintenance of an effective labor-management relationship as described in Section 7 below, the Union shall be provided official time, hereinafter referred to as "bank time" in the amount of two thousand eighty (2,080) hours per calendar year. This "bank time" may be used by the Union at its own discretion, but in no case shall a single representative receive more than one thousand forty (1,040) hours in one calendar year. The parties agree that this Section may not be reopened during the term of this Agreement except by:

a. mutual consent: or

b. if, in any calendar year, the first two quarters of “bank time” usage reveals that the Union is expected to exceed the yearly allotment of “bank time,” the parties agree to reopen this Section in order to negotiate an increase in "bank time."

SECTION 7. The activities referred to in Section 6 above are those:

a. to confer with employees with respect to any matters for which remedial relief may be sought pursuant to the terms of this Agreement;

b. to prepare grievances;

c. to prepare witnesses;

d. to review documents that are not available during non-duty hours;

e. to prepare a reply to a notice of proposed disciplinary, adverse, or unacceptable performance action;

f. to prepare for arbitration;

g. to prepare a reconsideration statement in connection with the denial of a within-grade increase;

h. to meet with District and National Staff Representatives of the Union in connection with a grievance, arbitration, or ULP charge;

i. to participate in an Authority investigation or hearing preparation as a

representative of the Union;

j. to travel to and from activities for which the Representative receives bank time;

k. to prepare minutes of Labor-Management Relations Committee meetings held pursuant to Article 7, "Labor-Management Relations Committee;"

1. to prepare for meetings of committees and/or panels on which Union representatives are authorized membership pursuant to this Agreement;

m. to participate in training designed primarily to further the interest of government by bettering the labor-management relationship;

n. to review bargaining unit suggestions pursuant to Article 11, "Employee Beneficial suggestions;"

o. to prepare appeals and attend meetings and/or hearings in connection with statutory or regulatory appeal procedures in which the Union is designated as the representative;

p. to review and comment on the Employer's Training Program pursuant to Article 24, "Training and Career development;"

q. to prepare reports required by 5 USC 7120(c);

r. to prepare for negotiations;

s. to prepare a reply to a proposed change in personnel policies, practices or other general conditions of employment; and

t. when representing unit members, to visit, phone, and write to elected represented in support of or opposition to pending or desired legislation which would impact the working conditions of employees.

u. The Employer will provide the Union with a quarterly accounting of the amount of "bank time" used under this Section.

SECTION 8. A grievant, appellant, or an employee who is the subject of an examination in connection with an investigation, will receive official time and reimbursement for travel expenses and per diem, in accordance with Volume II, Joint Travel Regulations, and other applicable regulations, for attendance at the following:

a. grievance meetings;
b. arbitration hearings;
c. oral reply meetings for a notice of proposed adverse, disciplinary, or unacceptable performance action;

d. an adverse action hearing, if the employee is still on the rolls;

e. other statutory or regulatory appeal hearings, if the employee is still on the rolls;

f. meetings for the purpose of presenting reconsideration replies in connection with the denial of a within-grade increase; and

g. an examination by a representative of the Employer in connection with an investigation which may lead to disciplinary action.

SECTION 9. Employees will receive official time when being interviewed by:

a. a designated Union representative who is using official time pursuant to Sections 3, 4, or 6 above; and

b. by a District or National representative of the Union in connection with a matter which remedial relief may be sought pursuant to this Agreement. This time will normally be limited to four (4) hours per employee per matter. However, if additional time is required to complete the interview, the Union shall inform management of the amount of additional time needed and the necessity therefore. The additional time shall be allowed if reasonably justified.

SECTION 10. Union representatives and employees who wish to use official time under this Article will notify their immediate supervisors. The notification will include the reason for the need, the location of any meeting, hearing, etc., and the approximate time when the representative or employee will return to duty. The immediate supervisor will approve use of such official time unless a compelling need requires the presence of the Union representative or the employee(s) at agency tasks which he/she is then performing. In any situation in which the Employer asserts the existence of a compelling need which would delay the Union representative's or employee's use of time as contained in this Article, all time limits and actions shall he automatically extended for a time equal to the delay. Employee(s) and Union representatives who use official time under this Article will inform their immediate supervisor when they return to duty.

SECTION 11. Union representatives will be allowed to earn credit hours for official time spent while attending meetings called by the Employer outside of their regularly scheduled hours of duty.

SECTION 12. Union officials shall be permitted to use a reasonable amount of official time to represent employees by visiting, phoning, and writing to elected representatives in support of or opposition to pending or desired legislation which would impact on the working conditions of employees in the unit.

ARTICLE 10

OFFICIAL FACILITIES AND SERVICES

SECTION 1. Adequate office facilities conducive to sound labor management relations shall be provided by the Employer to the Union, except as provided in Section 3 of this Article. The Union shall use Employer-provided facilities only to carry out its representational functions. The Employer-provided office facilities shall include:

a. a lockable file cabinet, from supply if available, and suitable space for placing the cabinet.

b. a copier/fax and the reasonable use of other copier/fax equipment. Copier equipment can be used only for representational material reproduction, including the Union newsletter. Fax equipment can be used only for official Union business, subject to a Union officer's signature of approval, and may not conflict with the transmission and receipt of official Government correspondence.

c. a laptop computer with modem, 12 disks, and use of the Employer's LAN system, an e-mail bulletin board, WWW browser, and access to the District reading file.

d. private office space in Building 5, exclusively for the conduct of official Union business, furnished with a phone, desk, chairs, lockable file cabinet, and fax/copier.

e. for the purpose of representational activities, use of a telephone for local and long distance calls. If any Union representative who is authorized to use a telephone is absent, a person may be designated to act in his/her behalf during this period. A system of tracking phone calls may be used at the Employer's discretion. The Union shall, upon request of the Employer, provide the name of the person/organization called for any phone call made on the Union's designated extension.

SECTION 2. At the request of the Union, and subject to availability, suitable space for membership or other such Union meetings during non-duty hours will be provided by the Employer.

SECTION 3. The Employer agrees to provide to the Union, during non-duty hours and subject to availability, the facilities listed in Section 1 of this Article, with the exception of the telephones.

SECTION 4. The Employer agrees to list the Union's name by local designation, and the Union President's extension in the Internal Telephone Directory.

SECTION 5. The Employer shall subscribe to the "FPMI Federal Labor and Employee Relations Update," and route issues directly to the Union President for information, prior to filing in the CPAC. The Employer shall also route the "Federal Digest" and "Federal Times" to the Union President prior to filing in the Library. The Union shall have access to review and use public information reference materials normally maintained by the Employer such as existing or future laws, the Federal Personnel Manual, Agency policies and regulations, and decisions of the Federal Labor Relations Authority and Merit Systems Protection Board. The Union may make a copy of a specified page or pages of these reference materials if the reference material is needed to fulfill its representational obligation. Access to this information is subject to the limitations imposed by 5 U.S.C. 7114(b)(4). Moreover, the use of manuals, regulations, subscription services, etc., will be subject to their availability, i.e., the Employer may temporarily deny access if the information sought is being used by individuals outside of the bargaining unit. However, in the instance of any temporary delay, the Employer agrees to extend all time limits and actions for a time equal to the delay.

SECTION 6. The Employer will provide the Union with a monthly listing of bargaining unit members, which includes each member's name, position title, grade, and organizational codes to include temporary promotions and details of thirty days or more. The Employer will also provide the Union with a bi-monthly listing of bargaining unit employees who have been appointed, promoted, reassigned or separated. This list will include each employee's name, organization, the effective date of the action, and, where applicable, the type of separation. The parties understand that the Union has a right to this information, in order to perform its representational duties, and as such, may contact the CPAC for clarification of the data provided. "Clarification" includes, but is not limited to, correction of that data if it is found to be erroneous, or inclusion of data that should have been included but may have been inadvertently omitted. These lists will be provided within the first five (5) work days of the month.

SECTION 7. A 4-foot by 6-foot bulletin board in Building 1 and six square feet of bulletin board space in Building 2 shall be provided for the exclusive use of the Union. Material posted by the Union shall not contain scurrilous or libelous material. The Union will maintain these bulletin boards in an orderly fashion.

SECTION 8. The Employer agrees to provide the Union a mailbox.

SECTION 9. The Employer agrees to allow the Union to use its Internal Mail System to distribute material (except internal Union campaign literature), in accordance with the following guidelines:

a. Material must be addressed to a particular individual, i.e., "bulk" mailings which require sorting by IMO employees will not be allowed.

b. Material should be pre-sorted by organization, in order to facilitate its

distribution by mail room personnel.

c. Material being mailed outside of the Buffalo area (area, project, and field offices, and TDY survey parties) will be processed as part of C-O Division's bulk mailings to those locations.

SECTION 10.

a. All employees, except those described below, shall be paid through Direct Deposit/Electronic Funds Transfer (DD/EFT).

b. All employees hired before 1 March 1996 shall continue receiving wages in one of the three following manners:

(1) Government payroll check mailed to the employee's residence.
(2) DD/EFT to a financial institution designated by the employee.
(3) Government payroll check mailed to the workplace and distributed by the Employer on the day of receipt. In this regard, the Employer will make every reasonable effort to distribute checks prior to the lunch period.

c. An employee covered by subsection b. above may elect to permanently change to DD/EFT at any time, but may not newly elect to have his/her paycheck mailed to the workplace.

SECTION 11. At every permanent duty location, the Employer agrees to provide employees with suitable eating area(s) as well as a refrigerator.

ARTICLE 11

EMPLOYEE BENEFICIAL SUGGESTIONS

SECTION 1. The Employer will afford the Union the opportunity to evaluate all bargaining unit suggestions concurrently and in coordination with functional proponents assigned by the Employer to evaluate suggestions, and to furnish the Union's evaluation and recommendations to the Employer for consideration. The Employer will allow two (2) calendar days for the Union to review the suggestion and to assign a Union evaluator, before the Program Coordinator gives the suggestion to the functional proponent for evaluation.

SECTION 2. The functional proponent and the Union evaluator will jointly evaluate suggestions, and should develop findings and recommendations and forward them to the Program Coordinator within 17 calendar days. Each will consider the other's evaluations and recommendations.

SECTION 3. After the joint evaluation in Section 2 above, the Union will be allowed two (2) additional calendar days to review evaluations and recommendations concurred in by the Union evaluator, and to add any other relevant comments. Where the recommendations of the functional proponent and the Union evaluator differ, the Union will be allowed five (5) calendar days to develop the Union's position for the District Commander's consideration.

SECTION 4. Recognizing that suggestions are most effective when they are evaluated and processed as promptly as possible, the Employer agrees, except in the case of unusually complex suggestions, to provide the suggesting employee with a written evaluation of his/her suggestion within thirty (30) calendar days of the employee's submission of the suggestion. In the case of unusually complex suggestions, the suggesting employee will receive a status report within the 30-day time period.

ARTICLE 12

EMPLOYEE PERSONNEL RECORDS

SECTION 1. The Employer shall maintain and retain official employee personnel records in accordance with law, rule, regulation, and this Agreement. The contents of any official personnel file shall he made available and copies thereof provided, upon the employee's request, to the employee, or his/her designated representative. In accordance with applicable laws and regulations, materials which are no longer relevant to the supervisor and employee shall be withdrawn and destroyed.

SECTION 2. Official personnel records kept by an employee's immediate supervisor shall be maintained in a secure, confidential file and shall be accessed only by individuals with a need to know their contents.

SECTION 3. Upon request to the supervisor and the appropriate Personnel Office official, an employee shall have the right to copy or to review his/her personnel records without charge to leave or loss of pay. Employees shall have the right to designate a representative in writing who will have the right to copy or review the employee's records. Employees shall have the right to prepare and enter in the file statements they wish to make about information contained in their personnel files, provided the requirements of 5 CFR 297 have been met.

SECTION 4. Charges, if any, for photocopies of personnel records supplied by the Employer shall be in accordance with 5 CFR 297.212.

ARTICLE 13

EMPLOYEE INDEBTEDNESS

SECTION 1. Except as provided by law, the Employer will not be used as a collection agency for commercial obligations or claims based on court judgments.

SECTION 2. Creditors and collectors will be denied access to employees to present or collect debts during working hours.

SECTION 3. Creditors will be told:

a. the Employer will forward their written complaints to employees;

b. these complaints are a private matter between the creditor and the employee; and

c. the Employer will not be involved in debt collection activities.

ARTICLE 14

EMPLOYEE ASSISTANCE PROGRAM

SECTION 1. The Employer agrees to continue to provide an Employee Assistance Program for troubled individuals affected by alcoholism, drug abuse, emotional illness or other personal problems which could adversely affect performance or conduct.

SECTION 2. The parties recognize that the program is designed to be carried out as a nondisciplinary procedure aimed at rehabilitation of persons who suffer from a health problem. If an employee requests assistance under the program, or is referred by the supervisor and participates in the program, the responsible supervisory official shall give consideration to this fact in determining any appropriate disciplinary and adverse action based upon the employee's performance or conduct on the job.

SECTION 3. Upon request, the Employer will include a reasonable number of local Union representatives in briefing sessions or training and orientation programs so that there will be mutual understanding of policy, referral procedures, and other elements of the program.

SECTION 4. The Employer will advertise the program at least once a year. The notification will include a statement of the purpose of the program and telephone numbers of the Program Coordinator and counselors. Although the existence and functions of counseling and referral programs will be publicized to employees, no employee will be required to participate or be penalized for merely declining referral to an available counseling service. Should any counseling appointment or treatment require an absence from duty, the employee must get sick leave approval in writing or make other appropriate arrangements with the supervisor.

SECTION 5. In every case when an employee is either referred to the program by a supervisor or when the employee voluntarily participates in the program, the employee's problem will be treated as confidential by the program staff and management officials involved, notwithstanding whatever knowledge others may already have.

SECTION 6. Problems found in the implementation of this program and its effectiveness at various Buffalo District locations is an appropriate subject for labor-management committee meetings.

SECTION 7. Employees who accept assistance provided by the program, and who make a good faith effort to complete any rehabilitation program in which they are enrolled, will be given a reasonable opportunity to improve their performance before being subject to an adverse action.

ARTICLE 15

POSITION CLASSIFICATION

SECTION 1. The parties agree to the principle of equal pay for equal work. Complete and accurately written position descriptions is one procedure available for the realization

of this principle. Therefore, the Employer shall maintain a written, accurate, complete, and numbered position description for each position in the District. Position descriptions of the same title, series, grade. and identical duties under the same supervisor (as defined in Public Law 95-454), shall be uniform. The Employer shall provide each employee a complete, accurate and current copy of his/her position description upon initial assignment to the position, and whenever a change is effected to the position description. The description shall reflect the significant recurring duties assigned to the employee.

SECTION 2. Management officials of the Agency retain the right to assign duties consistent with good management practices to any employee in addition to his/her major duty assignments. However, it is not intended that duties inconsistent with the general level of a job will be regularly assigned. If any "other duties" should be assigned with such frequency as to become "regularly assigned," and they meet the definition of major duties, the job description will be revised.

SECTION 3. No employee shall be required to perform personal services. e.g., make and serve coffee, run errands, make non work appointments, personal typing, etc., for supervisors or other employees.

SECTION 4. Employees shall have the right, upon request of the employee, to Union representation in meetings with the Employer involving classification audits. When classification audits are to be performed, advance notice of five (5) workdays will be provided to employees who are to be interviewed.

SECTION 5. When substantive changes will occur in duties and responsibilities of positions occupied by bargaining unit employees, as a result of a reorganization as defined in Article 27, Section 4, the Employer agrees to notify the Union as soon as possible.

SECTION 6. When position classification standards change, and the change will impact on the classification of any bargaining unit position, the Union will he informed as soon as possible.

SECTION 7. The Employer agrees to inform the employee, as far in advance as possible, of significant changes in his/her job duties. The Employer also agrees, in connection with appraisal of the employee's performance, to consider the circumstances surrounding such assignments (e.g., the newness of the assignment, its complexity, and so on).

ARTICLE 16

PERFORMANCE APPRAISAL

SECTION 1. The parties agree that performance appraisals shall, to the extent practicable, provide a fair, accurate, and objective evaluation of job performance. In this regard, such appraisals shall relate directly to the employee's official duties. The parties also agree that, among other responsibilities:

a. Supervisors are responsible for assisting employees in improving job performance, and

b. Employees are responsible for planning and performing duties so that performance plans will be carried out.

SECTION 2. The Total Army Performance Evaluation System (TAPES) is the official evaluation instrument/process for all employees.

SECTION 3.

a. Objectives/responsibilities and performance standards will, to the maximum extent feasible, permit the Employer to evaluate accurately the job performance of bargaining unit employees on the basis of objective criteria. They will be applied in a fair and equitable manner.

b. An objective/responsibility is defined as a component of an employee's job that is of sufficient importance that performance below the minimum standard established by the Employer could result in remedial action and denial of a within-grade increase, and may be the basis for removing or reducing the grade level of that employee. Objectives/ responsibilities shall be in writing and must be consistent with the duties and responsibilities regularly assigned to the employee.

c. A performance standard is defined as the expressed measure of the level of achievement established by the Employer for the duties and responsibilities of a position or group of positions. Performance standards shall be in writing, and must be consistent with the duties and responsibilities regularly assigned to the employee and contained in the employees' position descriptions. Employees shall have the opportunity to participate in the development of performance objectives. Generic performance standards are preprinted on the TAPES Support Forms.

d. Objectives/responsibilities and performance standards will be communicated in
writing to each employee at the beginning of each rating period.

e. Only those job elements and performance standards for which the employee is officially responsible will be rated and used in performance-related actions.

f. When rating employees or otherwise applying performance standards, the Employer shall consider factors which affect performance that are beyond the control of

the employee.

g. The results of performance appraisals will be used as a basis for other personnel management actions including training, promotions, awards, reassignments, reduction in grade, and retaining or removing employees.

SECTION 4. An employee's annual performance appraisal shall be based on the objectives/ responsibilities and performance standards communicated in writing to the employee. The period of time for which an employee's performance will be appraised is normally one year. Occasional or incidental duties shall not be used as a basis for performance appraisal. An annual performance appraisal which explains the basis for the rating shall be in writing and a copy shall be given to the employee within forty-five (45) calendar days after completion of the appraisal period. Each employee shall be given an adequate opportunity to improve his/her performance.

SECTION 5. Union representatives shall not be penalized in their rating for carrying out their labor-management representational functions under the terms of this Agreement and the provisions of Public Law 95-454.

SECTION 6. The Employer shall provide training and orientation for employees on the performance appraisal system.

SECTION 7. The Employer shall inform the Union of any and all studies it conducts bearing on performance appraisals. Data derived from these studies shall be furnished to the Union.

SECTION 8. Employees who are detailed for over thirty (30) calendar days to classified positions or reassigned to another position shall be furnished a copy of the position description. The objectives/responsibilities and performance standards shall be discussed with the employee upon detail or reassignment.

SECTION 9. A new employee shall be provided a copy of his/her objectives/ responsibilities and performance standards within the first thirty (30) calendar days of assignment to his/her position, on the appropriate counseling checklist or support form.

SECTION 10.

a. An employee under the General Schedule (GS) who is paid at less than Step 10 of the grade of his/her position must be advanced in pay to the next higher step provided the employee has completed the required waiting period, has not received an equivalent increase during the waiting period, and is performing at an acceptable level of competence. An employee under this system who is performing at the "Successful Level 3" or higher level, shall be considered to be performing at an acceptable level of competence.

b. A wage system employee will be automatically advanced to the next higher rate of his/her grade at the beginning of the first applicable pay period following completion of the required waiting period, provided his/her performance in his/her position is satisfactory and he/she has not received an equivalent increase in pay during his/her waiting period. An employee who has a current rating of "Successful Level 3," or higher, shall be considered to meet the requirement for satisfactory performance.

ARTICLE 17

UNACCEPTABLE PERFORMANCE

SECTION 1.

a. Subject to the provisions of this Article and applicable laws and regulations, the Employer may reduce in grade or remove an employee for unacceptable performance. The Employer may also reassign an employee, subject to the provisions of Article 28. However, in the event of a reassignment, the parties understand and agree that an employee is still entitled to the written notice and performance improvement period set forth in paragraph d. and e. of this Section.

b. Unacceptable performance actions are defined as actions taken by the Employer when an employee's performance fails to meet established performance standards in one or more objectives/responsibilities of the employee's position.

c. The Employer agrees that any action based on unacceptable performance will be fair, equitable, and administered as timely as possible. In this regard, supervisors shall provide employees timely notice of unacceptable performance, specifying problem areas and improvements needed to meet expectations.

d. Any employee whose performance is found to be unacceptable shall be given the written notice and a minimum of ninety (90) calendar days during which the employee will be given assistance and an opportunity to improve his/her performance. This period of time is called the "performance improvement period (PIP)."

e. At any time a supervisor determines that an employee is not meeting one or more objectives/responsibilities in established performance standards, the supervisor will notify the employee in writing. The written notice will contain the following information:

(l) An explanation of those aspects of the employee's performance and specific problem areas which do not meet the performance standards for the objectives/ responsibilities.

(2) An explanation of improvements needed to meet expectations and what must be done to bring performance up to the "met" level in the objectives/responsibilities.

(3) A statement that failure to improve performance to the "met" level in all the identified objectives/responsibilities may result in demotion, reassignment, or removal.

(4) Identify the reasonable period of time allowed for the performance improvement period as outlined in Section 1.d. of this Article.

(5) An explanation of what assistance will be provided by the Employer to help the employee meet expectations. This may include, but is not limited to: formal training, on-the-job training, coaching and counseling, or closer supervision.

f. The Employer may direct an employee to assist another employee in accomplishing his/her work and may request factual, non-judgmental input as to the employee's performance. Such direction will be in writing, with a copy provided to each affected employee, and will describe the specific type(s) and extent of assistance to be provided. However, no employee will be required to evaluate the performance of another employee.

g. The supervisor will provide the employee with a status report of the employee's progress, as a minimum once a month. The parties agree that the Union has a need for current knowledge that performance-based actions are occurring within the bargaining unit. However, that need must be balanced against the privacy concerns of the employee. In this regard, the Employer agrees to notify the Union when any employee is placed on a PIP.

SECTION 2. An employee whose reduction in grade or removal is proposed for unacceptable performance is entitled to:

a. a thirty (30) calendar day advance written notice of the proposed action which identifies:

(l) specific instances of unacceptable performance by the employee on which the proposed action is based: and

(2) the objectives/responsibilities of the employee's position involved in each instance of unacceptable performance;

b. be represented by an attorney or other representative in the event that the action is not raised under the negotiated grievance procedure;

c. a reasonable time, but no more than ten (10) calendar days, to answer orally and/or in writing. Extensions of this time period may be granted if requested in writing by an employee or his/her designated representative for demonstrated and valid reason: and

d. a written decision which:

(1) specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based: and

(2) unless proposed by the District Commander, has been concurred in by a management official who is in a higher position than the management official who proposed the action; and

e. consideration for any vacancy(ies) for which he/she is qualified and otherwise

suitable, at the same grade as or a lower grade than his/her current position.

SECTION 3. The decision to retain, reduce in grade or remove an employee:

a. shall be made within thirty (30) calendar days after the date of expiration of the notice period as stated in the proposal notice: and

b. in the case of a reduction in grade or removal, may be based only on those instances of unacceptable performance by the employee:

(1) which occurred during the one year period ending on the date of the original proposal notice; and

(2) that were contained in the original proposal notice.

SECTION 4. If, because of documented performance improvement by the employee during the performance improvement period, the employee is not reduced in grade, reassigned or removed and the employee's performance continues to be acceptable for one year from the date of the documentation of that improvement, any entry or other notification of the unacceptable performance for which the action was proposed shall be removed from any Official Personnel record relating to the employee. An exception to this will be made in those cases where, because of law or regulation, the Employer is required to retain such records.

ARTICLE 18
DISCIPLINE

SECTION 1. The parties agree that at times it is necessary to take disciplinary action against an employee for misconduct. The parties also understand that the objective of discipline is to prevent prohibited activities and to motivate employees to conform to acceptable standards of conduct. The parties agree to the concept of private, progressive discipline designed to promote the efficiency of the service. Bargaining unit employees will be subject to disciplinary action only for just and sufficient cause.

SECTION 2. The Employer will consider the relevant factors given the circumstances of each individual case, as well as those of similar cases, if applicable, in order to make a fair decision.

SECTION 3. Investigations and disciplinary actions shall be timely. Timeliness will be based on the circumstances and complexity of each case. In this regard, the parties agree that delays in investigations and disciplinary actions because of involvement of parties outside the District may be unavoidable. However, the Employer agrees to act diligently in all matters related to internal investigations and disciplinary actions not involving third parties. This includes disclosure of the Employer's intent to initiate an investigation, except where expressly prohibited by a law, rule, or regulation, as well as the status of such investigations and resulting disciplinary actions.

SECTION 4. Employees will be notified at the earliest opportunity of any infraction for which disciplinary action may be taken. The purpose of this notification is to provide the employee the opportunity to correct his/her behavior.

SECTION 5.

a. This Article applies to:
    (1) actions based solely on misconduct, or
    (2) actions involving both misconduct and performance.

b. This Article does not apply to:
    (1) actions based solely on performance, or
    (2) terminations of employees serving on temporary or probationary appointments.

SECTION 6.

a. Oral admonishments shall be conducted in consideration of the individual employee's dignity. In this regard, the parties understand that it is preferable to admonish an employee in private. The Employer, therefore, will make a reasonable effort to do so.

b. An oral admonishment which is recorded by a supervisor in writing, and subsequently relied upon in a disciplinary or adverse action against an employee, shall be given to the employee upon request.

SECTION 7.

a. Suspensions of Fourteen (14) Days or Less for Misconduct.

(l) The Employer shall provide the employee with at least fifteen (15) days advance written notice, stating the specific reasons for the proposed action, with sufficient specificity so as to enable the employee to prepare a response. The Employer will provide the employee access to the documentation relied on to support the proposed action, which may include the names of individuals involved in supporting the charges.

(2) The Employer shall provide the employee, upon request, one copy of that portion of all documents containing evidence relied on by the Employer to form the basis for the proposed action.

(3) If the proposed action is based on an investigation, the Employer shall furnish the employee, upon request, one copy of all documents developed during the investigation that form the basis for the proposed action.

(4) If the employee elects to make an oral reply, the Employer will allow a verbatim transcript or tape recording to be made of the proceedings.

(5) Upon receipt of the official notice of proposed disciplinary action, an employee will have fourteen (14) days to respond to the proposed action. The response may be made orally or in writing, or both. The employee's response may include any statement or material the employee believes is relevant to defending against the proposed action. Upon a reasonable written demonstration of need, the employee may be granted sufficient additional time to respond. An employee shall be granted a reasonable amount of official time, but no more than four (4) hours within the period in (1) above, for preparing the oral and/or written response,

(6) The employee may be represented by an individual of his/her choice, including a Union representative.

(7) The Employer shall issue a final written decision within thirty (30) days of the receipt of the employee's response, stating the specific reasons for the decision, and including a statement of the employee's entitlement to grieve. Such a decision will be made by a higher level official than the official who proposed the action. If the Employer determines that further investigation is necessary, the time limit for issuance of the decision will be extended. The employee will be notified of such an

extension and if necessary will continue to be notified at thirty (30) day intervals thereafter.

b. Removals, reductions in pay or grade, and suspensions of fifteen (15) days or more (except indefinite suspensions as provided in 5 CFR 752) for misconduct.

(1) The Employer shall provide the employee with at least thirty (30) days advance written notice, stating the specific reasons for the proposed action, with sufficient specificity so as to enable the employee to prepare a response. The Employer will provide the employee access to the documentation relied on to support the proposed action, which may include the names of individuals involved in supporting the charges.

(2) The Employer shall provide the employee, upon request, one copy of that portion of all documents containing evidence relied on by the Employer to form the basis for the proposed action.

(3) If the proposed action is based on an investigation, the Employer shall furnish to the employee, upon request, one copy of all documents developed during the investigation that form the basis for the proposed action.

(4) If the employee elects to make an oral reply, the Employer will allow a verbatim transcript or tape recording to be made of the proceedings.

(5) Upon receipt of the official notice of proposed disciplinary action, an employee will have twenty-one (21) days to respond to the proposed action. The response may be made orally or in writing, or both. The employee's response may include any statement or material the employee believes is relevant to defending against the proposed action. Upon a reasonable written demonstration of need, the employee may be granted sufficient additional time to respond. An employee shall be granted a reasonable amount of official time, but no more than eight (8) hours within the period in one (l) above, for preparing the oral and/or written response .

(6) The employee may be represented by an individual of his/her choice, including a Union representative.

(7) The Employer shall issue a final written decision within thirty (30) days of the receipt of the employee's response, stating the specific reasons for the decision, and including a statement of the employee's entitlement to grieve. Such a decision will be made by a higher level official than the official who proposed the action. If the Employer determines that further investigation is necessary, the time limit for issuance of the decision will be extended. The employee will be notified of such an extension and if necessary will continue to be notified at thirty (30) day intervals thereafter.

SECTION 8.

a. When an employee designates the Union as his/her representative, the Union shall receive copies of all proposal and decision notices issued by the Employer. If an employee does not designate the Union as his/her representative, the Union shall be given an unsanitized synopsis of the case, but only with the written consent of the employee. If an employee does not consent to that information being released, the Union shall Be given a synopsis of the case that has been sanitized to remove any and all information

that might reasonably lead to identification of the employee by name.

b. The Union shall be notified of and permitted to have an observer present at all hearings, proceedings, or conferences conducted by the Employer or appropriate authorities. In this regard, it is understood that the Union has an obligation to maintain strict confidentiality and that the Union recognizes the importance of the individual employee's dignity and right to privacy. However, this in no way bars attendance at such hearings, proceedings, and conferences.

SECTION 9.

a. For conduct-related or disciplinary actions that are not appealable under applicable statutory procedures, the Employer agrees to postpone the effective date of the action until the grievance/arbitration procedure is complete. The grievance/arbitration procedure will be complete upon receipt of the final decision described in Section 7a(7) of this article, or the arbitrator's decision, whichever is later.

b. For conduct-related or disciplinary suspension actions that are appealable under applicable statutory procedures, the Employer agrees to postpone the effective date of the action until the grievance/arbitration or appeal procedure is complete. However, where there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, or where the employee is being disciplined for behavior that is threatening or abusive to other workers, destructive, or otherwise non-productive, the action will not be postponed, and the provisions of Section 9c. will be followed instead.

c. Conduct-related or disciplinary removal actions will be effective on a date determined by the Employer, in its sole discretion, but in no case earlier than the last day of the next full pay period following the date of the final decision described in Section 7b(7) of this article. The Employer agrees to give the Union an opportunity to make a presentation showing good cause why the effective date of the action should be delayed, and to consider the arguments presented in making its decision.

ARTICLE 19
GRIEVANCE PROCEDURE

SECTION 1. The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable settlement of grievances filed by bargaining unit employee(s), the Union or the Employer.

SECTION 2. A grievance means any complaint:

a. by an employee(s) concerning any matter relating to the employment of the employee;

b. by the Union concerning any matter relating to the employment of any employee: or

c. by any employee(s), the Union or the Employer concerning:
(1) the effect or interpretation, or a claim of breach, of this Agreement; or
(2) any claimed violation, misinterpretation or misapplication of any law, rule, or regulation affecting conditions of employment.

d. Grievances on the following matters are excluded from the scope of this procedure:
(1) any claimed violation of 5 U.S.C. 73 relating to prohibited political activities;
(2) retirement, life insurance, or health insurance;
(3) a suspension or removal under 5 U.S.C. 7532 relating to national security;
(4) any examination, certification, or appointment; or
(5) the classification of any position which does not result ln the reduction in grade or pay of an employee.

SECTION 3. Actions involving:

a. reduction in grade or removal for unacceptable performance;

b. removal;

c. suspensions for more than fourteen (14) days; and

d. furloughs for thirty (30) days or less may, in the discretion of the aggrieved employee, be raised under either:
(1) the appropriate statutory procedures; or
(2) the negotiated grievance procedure, but not both.

SECTION 4. Prohibited personnel practices include the discrimination for or against

any employee on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation. In accordance with Section 7121(d) of the Statute, an aggrieved employee affected by a prohibited personnel practice under Section 2302(d)(1) of the Civil Service Reform Act may raise the matter under a statutory procedure or the grievance procedure, but not both.

SECTION 5. The Employer and the Union agree that grievances should be settled at the lowest possible level. In this regard, the Employer agrees to work diligently to resolve employee grievances at the first or second step, and to seriously consider any mitigating circumstances that come to light during the investigation of said grievance. Inasmuch as dissatisfaction and disagreement arise occasionally among people in any work situation, the filing of a grievance shall not be construed as reflecting unfavorably on an employee's good standing, performance, or loyalty or desirability to the organization, nor on that of any management official.

SECTION 6. Step l. Grievances must be presented in writing within thirty (30) calendar days from the date the employee became aware of the grievance. A Union representative, designated in writing by the employee, must be present if the employee so desires. However, if an employee presents a grievance directly to the supervisor for adjustment consistent with the terms of this Agreement, the Union shall have an observer present at the time of adjustment, or in the case of a written reply, will be provided a copy of same. The supervisor will respond in writing within ten (10) calendar days from receipt of the initial grievance. At this, and each subsequent step, the employee or the Union shall secure a written receipt from the management official to whom the grievance was delivered, as evidence of the grievance having been received.

SECTION 7. Step 2. If the matter is not satisfactorily resolved, the employee or the designated Union representative may submit the matter to the next level of supervision within seven (7) calendar days from date of response. The management official will meet with the designated Union representative and any aggrieved employee(s) within seven (7) calendar days after receipt of the grievance, and shall provide a written answer within seven (7) calendar days after the meeting.

SECTION 8. Step 3. If the grievance is not settled at that level, the employee or the designated Union representative may within seven (7) calendar days of the Step 2 response, forward the grievance to the Commander for further consideration. The Commander will review the grievance, consult with the designated Union representative and the employee, and give the designated Union representative and the employee his written answer within ten (l()) calendar days after receipt of the grievance.

SECTION 9. Step 4. If the grievance is not satisfactorily settled, the Union or the Employer may refer the matter to Arbitration.

SECTION 10.

a. Should either the Union or the Employer have a grievance over any matter covered by this Article, it shall inform the designated representative of the other party of the specific nature of the complaint in writing within thirty (30) calendar days of the date of when the party became aware or should have become aware of the matter being grieved. Either party may grieve a continuing condition at any time.

b. The parties shall meet within ten (10) calendar days to discuss informal resolution of the grievance after notice is given.

c. Within twenty (20) calendar days after receipt of the written grievance, the receiving party will send a written response stating its position regarding the grievance. If the response is not satisfactory, the grieving party may refer the matter to Arbitration.

SECTION 11.

a. Any stated time limits under this procedure, unless mutually waived by the parties, shall begin to run from the next workday after the grievant became aware or should have become aware of the matter being grieved. The date of expiration of a time limit shall be close of business the last day of the stated period, unless that day falls on a Saturday, Sunday, or non-workday, in which case the following full workday shall be considered the last day.

b. Where a grievant fails to meet a time limit, unless extended by mutual consent, the matter will be considered resolved according to the last Employer response.

c. Where the Employer fails to meet a time limit, unless extended by mutual consent, the grievance shall be advanced to the next step of the grievance procedure. However, this will result in the Employer becoming responsible for paying the full cost of arbitration, should the grievance advance to that stage.

d. All time limits in this Article may be extended by mutual agreement of the parties. However, the parties agree that such extensions should only be requested for good cause, and not on a recurring or habitual basis. The requesting party shall provide a detailed explanation of the need for the extension. In no case should the grievance process be delayed more than 30 days due to time limit extensions.

SECTION 12.

a. In the event an employee receives a written proposal from the Employer to take an adverse action, the parties agree that the matter will not be considered grieveable until the Employer issues a written decision on the proposed action to the employee.

b. The Union shall have the right to represent employees at any stage of this

procedure, provided the employee(s) requests such representation.

c. Only the Union, an individual approved by the Union, or the employee him/herself, may represent the employee under this procedure.

d. Grievances concerning removal actions will not be canceled if the removal action is effective prior to the expiration of the 30-day period for filing a grievance (see Section 6).

SECTION 13. The Employer agrees to notify the Union of grievances that employees have filed on their own. This notification shall be provided in writing within five (5) days after the employee filed the grievance. Upon request, the Employer will furnish the Union with pertinent documents relating to the grievance to the extent that such disclosure is consistent with law. The Union has a right to have an observer present at any grievance proceeding, and the Employer agrees to notify the Union of any such proceeding.

ARTICLE 20
EXPEDITED ARBITRATION

SECTION 1. This expedited arbitration procedure shall be used to facilitate the prompt resolution of grievances concerning the following issues:

a. Written letters of reprimand;

b. Oral admonishment where a written record is kept and a copy furnished to the employee;

c. Marginal and unsatisfactory employee performance ratings;

d. Denials of annual, sick, administrative, or leave without pay;

e. Denial of any reasonable use of official time to which the Union representatives are entitled under the agreement;

f. Dues withholding;

g. Involuntary reassignments;

h. Improper maintenance of personal records;

i. Cases involving the accuracy of data contained in performance reports and whether that data is valid and indicative of the performance of the employee;

j. Bulletin board postings;

k. Literature distribution;

l. Flextime related disputes; and

m. Denials of outside employment requests.

SECTION 2. An arbitrator will be selected from a roster developed and approved by the parties. That roster will be developed as follows:

a. The parties will jointly request, from the Federal Mediation and Conciliation Service (FMCS), a list of names and biographical sketches of individuals certified to act as arbitrators.

b. Upon receipt of these names, each party shall be given two (2) workdays to review the list and each shall be allowed, but not required, to strike one name from the list.

c. The remaining names shall be placed on a roster in alphabetical order, and starting with the first name, selected in turn for each hearing. If an arbitrator is not available on the date mutually agreed to by the Union and the Employer, he/she will be passed over and not selected again until his/her name is reached in normal rotational order.

d. The parties may jointly request additional names, which shall be inserted alphabetically in the roster, subject to the provisions of b. above.

SECTION 3. If these expedited procedures are to be invoked, the initiating party shall notify the other party in writing of that intent within fifteen (15) workdays of the decision which gave rise to the opportunity for arbitration. The following procedures will apply:

a. Within twenty (20) workdays of the date the notice to invoke is received, the parties may confer and the Employer will telephone the arbitrator who is scheduled for the next meeting. A written confirmation will be sent to the arbitrator and the Union.

b. The hearing will take place on a date arranged by the Union, Employer and arbitrator, but in no case later than ten (10) workdays after the arbitrator is contacted by telephone. If the arbitrator is not available within that time frame, the next arbitrator on the roster will be contacted until one is obtained.

c. If all of the names on the roster are contacted, and none are available, then regular arbitration procedures will be used by the initiating party.

SECTION 4.

a. Upon selection/confirmation of the arbitrator, the Employer will mail to the arbitrator a copy of the written record of the grievance. A copy of that transmittal will be provided to the Union.

b. The hearing itself will be conducted as follows:

(1) It will be informal.

(2) Each party will present its case, with the order of presentation being determined by the arbitrator.

(3) No briefs will be filed, nor transcripts taken.

(4) Formal rules of evidence will not apply.

(5) The arbitrator may issue a "bench" decision at the hearing, to be later confirmed in writing; in any case, a decision will be rendered within 48 hours after the hearing concludes.

(6) The arbitrator shall have an obligation and the authority to ensure that all necessary information is brought before him/her by the representatives of the parties, and shall ensure that the hearing is a fair one.

(7) The parties may mutually conclude that the issues involved are of

such complexity or significance that the case will be referred to conventional arbitration. The parties may choose to have the same arbitrator hear and decide on the case using those regular procedures.

(8) The arbitrator's decision will be based on the record developed by the parties, including the written record provided under a. above, and will include a brief written explanation. This decision will not be cited as a precedent by either party.

SECTION 5.

a. Arbitrators will be paid a daily hearing fee, in the amount stated in the biographical sketch.

b. If there is a cancellation fee involved, as determined by the arbitrator, payment of such fee shall be the responsibility of the party(ies) who moved for cancellation.

c. All costs, except those in b. above, will be shared equally by the parties. The arbitrator will be advised by both parties of the appropriate officials to be billed.

ARTICLE 21
BINDING AND FINAL ARBITRATION

SECTION 1. If the parties fail to settle any grievance processed under the negotiated grievance procedure, such grievance, upon written request by either party within thirty (30) calendar days after issuance of the last step in that process, may be submitted to arbitration. Only the Union or Employer may invoke arbitration.

SECTION 2. Within the time frame cited above, the initiating party will, after written notice to the other party, request a list of names from the American Arbitration Association or the Federal Mediation and Conciliation Service, at its option, of persons certified to act as an arbitrator. Any costs for obtaining such list of names shall be borne by the initiating party. The parties shall meet within seven (7) working days after the receipt of such list. If they can't mutually agree upon one of the listed arbitrators, then the Employer and the Union will each strike one arbitrator's name from the list and will then repeat this procedure until one name remains. The remaining person shall be the duly selected arbitrator. The party making the first selection shall be determined by the toss of a coin. If the arbitrator is unable to schedule the hearing within forty-five (45) calendar days, the moving party may then invoke an option of selecting the next to the last remaining arbitrator to hear the issue or request a new list and then repeat the selection process.

SECTION 3. In the event either party refuses or fails to participate in the selection of an arbitrator, the initiating party will, upon conclusion of the seven (7) working day period, unilaterally select one of the listed arbitrators to hear the issue. If either party refuses to participate in the hearing, after due notice, the hearing will proceed and the arbitrator will render a decision based upon the evidence presented. No verbatim transcript of the proceedings will be required. However, either party may arrange for a transcript to be made, at that party's expense. If the other party subsequently obtains a copy of the transcript (by other means), it agrees to reimburse half the transcript costs incurred by the party arranging for the transcript. Also, the transcript will be made available to the other party for inspection for accuracy, only for a period of thirty (30) calendar days following the deadline for submission of post-hearing briefs. No briefs or memoranda of any sort whatsoever will be required of the parties by the arbitrator. In the event either party refuses to cooperate or refuses to produce evidence or employee witness(es), the arbitrator will be empowered to direct such evidence or witness(es) be produced. Absent further cooperation, the arbitrator will be empowered to render a decision.

SECTION 4. The parties will attempt to prepare and submit to the arbitrator a joint statement of the issue(s). If the parties fail to agree on a joint submission of the issue(s) for arbitration, each shall submit a separate submission and the arbitrator shall determine the issue(s) to be heard.

SECTION 5. The arbitrator will set the date of the hearing with the concurrence of the representatives of the Employer and the Union. Once that date has been established, any party that unilaterally requests that an arbitration hearing be postponed, delayed, and/or cancelled for whatever reason (except for an emergency as defined by Article 36, Section 2a.), which results in any fees being charged by the arbitrator and/or court reporter, shall pay any and all fees.

SECTION 6. In any grievance where the parties mutually agree to postpone, delay, and/or cancel an arbitration proceeding, the parties will equally share the cost of any fees being charged by the arbitrator and/or court reporter. Where one party has no objection to the request of the other party for postponement, delay, or cancellation of the arbitration hearing, it will not absolve the requesting party from the paying of all the fees being charged.

SECTION 7. In any grievance where the parties settle the matter prior to an arbitration hearing and there are fees being charged due to the cancellation of the hearing, both parties will equally share the cost of any fees being charged.

SECTION 8. The arbitrator will have no authority to add to, subtract from, alter, amend, or modify any provision of this Agreement, or impose on either the Employer or the Union any limitation or obligation not specifically provided for under the terms of this Agreement. The parties reserve the right to take exceptions of any award to the Federal Labor Relations Authority. Any award may not include the assessment of expenses against either party other than as agreed to in this Agreement.

SECTION 9.

a. In the event either party declares a grievance non-arbitrable or non-grieveable, the original shall he considered amended to include the issue of non-grievability/non-arbitrability. Such a declaration must be made prior to the grievance progressing beyond the Commander's written decision, and shall state the specific grounds as to why the matter is not grieveable/arbitrable. A copy of the declaration will be furnished to the other party. Failure to raise the issue at this point shall preclude raising the issue at a later time unless:

(1) The question of grievability/arbirtrability is generated by an occurrence happening after the Commander's decision; or

(2) The failure to raise the issue prior to the Commander's decision is due to an act or omission on the part of the other party.

b. The arbitrator shall have the authority to make all grievability and/or arbitrability determinations. The arbitrator shall make grievability and/or arbitrability determinations prior to hearing the merits of the original grievance. There shall be no hearing on the merits if the grievance is determined to be nongrievable or nonarbitrable.

SECTION 10. The arbitrator shall have the authority to ensure that all necessary facts and considerations are brought before him or her by the representatives of the parties.

SECTION 11.

a. The parties have the right to present and cross examine witnesses and issue opening and closing statements.

b. The strict rules of evidence are not applicable and the hearing shall be informal.

c. The arbitrator may exclude testimony or evidence which is determined to be irrelevant or unduly repetitious.

SECTION 12.

a. The Employer will make employees available as witnesses upon reasonable request by the Union.

b. The grievant, the grievant's representative, and all employees who are called as witnesses will be excused from duty to the extent necessary to participate in the arbitration proceedings without loss of pay or charge to annual leave.

SECTION 13. Bargaining history may not be used in an arbitration hearing unless the party wishing to use it has notified the other in writing at least fourteen (14) calendar days prior to the hearing of its intent to use such testimony and/or affidavits.

SECTION 14. Except as stated in Section 5 above and in Article 19, Section 11c, the cost of the arbitrator shall be borne equally by the parties. The arbitration hearing will be held, if possible, on the Employer's premises during the regular day shift hours of the basic workweek. All participants in the hearing shall be in a duty status.

SECTION 15. The arbitrator will be requested to tender a decision as quickly as possible, but in any event not later than thirty (30) days after the conclusion of the hearing unless the parties mutually agree to extend the time limit.

SECTION 16. Any dispute over the application of an arbitrator's decision shall be returned to the arbitrator for settlement, including remanded awards.

SECTION 17. The arbitrator's decision shall be final and binding, and the arbitrator shall possess the authority to make an aggrieved employee whole to the extent such remedy is not limited by law, including the authority to award back pay, reinstatement, retroactive promotion where appropriate, and to issue an order to expunge the record of all references to a disciplinary, adverse, or unacceptable performance action, if appropriate.

ARTICLE 22
MERIT PROMOTION AND INTERNAL PLACEMENT

SECTION 1.

a. This Article shall regulate the filling of bargaining unit positions, and supervisory positions for which bargaining unit members are basically qualified, by means of fair and equitable procedures.

b. This Article shall be administered by the parties so as to enable individuals to be evaluated and considered according to their merit and ability.

c. All positions in the competitive service that are staffed by promotion shall be filled with the best qualified candidates available. All bargaining unit employees shall be provided a fair opportunity to develop and advance to their full potential according to their capabilities.

d. For all vacancies, the Union will be provided copies of the SF-52 prior to any announcement.

SECTION 2. The provisions and requirements of this Article apply to the following actions:

a. promotion to a permanent position;

b. reassignment or change-to-lower-grade to a position with known promotion potential except to a position with no higher known promotion potential than the one currently held;

c. all reinstatements or transfers to permanent vacancies that constitute promotion opportunities to qualified employees covered by this Article;

d. selection for training that is required for promotion; and

e. filling positions permanently that have been temporarily occupied by detail or by temporary promotion to a higher grade. Competitive procedures will apply unless the detail or temporary promotion was made initially under competitive procedures, the normal area of consideration was used, and the fact that it might lead to permanent promotion was made known to all potential candidates.

SECTION 3. The following placement actions are excepted from the provisions of this Article:

a. entry level positions (i.e., positions at grades GS-3, WG-3, or when no lower graded permanent position exists in the same kind of work);

b. positions filled through Special Placement or Excepted Service programs including Severely Handicapped, Veteran's Readjustment, and Cooperative Education;

c. conversion of an Excepted Service employee to a career or career-conditional appointment where such conversion is authorized by OPM regulation. If conversion of a Co-op student is to a GS-5 or GS-7 intern position covered under the DA Career Program, such placement will have noncompetitive promotion potential to the GS-9 level;

d. restoration of individuals possessing statutory or administrative reemployment rights;

e. placement actions (except promotions) required in connection with a reduction in force;

f. promotion of an employee whose position has been upgraded as a result of new classification standards or correction of a classification ERROR; and

g. promotion of an employee whose position has been reclassified to a higher grade or to a position with a higher representative rate because of the accretion of additional duties and responsibilities. All of the following circumstances must be met in order to except the promotion from competitive procedures:

(l) There are no other employees in the unit supervised by the selecting official who are performing duties substantially the same as those performed by the employee prior to addition of the duties and responsibilities;

(2) The employee continues to perform the same basic function(s) as were in the former position and the duties of the former position are administratively absorbed into the new position;

(3) The addition of the duties and responsibilities does not result in an adverse impact on another encumbered position, such as abolishing the position or reducing the known promotion potential of another position; and

(4) The employee meets all qualification requirements for the position.

h. reassignments or demotions when such placement is not to a position which gives better opportunity for grade building experience, or a position providing a career ladder, or which is contemplated for reclassification to a higher grade by planned management action in the foreseeable future. Employees must be qualified for the position to which being reassigned;

i. repromotion to a position for which qualified of an employee who was demoted without personal cause while employed with the Federal Government. The term "without personal cause" means without misconduct or inefficiency on the employee's part and not at his/her request;

j. placement in positions covered by established career field programs where mandatory referral from a higher command is required as reflected in the AR 950 series. Where mandatory referral is not required, the provisions of this Article are applicable;

k. placement actions effected in accordance with Department of Defense Priority Placement Program. Whenever there is a vacancy to be filled, available Priority 1, 2, and 3 surplus employees will be offered the positron in lieu of competitive placement procedures under this Article;

1. placement of an employee who failed to receive proper consideration in a promotion action. Such an employee is one who was not on a referral list solely because his/her qualifications were incorrectly rated. (An employee is entitled to one consideration for each time that he/she failed to receive proper consideration under this provision.);

m. career ladder promotion. For a placement action to meet the criteria of a career ladder promotion exception, competition must have been held at an earlier stage (e.g.; the employee must have been selected from an OPM register or under competitive promotion procedures, for an assignment intended (with the intention made a matter of record) to prepare the employee for the position being filled). The Employer agrees to promote an employee in a career ladder position when the employee meets OPM qualification standards, and the employee has demonstrated ability to perform the work of the position at the level to which being promoted. An employee eligible for such a noncompetitive promotion shall be promoted at the earliest practical date after attaining such eligibility, which, barring any circumstances beyond the Employer's control, will not be later than the beginning of the second complete pay period following the date of eligibility. A career ladder promotion may be made without current competition in the following situations:

(1) Trainee Position. A career ladder promotion of an employee in a trainee position will be in accordance with the provisions of an approved training program.

(2) Understudy Position. An understudy is an employee who was selected competitively for the purpose of being trained to assume the duties of a position scheduled to be vacated in a definite period of time, normally one year or less. The understudy is promoted to the target position when it is vacated.

(3) Restructured Position. A career ladder promotion may be made of an employee in a position that was filled at a grade below the established or anticipated grade for reasons such as job engineering because the labor market could not provide acceptable candidates at the full performance level, or a part of a personnel management program, such as maximum utilization of skills and training.

(4) Details. A career promotion may be made of an employee detailed for the purpose of training or evaluation to a higher grade position or to a position with known promotion potential, if selection for the detail was made in accordance with the

competitive procedures of this Article;

n. placement or promotion of an individual directed by the U.S. Office of Personnel Management or other higher authority, in order to correct violations of established laws, policy, or regulations;

o. temporary promotions limited to one hundred twenty (120) days or less;

p. details of one-hundred and twenty (120) days or less to higher graded positions. When the Employer knows in advance that an employee will be required to perform the duties of a higher graded position, for which he/she meets OPM qualifications, for a continuous period of more than twenty-nine (29) calendar days, the employee will be temporarily promoted to the higher graded position. The temporary promotion will be effective the first day of the pay period following assignment to the higher graded duties; and

q. details to a position of the same or lower grade.

SECTION 4.

a. The parties agree that employees who have suffered an adverse action through demotion without personal cause or separation by RIF action should be returned to their former employment status in accordance with the following conditions and procedures. It is further agreed that the following conditions and procedures shall precede all other means to fill any vacancy, and shall be applied in sequence:

(1) In the absence of any repromotion eligibles, a reemployment eligible shall be reemployed, except for good cause, if the vacancy is identical to the one from which separated. If eligibility is for a position other than the one from which separated, the employee shall be given priority consideration, and if not selected, shall be invited to apply for the vacancy on a competitive basis. If the employee applies, and is certified to the supervisor as one of the best qualified candidates, the employee shall, except for good cause, be reemployed.

(2) In the absence of any reemployment eligibles, a repromotion eligible shall be repromoted, except for good cause, if the vacancy is identical to the one from which demoted. If eligibility is for a position other than the one from which demoted, the employee will be given priority consideration, and if not selected, may request consideration for that vacancy by applying for it under applicable competitive procedures. If the repromotion eligible is certified to the supervisor as one of the best qualified candidates under those procedures, the employee shall, except for good cause, be repromoted.

(3) In the event that there are both repromotion eligibles and reemployment eligibles available for a vacancy, the following procedures shall be followed in sequence:

(a) If the vacancy is identical to the one from which separated, the

reemployment eligible shall, except for good cause, be selected.

(b) If the vacancy is identical to the one from which demoted, the repromotion eligible shall, except for good cause, be selected.

(c) If the vacancy is not identical to the one from which separated or demoted, the reemployment/repromotion eligibles shall receive competitive consideration, as described earlier in this Article. If the reemployment and/or repromotion eligible(s) is/are certified to the selecting official. he/she shall, except for good causes, select the priority eligible with the greatest length of service, as determined by the service computation date.

b. "Good cause" refers to factors other than employee qualifications factors. The Employer agrees to provide timely notification of nonselection to the repromotion/ reemployment eligible. The Employer agrees further to provide the Union with its "good cause" reasons for nonselection in writing concurrent with its notification to the employee.

c. The term "identical vacancy" means a position having the same grade; the same, or substantially the same duties; and the same, or substantially the same qualifications requirements.

d. The Union shall be provided a list of reemployment and repromotion eligible employees, along with the positions they qualify for, at any time such list of employees changes.

SECTION 5.

a. All vacancies in the bargaining unit, and supervisory positions for which bargaining unit members are basically qualified, shall be filled by use of this plan unless the particular vacancy is filled by an action specifically excepted from merit promotion procedures by applicable laws, Government-wide regulations in effect upon the effective date of this Agreement, or this Agreement. As a minimum, this advertising shall be done by Vacancy Announcements on bulletin boards within the area of consideration. Two (2) copies of each announcement will be provided to the Union concurrent with the posting on bulletin boards.

b. Except as modified by the provisions of Article 25, Section 5 of this Agreement, the following procedures shall apply to referral and consideration of candidates for bargaining unit vacancies:

(1) The terms "area of consideration" and "minimum area of consideration" refer to the area of search for candidates to fill vacancies covered by this Article. For bargaining unit vacancies, the minimum area of consideration shall be employees assigned to the Buffalo District. All employees must possess career or career-conditional status to apply for vacancies designating the minimum area of consideration.

(2) All bargaining unit vacancies shall be advertised and shall designate

the minimum area of consideration.

(3) To broaden the search for applicants beyond the minimum area of consideration, concurrent recruitment of candidates from outside the District may be initiated by the Employer. However, referral and consideration of external candidates will not take place until all best qualified candidates from the minimum area of consideration have been referred, interviewed, and considered by the selecting official.

(4) Vacancy announcements will state that the minimum area of consideration is Buffalo District. Internal candidates will be rated and ranked among themselves initially, and those in the best qualified group will be referred to the selecting official. The selecting official will either select from that list, or request a second list containing the names of both internal and external best qualified candidates. The second list will be developed by rating and ranking all candidates for promotion using identical criteria.

c. During the first quarter of each calendar year, the Employer agrees to furnish the Union a yearly accounting of Merit Promotion actions within the bargaining unit. This accounting will be listed by organizational location and will contain the following information:

(1) the series and grade(s) of the vacancies;
(2) the number of individual bargaining unit employee referrals;
(3) the number of individual nonbargaining unit candidate referrals;
(4) the number of vacancies filled with bargaining unit members referred; and
(5) the number of vacancies filled with nonbargaining unit candidates referred.

SECTION 6.

a. Content of Vacancy Announcements:

(1) title, series and grade of the position and the vacancy;
(2) geographic and organizational location;
(3) summary statement of the principal duties and responsibilities;
(4) minimum Office of Personnel Management requirements and any special agency requirements;
(5) selective placement factors, if any, expressed in terms of knowledge, skills and abilities (KSA) required to qualify for the position;
(6) the number of vacancies to be filled;
(7) where additional information may be secured;
(8) where applications should be sent and what they should include;
(9) opening and closing dates;
(10) if the vacancy is one with "known promotion potential, and a subsequent promotion may be made without using competitive procedures, a statement to this effect shall be included in the announcement;
(11) a statement on Equal Employment Opportunity;

(12) the method to be used to evaluate qualified candidates;
(13) the area of consideration;
(14) any necessary written test; and
(15) job related criteria for rating as "Best Qualified." These criteria, or knowledges, skills, and abilities (KSAs), include work experience, education and training, and awards information. Candidates will be asked, on the announcement, to address each of these areas when they respond to individual KSAs, and to have their supervisor evaluate the employee's performance, if observed, in the area covered by the KSA.

b. Advertisement.

(1) A Job Opportunity Announcement will be prepared by the Personnel Office to inform employees of position vacancies that are available for competitive fill. Each announcement will provide a minimum of fifteen (15) calendar days from the date of issuance for employees to learn of the vacancy and to apply. While every effort will be made to assure that employees are informed concerning vacancy announcements, employees share this responsibility and are expected to become familiar with the distribution and/or posting of these vacancy announcements so that they will regularly be aware of such issuances.

(2) When there is a continuing need to fill vacancies in a particular occupational field, a Job Opportunity Announcement will be issued with a longer period of time specified for acceptance of applications. A promotion roster will be established and utilized for filling vacancies occurring during the next six (6) months, or as specified in the announcement. The first referral will be made no sooner than fifteen (15) calendar days from the date of issuance of the announcement. Eligibles not selected will remain on the roster for consideration for future vacancies.

(3) All additional identical vacancies in the same organization occurring within thirty (30) calendar days after the closing date of the announcement for that position, will be filled from the referral register developed under the original announcement.

c. Applications.

(1) Applicants are responsible for providing full and complete information as to their qualifications for the vacancy. The Employer shall consider updated qualification statements received up to the time the applicants are rated.

(2) In the case of bargaining unit members who travel frequently away from their duty station, or who are on an approved absence in excess of thirty (30) calendar days, advance applications may be submitted by them for bargaining unit positions. The application must clearly indicate the title, series, and grade(s) of position(s) the employee wishes to be considered for, and be submitted to the Employer. Such applications shall remain active for six (6) months from the date received. Employees who travel frequently are encouraged to file advance applications. When an employee's advance application is to be considered for a specific vacancy, the Employer shall notify the employee and request any additional information needed for the

application to receive full consideration (e.g.; Supplemental Qualification Statement in response to any identified job-related criteria for rating as "Best Qualified", and/or the employee's most recent Performance Appraisal).

(3) To apply for vacancies, employees will need to submit a complete application consisting of the following:

(a) An updated Standard Form 171, "Personal Qualifications Statement," indicating the Announcement Number and the Title, Series, and Grade of the vacancy in Block 1. Since a reproduced copy of the SF-171 will be acceptable, employees are encouraged to develop a "Master" copy of their SF-171, and reproduce it as needed. In this regard, the Employer agrees to allow employees to use the District copying machines for that purpose .

(b) A completed "KSA Supplemental Questionnaire and Supervisory Appraisal," NCB Form 125 and NCB Form 125-1, at the time they apply for the vacancy. Copies of that form are available in the Personnel Office, and may be reproduced by the employee as needed.

(c) A copy of their most recent performance appraisal.

d. When a vacancy announcement is issued for multiple grade levels, all candidates shall be evaluated separately by grade level and shall be certified by grade level groupings.

e. Two (2) or more vacancies may be advertised on the same vacancy announcement only if they are identical with respect to the series, title, grade(s), minimum and special qualification requirements, evaluation factors, and their relative importance, duty station and organizational location, selecting official, and any other aspects such as travel requirements.

f. Announcements shall be canceled by notifying applicants for the position being announced.

g. For announced vacancies, the Personnel Office shall assist employees in making applications for the vacancies, including assistance in completing their application forms and filing for any necessary Office of Personnel Management examinations.

SECTION 7.

a. The OPM Standards constitute the minimum qualification requirements for positions filled under this Article. Every candidate who will meet or exceed the applicable minimum standards within thirty (30) calendar days after the closing date of the announcement, will be considered basically eligible for the position. Any candidate who does not meet the minimum requirements is ineligible for further consideration. The OPM minimum standards are contained in Handbook X-118 (for all General Schedule positions) and X-ll8C (for all Wage Grade positions - WG, WL, and WS). Copies of these handbooks are on file in the Personnel Office and are available for review by all

employees. When a local job opportunity announcement is issued to locate candidates for competitive placement and/or promotion, the announcement either will include a summary of the applicable minimum standards to be used, or identify them specifically for employee reference purposes.

b. In some instances, a particular job or job environment will necessitate an additional basic, or minimum, qualification requirement that must be met if minimum satisfactory performance is to result. For example, in some jobs, the incumbents will be able to perform the required duties and responsibilities only if they are fluent in a language other than English, or are willing to work certain hours. These additional requirements are referred to as selective placement factors. When "selective placement factors" are identified and are approved as essential by the Personnel Office, the factors become part of the minimum requirements for basic eligibility. Candidates who do not meet the established selective placement factors will be ineligible for the specific position to be filled, even though they do meet OPM's minimum standards.

SECTION 8.

a. A crediting plan will be developed through job analysis which identifies the major functions of the job and from the functions, the knowledge, skills, and abilities (KSA) that must be brought to the job that will distinguish the superior from the satisfactory candidates. These criteria will be developed by managers, supervisors, technical specialists, and/or personnel representatives. Selection can be made and a rating assigned for each KSA from a review of each candidate's experience, education, awards, training an self-development, and supervisory appraisal. The crediting statements may take into consideration the scope, quality, and relatedness of the experience, etc., and will not be based solely on length of experience. Points for each KSA will be assigned based on a review of the candidate's supplemental qualification statement.

b. All basically qualified candidates being considered for positions at a higher grade than their present grade or for positions that offer promotion/ potential above their present grade will be rated against the crediting plan developed for the position vacancy. This includes reinstatement eligibles whose last grade level was below the grade level of the position to be filled.

c. Candidates being considered for positions at or below their present grade will not be rated against the crediting plan provided the position does not offer promotion potential above their present grade (or last grade held, as in the case of reinstatement eligibles).

d. Candidates referred from the Office of Personnel Management certificates will not be rated against the crediting plan since they have already passed an appropriate OPM examination.

SECTION 9.

a. From the list of candidates rated eligible, a number of the best qualified candidates shall be certified for selection. The candidates shall be listed in alphabetical order on the promotion certificate, which shall be valid only for the position(s) advertised. The promotion certificate shall be furnished to the selecting official within ten (10) workdays after the close of the vacancy announcement.

b. A reasonable number of best qualified available candidates shall be certified to the selecting official. The number of qualified and eligible applicants on the best qualified list should normally not be less than three (3) or more than five (5), depending on the number and qualifications of the candidates. However, if the minimum area of consideration produces at least one (l) best qualified candidate, that candidate shall be referred to the selecting official prior to extending the minimum area of consideration.

c. Separate certificates shall be issued for each separate vacancy. However, if two (2) or more vacancies are advertised on the same vacancy announcement, and such vacancies are identical with respect to series, title, grade(s), minimum and special qualifications, organizational location, selecting official, and in all other respects, the candidates resulting from such an announcement shall be listed on a single certificate. In such cases, two (2) additional names shall be added for each vacancy to the number cited in subparagraph b. of this Section.

d. In the event of declinations after certification, additional candidates may be added to the certificate in accordance with the general rule as to the number to be certified.

e. Certificates are valid until a selection or other decision has been made. However, if a selectee declines before assuming the duties of the vacancy, the certificate may be used again to make selection. The same certificate may be reused within thirty (30) calendar days for additional identical positions.

f. Requests for reevaluation of an employee's qualifications when that employee is dissatisfied with his/her rating or ranking, shall be honored when the request is received in the Personnel Office within three (3) workdays of notification to the employee. Exceptions to this 3-day limitation may be made when extenuating circumstances exist (e.g., when an employee is on approved leave, TDY, etc., and he/she is unable to request a reevaluation in a timely manner).

SECTION 10.

a. The selecting official is entitled to select from any of the candidates on the best qualified list. Barring any circumstances beyond the control of the selecting official, a selection shall be made within fifteen (15) workdays following receipt of the certificate. The fifteen (15) workdays does not include days of previously scheduled annual leave

taken by the selecting official.

b. Interviewing Candidates.

(1) The selecting official or designee shall conduct a personal interview with each in-house candidate on the certificate. If the candidate is located outside of the local commuting area, the interview may be by telephone.

(2) Supervisors shall release employees for such interviews for the necessary length o£ time.

c. Nonselected employees who were certified but not selected shall be informed of non-selection. The parties agree that all nonselected candidates for vacancies are entitled to an explanation of the reasons why they were not selected. The preferred method for informing the employee of these reasons is a face-to-face discussion at the request of the employee between the employee and the selecting official. Employees may, at their option, request an explanation in writing in lieu of such a discussion.

SECTION 11.

a. An employee selected for a position shall be released from the former position at the earliest practical date after approval of the action, which normally will not be later than the beginning of the second complete pay period following the date of selection and approval by the CPAC.

b. Appointing officials may approve other effective dates when an employee is nearing the end of a waiting period for a within-grade increase. Consideration shall be given to effecting the promotion action at the beginning of a pay period on or after the effective date of the within-grade increase, provided such action would benefit the employee.

SECTION 12.

The parties agree that the Union will require access to information about placement actions in order to fulfill its representational responsibilities. In that regard, the Employer agrees to provide, upon written request, information to the Union concerning a specific action, provided the release of that information does not violate any law, rule, or regulation. The request will be reasonable, and will include the reason(s) why the information is needed. If the request is unreasonable, the Employer retains the right to deny the request, and the Union retains the right to grieve the denial.

ARTICLE 23
UPWARD MOBILITY

SECTION 1. The Employer and the Union agree that an effective Upward Mobility Program (UMP) is in the best interests of the Employer and the Union. The Employer agrees to provide employees with opportunities to reach their full career potential through an Upward Mobility Program that provides developmental experiences and training, in accordance with applicable local and Agency regulations. In this regard, the Employer agrees to evaluate each bargaining unit vacancy prior to advertisement and determine the feasibility of establishing an Upward Mobility position for that vacancy.

SECTION 2. The Employer agrees that Upward Mobility positions shall be available to employees who demonstrate potential and interest, but do not currently meet basic qualification standards, for entry into a new career in a technical, administrative, professional, or craft/trade occupation that has promotion potential.

SECTION 3. The objectives of the Upward Mobility Program are:

a. to provide participating employees with skills, knowledge, and abilities through experience, assignments, and selected courses, to meet OPM qualification standards and to function effectively at full performance in the target position;

b. to provide more effective utilization of employee potential. Potential refers to an individual's capabilities (skills, knowledge and abilities not normally reflected in the duties and responsibilities of their current position). An individual's potential, when assessed through the selection process and given planned development, can lead to a career with advancement opportunities;

c. to provide upward mobility opportunities for selection of employees whose current assignments do not provide for further advancement;

d. to provide employees opportunities to grow and enhance their qualifications and to progress into career positions;

e. to provide an in-house base for selection of personnel for the technical, administrative, professional, and craft/trade positions, and thus diversify the employee population in those careers; and

f. to motivate employees toward high achievement and create a climate conducive to high morale.

SECTION 4. Trainees may be competitively selected from career or career-conditional employees in grades GS-2 through GS-9 or their wage grade equivalents.

SECTION 5. When an UMP vacancy is to be filled, the Personnel Office shall formally announce the position. Announcements identifying Upward Mobility positions shall be posted on the Employer's bulletin boards in the identified minimum area of consideration.

SECTION 6. Should final selection of one candidate for each Upward Mobility position be made by the selecting official after interviewing all candidates certified, appropriate notification shall be made to all candidates on the certificate.

SECTION 7. Upward Mobility training programs may be flexible in terms of length, sequence, or scope of training in accordance with the needs of the individual trainee and the Employer.

SECTION 8. The trainee shall receive career counseling upon entering the Program, and preferably once a quarter thereafter.

SECTION 9. An employee occupying an Upward Mobility position shall be promoted at the earliest practical date after meeting OPM qualification and demonstrating the ability to perform the work at the level to which being promoted, which, barring any circumstances beyond the Employer's control, will not be later than the beginning of the second complete pay period following the date of eligibility.

SECTION 10. The Employer shall provide, on a quarterly basis, to the Local President, a status report indicating the location of each trainee position, the name of the trainee, the title, series, and grade of each corresponding target position, and the date of entry and expected date of completion of the Employee Training and Career Development plan for each trainee.

SECTION 11. Within thirty (30) calendar days from the date the selected candidate first occupies the Upward Mobility position, an Upward Mobility Training Plan, which as a minimum covers the first year of training, shall be developed through a joint effort between the selected candidate and his/her immediate supervisor. Training plans for future years of employee development shall he developed within thirty (30) calendar days of each subsequent promotion.

ARTICLE 24
TRAINING AND CAREER DEVELOPMENT

SECTION 1.

a. It is recognized that meaningful training and development of employees is a matter of importance and is clearly in the public interest. The Employer agrees to provide opportunities for training and to consider the views of the Union in its effort to maintain progressive, effective policies and programs designed to:

(1) aid employees in improving performance in current positions;
(2) provide career mobility and advancement opportunity within the District; and
(3) establish and continue training programs that are supportive to the Equal Employment Opportunity and Affirmative Action programs of the Employer.

b. The Employer will request comments and recommendations from the Union during its annual assessment of the District Training Program.

SECTION 2. The Employer will determine the need for and will provide training in support of employees selected through the merit staffing process to participate in Upward Mobility programs. This training will be directed toward providing the knowledge and skills required by the target positions.

SECTION 3. The Union shall be provided a copy of the Training Committee's deliberations at the same time as they are provided to the Commander or his designee. The Union shall be given time to review that information and provide their comments and recommendations to the Employer. That time will be in an amount equal to one-half of the time, in calendar days, given to supervisors to complete their portion of the Training Needs Survey. The Employer will seriously consider those comments and recommendations prior to finalizing the Training Plan.

SECTION 4.

a. The following criteria will be used by the Employer, and explained, upon request, to employees when developing the Five Year Individual Development Plan (IDP) and when approving or developing a training request. Training will be provided:

(1) in response to a direct and compelling identified need, as documented in the employee's IDP;

(2) to improve a skill deficiency and subsequent job performance as documented through the performance appraisal and IDP process;

(3) when it is directly related to the employee's current job duties or to those duties the employee may be reasonably expected to assume through formal trainee assignments such as upward mobility, career intern, VRA, etc.;

(4) to enable the efficient and expedient accomplishment of mission requirements;

(5) as mandated by higher headquarters;

(6) to update skills as required by new equipment and/or advanced technology;

(7) without regard to race, religion, color, national origin, sex, age, or handicapping condition; and

(8) in accordance with the availability of funds.

b. At the time of the employee's performance appraisal, and during the Training Needs Survey, employees shall be provided an opportunity to recommend job-related training. Upon request, the Employer shall provide an employee with listings of available training courses.

SECTION 5. The parties recognize that employees are responsible for applying reasonable effort, time, and initiative in increasing their potential value to the Employer through self-development and training. Employees are encouraged to take advantage of training and educational opportunities available and needed to increase their efficiency in the performance of their duties or for possible advancement. The Employer may consider providing such training to employees upon request. Funds for this purpose must be requested, approved, and obligated before the training begins.

SECTION 6. The parties understand that an employee's IDP should be jointly developed by the supervisor and the employee, in accordance with existing guidelines and regulations. The IDP will include training and self-development activities needed to develop, maintain, or improve employee performance, either in his/her current position, or in a position through or to which the employee can non competitively progress (e.g., a position with known promotion potential for which the employee has already competed). The IDP will be responsive to both the needs of the employee and the requirements of the training program.

SECTION 7. The Employer will provide the Union with a copy of the Annual Training Plan at the time the plan is distributed. The Union will also be provided with copies of the periodic updates to the Training Plan.

SECTION 8. Employees may be granted variations within the normal workweek, including leave without pay, for educational purposes where such modifications of normal work schedules do not appreciably interfere with the accomplishment of work to be performed. Training will be such that it equips the employee for more effective work in the District.

SECTION 9. Employees are encouraged to join and participate in organizations which are related to their work. Where membership in an organization is required by the Employer, the Employer agrees to pay membership dues related to that requirement. The employee must be instructed in writing by an authorized management official to participate in an organization on behalf of, and in the name of the Agency prior to the commitment of funds.

SECTION 10. In the event of a reduction in force, and in recognition of the parties' obligations under 5 USC 7106(b)(3) to negotiate appropriate arrangements for adversely affected employees, the parties agree to negotiate on any proposed establishment of a retraining program(s).

ARTICLE 25
EQUAL EMPLOYMENT OPPORTUNITY

SECTION 1.

a. The Employer and the Union agree to the policy and practice of providing equal employment opportunities to employees at all levels, and to have a workforce free from discrimination because of race, color, religion, sex (including sexual harassment), national origin, age, mental or physical disability (handicapping condition), marital status, and political affiliation. The Employer is responsible for promoting equal employment opportunity through a positive, continuing, and results-oriented program involving all management policies, programs, objectives, practices, and personnel.

b. The Employer will emphasize management's responsibility for implementing established EEO goals and objectives.

c. The Employer will make a reasonable effort to ensure that all employees, recognized employee organizations, and applicants understand the EEO program.

d. The Employer will make a reasonable effort to fully utilize the skills and potential of all employees.

e. In connection with efforts to correct under utilization and under representation of minorities and women, the Employer will abide by the terms of Article 23, “Upward Mobility."

f. The Employer will modify or eliminate all employment practices concerning promotion, training, disciplinary actions, selection criteria, awards programs, and career progression which result in discriminatory adverse impact on any employee or group of employees.

g. The Employer will be responsible for making all facilities, activities; and services accessible to disabled employees and disabled veterans.

h. The parties agree that the success of the EEO program depends largely on adequate program resources, sufficient staffing, accountability of managers and supervisors, and program publicity. In this regard, the Employee agrees to allocate the necessary resources, to effectively administer the EEO program.

SECTION 2.

a. The Employer and the Union agree that the elimination of discrimination in all aspects of employment is a reasonable and necessary objective. To that end, the Employer agrees that in accordance with the directive issued by the Equal Employment Opportunity Commission (EEOC), it will develop and maintain a Affirmative Employment Plan (AEP). The Employer will provide the Union with a copy of that plan.

b. The AEP shall contain recommendations to remedy any practices which are adversely impacting on groups of employees based on race, sex, age, handicap, religion, or national origin.

c. Should adverse impact be discovered and evidenced in the Affirmative Employment Plan, specific and measurable objectives shall be set in an effort to correct any underrepresentation.

d. The AEP shall be effective for the time period specified by EEOC.

SECTION 3.

a. The names, pictures, telephone numbers, and location of the EEO Counselors, EEO Officer, the representatives of the Federal Women's, Black Employment, and the Hispanic Employment Programs, and any other special emphasis programs, will be posted and made available to the entire workforce through reasonable means. A statement will be issued and made public to all employees reflecting the Employer's commitment to attain EEO goals.

b. The Employer will assure that EEO Counselors are available and accessible to employees who may have a discrimination complaint. Employees shall choose from available designated EEO Counselors to pursue their complaint.

c. The Employer agrees to accept nominations from the Union for EEO Counselors and members of the EEO Committee. The Employer shall give the Union's nominees the maximum consideration allowed by law. Candidates must meet the criteria established by applicable laws and regulations. The Employer will request nominations from the Union when considering individuals to serve as Federal Women's, Black Employment, and Hispanic Employment Program Managers, or any other special emphasis programs. The Employer agrees to appoint at least one Union nominee to the EEO Committee.

d. The Employer shall provide specialized training as necessary, in accordance with applicable laws and regulations, for individuals appointed to the activities in this Section.

SECTION 4.

a. The Employer will carefully, justly, and expeditiously consider and adjudicate complaints of discrimination filed through the statutory procedure or the negotiated grievance procedure. An aggrieved employee affected by discrimination may, at his/her option, raise the matter under a statutory procedure of the negotiated grievance procedure, but not both. For the purpose of this Section, and pursuant to Section 7121 (d) of the Civil Service Reform Act, an employee shall be deemed to have exercised his/her

option at such time as the employee timely initiates an action under the applicable statutory procedure, or timely files a grievance in writing under the negotiated grievance procedure.

b. Selection of the negotiated procedure in no manner prejudices the right of aggrieved employee to request the Merit System Protection Board (MSPB) or Equal Employment Opportunity Commission (EEOC) to review the final decision in the case of any personnel action that could have been appealed to the Board or to the Commission. For the purpose of seeking review by the MSPB or the EEOC, the decision of the Commander, in the negotiated grievance procedure, may be considered the final decision. Nothing in this Agreement shall constitute a waiver of any further appeal or review rights permissible under the statute.

c. Discussions between an employee and an EEO Counselor will not preclude an employee from opting to select the negotiated grievance procedure if the grievance is otherwise timely.

d. Persons who allege discrimination or who participate in the presentation of such complaints will be free from restraint, interference, coercion, discrimination, or reprisal.

e. A complainant has the right to be accompanied, represented, and advised by a representative of his or her choice during counseling, or at any stage of the complaint procedure. The Union representative, if designated in writing as a representative by the complainant, will have the same access to information as the complainant.

SECTION 5.

a. The Employer will provide to the Union, on a yearly basis, an analysis of the bargaining unit, by PATCOB (Professional, Administrative, Technical, Clerical, Other, Blue Collar) category, race, and sex. The analysis shall include a comparison of the bargaining unit with the most current and appropriate data for the area Civilian Labor Force (CLF).

b. In the event the above analysis reveals the bargaining unit contains a manifest imbalance or conspicuous absence of protected group members in a particular category as defined by EEOC Management Directive MD-714, dated 6 October 1987, and any authorized update, the parties agree the following recruitment strategy shall be implemented:

(1) For categories listed above containing a manifest imbalance or conspicuous absence as defined by MD-714, all referral lists of candidates (internal or external) for bargaining unit vacancies in the category shall contain the name of at least one woman or minority candidate. If the internal referral list fails to contain a woman or minority, the external referral list will be forwarded to the selecting official with the

internal referral list. Categories not containing a manifest imbalance or conspicuous absence of a woman or minority will not be subject to this requirement.

(2) If the widest practical area of consideration fails to produce a woman or minority candidate, or if manifest imbalance or conspicuous absence no longer exist, the above recruitment strategy shall cease, and internal candidates shall receive first referral and consideration, without restriction, in accordance with Article 22, Section 5b.

SECTION 6.

a. The Employer agrees to make reasonable accommodation to the known physical and mental limitations of the qualified handicapped employee unless the Employer can demonstrate that accommodation would impose an undue hardship on the operation of its functions. Reasonable accommodation includes such actions as:

(1) Making facilities accessible to and usable by persons with disabilities;

(2) Job restructuring;

(3) Part-time or modified work schedules;

(4) Acquisition or modification of equipment or devices;

(5) Adjustment or modification of examinations; and

(6) Provision of readers for blind persons and sign language interpreters for deaf persons.

b. The Employer will provide training and career development for handicapped employees in accordance with law and regulation.

ARTICLE 26

ASSIGNMENT OF ILL, INJURED AND HANDICAPPED EMPLOYEES

SECTION 1. An employee recuperating from a non-job related illness or injury and who is temporarily unable to perform his/her assigned duties may voluntarily submit a written request to his/her supervisor for temporary assignment to duties commensurate with the disability and the employee's qualifications. The employee will provide adequate medical documentation to support the request. The Employer shall, to the extent possible, and in accordance with applicable rules and regulations and medical recommendations, make a diligent effort to grant such temporary assignments when requested. Such employees will continue to be considered for promotional opportunities for which they are otherwise qualified, by applying for same.

SECTION 2. Both parties agree that employees recuperating from on-the-job injuries or illnesses should be returned to productive work as soon as physically possible. In this regard, the Employer has the right to require employees who are found to be medically fit for limited duty by a competent medical authority, to return to such duty, should such duty be available.

ARTICLE 27

REDUCTION IN FORCE

SECTION 1. This Article is intended to establish and describe procedures the Employer will take in the event of a reduction-in-force, reorganization, or a transfer of function, as defined in this Agreement. It is also intended to protect the interests of employees, while allowing the Employer to exercise its rights and duties in carrying out the mission of the Agency.

SECTION 2. The policy, procedures, and terminology established in this Article are to be interpreted in conformance with:

a. 5 USC 3501-3504;

b. 5 CFR PART 351;

c. FPM CHAPTER 351;

d. 29 CFR 1613.203;

e. 5 CFR 351.203;
f. 5 USC 7501(2); and

g. AR 690-300.351.

SECTION 3. The Employer agrees that the application of this Agreement, and laws and regulations relating to any matter in this Agreement shall be fair and equitable. The Employer further agrees to use vacancies to the maximum extent possible to place employees who would otherwise be adversely affected in a RIF. In this regard, such employees will be given consideration before other sources are considered for reassignment to vacant positions.

SECTION 4. For purposes of this Agreement, the following terms and expressions shall have the following meanings:

a. Reduction in Force (RIF) means the release of an employee from his/her competitive level by:

(1) separation;

(2) demotion;

(3) furlough for more than thirty (30) calendar days or twenty-two (22) workdays within 1 year from the first day that the furlough is to be effected; or

(4) reassignment requiring displacement.

b. Reduction-in-Force procedures will be used when the actions in a. above are caused by:

(1) lack of work;

(2) shortage of funds;

(3) insufficient personnel ceiling;

(4) reorganization;

(5) an individual's exercise of reemployment rights or restoration rights;

(6) reclassification of an employee's position due to erosion of duties; or

(7) transfer of function.

c. Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization or activity.

d. Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas; or the movement of the competitive area in which the function is performed to another commuting area.

e. Undue interruption means a degree of interruption that would prevent the completion of required work within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. A work program probably would be unduly interrupted if an employee needed more than ninety (90) days after the reduction-in-force to successfully perform the critical elements of a position. Lower priority programs might tolerate a longer interruption.

f. Competitive area means the organizational and geographical boundaries in which employees compete in a reduction-in-force.

g. Competitive level consists of all positions in a competitive area in the same grade and classification series, that have similar duties and other requirements.

SECTION 5. The Employer agrees to consider the following two factors when it establishes a competitive area for RIF purposes:

a. The area shall be large enough to provide meaningful competition among employees; and

b. The area shall not be so large so as to cause undue hardship to affected employees.

SECTION 6. The Employer agrees to not fill existing vacancies during the ninety-day period prior to the effective date of a RIF, except in accordance with Section 3 of this Article or where extreme necessity or emergent conditions arise from unplanned management actions, or where filling the vacancy will have no effect on the outcome of the RIF (e.g., where the grade of the position is high enough that competition for it as part of a RIF could not occur). When the Employer decides to fill a vacancy, an employee's right to it will be determined in the same way as the right to bump or retreat is determined.

SECTION 7.

a. When it is determined that any of the actions stated in this Article are necessary, the Employer shall inform the Union. If requested, the Employer shall hold a briefing for the principal Union representatives explain the background, scope, and effects of the reduction-in-force.

b. Formal written notification shall be given to the appropriate Union representatives at least thirty (30) days in advance of the notice to employees as contained in Section 8 of this Article.

c. The Employer shall provide the Union with specific information concerning the matter, to include:

(1) the reasons for the reduction-in-force or transfer of function;

(2) an estimate of the number, types, and geographical locations of positions affected; and

(3) the estimated date of the action.

SECTION 8. An individual employee who is adversely affected by actions stated in this Article shall, as a minimum, be given specific notice not less than sixty (60) days in advance of the effective date. All such notices shall contain the information required by the Office of Personnel Management (OPM), in addition to that required by the Agency and this Agreement.

SECTION 9. The content of employee reduction-in-force notices shall include the following information:

a. the specific reduction-in-force action to be taken;

b. the effective date of the action;

c. the employee's competitive area, competitive level, subgroup, and service date;

d. the place where the employee may inspect the regulations and records pertinent to his/her case;

e. the reasons for retaining a lower standing employee in the same competitive level because of a continuing exception;

f. the reasons for retaining a lower standing employee in the same competitive level for more than thirty (30) days because of a temporary exception;

g. grade and pay retention information;

h. the employee's grievance or appeal right; and

i. Department of Defense Priority Placement Program information.

SECTION 10. The Employer shall provide complete information needed by employees to fully understand the reduction-in-force and why they are affected. Specifically, the Employer shall:

a. inform all employees as fully and as soon as possible of plans or requirements for reduction-in-force in accordance with applicable rules and regulations;

b. inform all employees of the extent of the affected competitive areas, the regulations governing reduction-in-force, and the kinds of assistance provided for affected groups;

c. require the Personnel Office to maintain and publicize a list of vacancies, District-wide, and maintain a copy of the Government-wide job bulletins, such as Federal Jobs or Federal Research Service. This information shall also be made available to the Union;

d. require the Personnel Office to provide the Union with a copy of specific RIF notices; and

e. conduct a vigorous placement program within the Agency to minimize the adverse impact on employees who are affected by the RIF. The placement program will include counseling for employees by qualified personnel on opportunities and alternatives available to affected employees.

SECTION 11. The Union may review any bargaining unit employee's Official Personnel Folder at the employee's request, if that employee reasonably believes that the information used to place him/her on the retention register is inaccurate, incomplete, or not in accordance with law, rule, regulation, and provisions of this Agreement.

SECTION 12. The Employer will maintain all lists, records, and information pertaining to the reduction-in-force for at least one year in accordance with applicable rules and regulations.

SECTION 13. The Employer is responsible for ensuring the accuracy of all retention registers which are to be used to conduct a reduction-in-force. A copy of these retention registers shall be made available to the Union upon request, provided such registers are related to the work situation of bargaining unit employees, including employees separated by RIF action.

SECTION 14. Employees who are identified for separation or change to lower grade shall be entitled to reasonable and responsible use of the Employer's facilities and/or services for the purpose of seeking and locating suitable employment, as follows:

a. reproduction equipment, subject to availability;

b. pouch mail and, where deemed appropriate by the Employer, mail sent out as part of "Official" mailings and;

c. telephone use, including FTS service, for a period of thirty (30) minutes per day per employee, during the notice period described in Section 8 of this Article. The Employer agrees to provide an extension for the sole use of affected employees, and to schedule employee use of same. This extension shall be made available from 0630-1630, Monday through Friday. It is understood and agreed that if scheduling permits, exceptions may be made to the 30-minute limit per employee, on a case-by-case basis.

SECTION 15. Employees who are identified for separation or change to a lower grade shall be entitled to reasonable time while otherwise in a duty status without charge to leave for:

a. preparing, revising, and reproducing job resumes and/or job application forms;

b. participating in employment interviews; and

c. using the telephone to locate suitable employment.

SECTION 16.

a. Union representatives who are employees of the Agency shall be entitled to a reasonable amount of official time to assist employees affected by reduction-in-force actions. Such time shall include, but not be limited to, private consultation with employees, preparation for meetings, inquiries, appeals, review of retention registers or other RIF records, and other related aspects of employee assistance.

b. Official time shall be granted as follows:

(1) If one to five (1-5) unit employees are adversely affected by the RIF action, then one (1) Union representative shall be granted up to twenty (20) hours per week.

(2) If more than five (5) but less than sixteen (16) unit employees are adversely affected, then two (2) Union representatives shall each be granted up to twenty (20) hours per week.

(3) If more than fifteen (15) unit employees are adversely affected, then three (3) Union representatives shall each be granted up to twenty (20) hours per week.

c. In addition to official time provided in b. above, the Union, at its option, may also use "bank time" as provided in Article 9 of this Agreement, to assist employees affected by RIF actions.

d. It is understood that official time used under b. above will not count against the hourly limit described in Article 9, "Official Time."

SECTION 17. Performance appraisals will be used to grant additional service credit as follows:

a. The Employer agrees to not accomplish any new performance appraisals for a minimum of ninety (90) days prior to the effective date of the RIF.

b. Credit will be based on the last three (3) annual performance ratings of record the employee received during the three-year period prior to the date of issuance of specific RIF notices.

c. If an employee had more than three (3) annual ratings during the three-year period, the three (3) most recent ratings will be used.

d. If an employee receives an improved rating as a result of an opportunity under 5 CFR 432 to demonstrate acceptable performance, the improved rating is considered the current annual rating, provided the rating was made a matter of record before the date of the specific RIF notice.

SECTION 18. When an employee is to be released from his/her competitive level, the "best offer" is made. The offer will be as close to his/her current grade as possible, and in the same commuting area, if possible, to avoid undue disruption.

SECTION 19. Upon receipt of a specific notice notifying the employee that he/she is offered a reassignment and/or release from competitive level, or any other RIF action described in this Agreement, in lieu of separation, the employee shall have a minimum of ten (10) calendar days to accept or reject the offer in the specific notice.

SECTION 20. When the Employer is unable to place an employee within the local commuting area, and the employee accepts an offer that requires relocation to a different geographic area, a permanent change of station (PCS) at Government expense shall be effected. An employee's entitlements shall be governed by Volume II, Joint Travel Regulations, and other applicable laws, rules, and regulations.

SECTION 21. When an employee is involved in a PCS as described in Section 20 of this Article, he/she shall, upon request, be granted one house-hunting trip for the purpose of seeking a new residence at the new duty location. This trip shall be at Government expense, with the employee carried in a duty status, and shall be subject to the requirements of Volume II, JTR. It is understood that the house-hunting trip must be taken prior to the effective date of the RIF action.

SECTION 22.

a. Employees relocated as described in Section 20 above, in addition to the sixty (60) day notice period provided in Section 8 above, shall be granted, upon request, up to an additional thirty (30) calendar days to report to the new duty location of the RIF action, and may be taken as annual leave, leave without pay, or any combination thereof.

b. In the event that an employee receives an amended "best offer," which requires relocation to a geographic area different from the original offer, that employee shall be granted, upon request, additional days equal to the time (in days) from the date of the specific notice to the date of the last, "best offer," to report to the new duty location. This is in addition to the thirty (30) days described in a. above and may be taken as annual leave, leave without pay, or any combination thereof.

SECTION 23. The Employer shall provide any employee to be separated by RIF with the appropriate information regarding unemployment benefits available to them. This will normally consist of Standard Form 8.

SECTION 24. Employees on detail will not be released during a reduction-in-force from the position to which they are detailed, but rather from the affected employee's permanent position.

SECTION 25.

a. When a transfer of function within the District results in reduction-of-force, RIF procedures, as outlined in regulations and this Agreement, will be used.

b. In the event of a transfer of functions where the District is the losing competitive area, competing employees identified for transfer have a right to compete in a RIF on retention registers comprised of both themselves and employees working in the gaining competitive area at the time of transfer. However, if there is a concurrent RIF taking place within the District, the Employer agrees to include employees declining to transfer as part of the concurrent RIF conducted for other reasons.

SECTION 26. The employer agrees to reemploy former bargaining unit employees separated by RIF within a period of two (2) years (for career employees) or one (1) year (for career-conditional employees) after a RIF has been completed, using the procedures described in Article 22, Section 4.

SECTION 27.

a. The Employer may allow temporary exceptions, not to exceed ninety (90) calendar days, to the RIF order of release to continue an employee on duties that a higher standing employee cannot assume within ninety (90) calendar days. The Employer may use temporary exceptions to:

(1) continue an activity without undue interruption;

(2) satisfy an Agency obligation to an employee; for example, to delay the effective date of the employee's release long enough to allow the specific notice period required by this Article, when the employee is absent from his/her duty station and cannot receive notice the same day as a higher ranking employee;

(3) help an employee administratively when the temporary exception does not adversely affect the rights of any other employee released ahead of the excepted employee; and

(4) other work situations demanding a given employee's specialized attention for ninety (90) calendar days or less.

b. A maximum of four (4) Union representatives, designated pursuant to Article 9 of this Agreement, who are scheduled for separation due to a reduction-in-force, will be temporarily excepted from the order of release for a minimum of forty-five (45) and a maximum of ninety (90) calendar days, provided the effected employees have been designated as representatives for one-hundred and twenty (120) days preceding the scheduled separation. The purposes of this exception are as follows:

(1) to allow the Union to continue its representational duties without undue interruption, i.e., to process grievances and appeals, answer employee inquiries or complaints, etc.;

(2) to allow the Union additional time to accomplish an orderly transition of representatives; and

(3) to allow trained Union representatives time to bring their replacements "up to speed."

c. The Employer may allow continuing exceptions to the RIF order of release to continue an employee in duties that a higher standing employee cannot assume within

ninety (90) calendar days without undue interruption to the activity. The Employer may use continuing exceptions to:

(I) allow completion of a critical project;

(2) allow completion of a contract; and/or

(3) close-out a discontinued program.

d. All exceptions to the RIF order of release will be documented and the documentation maintained with other RIF records.

SECTION 28. The parties recognize it is possible, in releasing an employee from a competitive level, to reach two (2) or more employees with identical retention standing. In such cases, the decision to retain one or the other employee in the competitive level will be based upon the employees' length of service within the Corps of Engineers, i.e., the employee with the most service within the Corps will be retained.

SECTION 29.

a. Prior to implementing a RIF, the Employer agrees to determine whether it would be more cost effective to furlough and/or lawfully retrain employees for existing vacancies and furnish a written copy of such determination(s) to the Union.

b. Prior to implementing a RIF, the Employer agrees to provide the Union with the information it used concerning the cost of a RIF, including administrative costs, severance pay, and pay retention.

SECTION 30.

a. If the Employer determines it necessary to implement one or any combination of actions covered by this Article and that determination necessitates the use of RIF procedures, then the Employer, upon request, will provide the Union with a forecast of positions it intends to fill during the next six (6) months.

b. The Employer will make a maximum effort to place adversely affected employees in positions for which they qualify. This includes, but is not limited to, filling positions at lower grade levels and/or redesigning positions.

c. If an employee who has been released from a competitive level has the capacity, adaptability, and skills required by a position and can do the work of the position, the Employer will waive qualification requirements (except minimum education requirements) to make the employee eligible for consideration to fill vacancies.

SECTION 31. The competitive area will be defined by the Employer, and publicized in a Commander's Policy Letter. It will not be changed without following the provisions of

Article 5 (impact and implementation bargaining).

ARTICLE 28

INVOLUNTARY REASSIGNMENTS

SECTION 1. In the event the Employer proposes to involuntarily reassign an employee, the Employer agrees to issue a written proposal notice to the employee. The employee shall have fifteen (15) working days to respond to the proposal notice. The Employer will make known to the employee all District vacancies, at the same grade, for which the employee is suitable and basically qualified. The Employer will consider, at the request of the employee, reassignment to another vacancy. However, the reassignment action will still be considered involuntary. The Employer further agrees that any reassignment action will not take effect until fifteen (15) calendar days after timely response by the employee. In the event the employee is neither timely nor responsive to the proposal notice, the Employer may reassign the employee no sooner than fifteen (15) calendar days after expiration of the proposal notice.

SECTION 2. When the Employer abolishes the position of an employee who is within reach for release from his/her competitive level, the Employer agrees, except for a good cause, (as defined in Article 22), to make use of the RIF procedures contained in Government-wide regulations and this Agreement to process the reassignment action.

SECTION 3. The Employer agrees to give priority consideration for assignment to employees affected by the provisions of Section 2 of this Article, if the abolished position is reestablished within two (2) years and the employee requests such consideration. If the employee is selected for his/her former position, he/she will be eligible for a PCS at Government expense, in accordance with Volume II, JTR, and other applicable laws, rules, and regulations.

SECTION 4. The Employer agrees that involuntary reassignments shall be made in accordance with law, rule, regulation and this Agreement.

SECTION 5. Employees who are involuntarily reassigned will experience no loss of pay, grade, seniority, rights, or benefits. Furthermore, reassignment actions will be accomplished in such a manner so that there will be no break in the affected employee's service.

SECTION 6. Except for good cause, (as defined by Article 22), the Employer agrees that involuntary reassignments due to staffing imbalances will be effected by reassigning the least senior qualified employee at the affected post of duty. In this instance, seniority will be based on service with the Corps of Engineers.

ARTICLE 29

HOURS OF WORK

SECTION 1. The present administrative workweek begins at 12:01 a.m. Sunday and ends at 12:00 midnight Saturday, and the current basic workweek and normal tour of duty within the administrative workweek is five (5), eight-hour workdays, Monday thru Friday.

SECTION 2. The Employer agrees that work schedule changes can be disruptive to employees' private lives. Whenever possible, changes of employees' work schedules will be by written announcement at least two (2) weeks in advance and will continue for a least two (2) pay periods. When the Employer knows in advance of an administrative workweek that the actual hours to be worked by an employee will differ from those scheduled, the administrative workweek will be rescheduled to reflect the actual hours to be worked. In such cases, the Union will be advised of the reasons for the change in the schedule. The Employer will avoid short term changes in employees' work schedules for the sole purpose of not paying overtime.

SECTION 3.

a. Both parties recognize that the use of compressed work schedules and flexitime can improve productivity and morale and provide greater service to the public.

b. Both parties recognize that certain positions or organizational segments, because of the nature of the work performed, may not be suitable for compressed work schedules or flexitime. In this regard, the Employer may designate certain positions for which flexitime and/or compressed work schedules are not permitted, because of specific, job-related requirements of those positions. These designations will be made by the Employer and discussed with the Union.

c. Employees shall be permitted to vary their work schedules as follows, subject to the limitations set forth in paragraph b. above

(1) Flexitime - An employee may vary his/her arrival and departure time on a daily basis, as follows:

(a) The employee shall designate a "target" starting time. This will be the time his/her supervisor may normally expect the employee to arrive.

(b) The employee may vary from the "target" time by one hour in either direction. For example, if the employee's "target" time is 7:30 a.m., he/she may report for duty between 6:30 a.m. and 8:30 a.m. In the event an employee elects a "target" arrival time at the beginning of the flexible time band, the employee may vary their arrival time by two (2) hours after their target time. Likewise, an employee who

elects a "target" arrival time at the end of the
flexible time band will be allowed to vary their arrival time by two (2) hours before their target time.

(c) Normally, the employee is to be on duty within the core hours of 9:00 a.m. to 3:30 p.m. However, the parties recognize that there are instances where employees desire to have different core hours. In recognition of this fact, employees may request of their supervisor that a variation to the standard core hours be established for their work schedule.

(d) The employee will be expected to work his/her normal number of daily hours, starting with his/her actual arrival time. Other early or late departures will be subject to the leave, credit hour, or overtime provisions of this Agreement.

(e) The employee must record his/her arrival and departure times on Engineer Form 4704.

(f) With advance supervisory approval, employees working flexitime will be allowed to extend their lunch hour by 30 minutes provided this time is accounted for by the end of the workday. Approval will normally be granted, unless the employee's absence would impair the mission of the Agency, e.g., the employee's presence is required at a meeting.

(2) Compressed Work Schedules (CWS) - Compressed Work Schedules available to employees shall be:

(a) 5/4-9 Schedule - A schedule which, within a pay period of ten (10) workdays, includes eight (8) nine-hour days, one eight-hour day, and one non-work day. The non-work day shall be limited to either a Monday or a Friday.

(b) 4-10 Schedule - A schedule which, within a five-day work week, includes four (4) 10-hour days and one non-work day. The non-work day shall be limited to either a Monday, Wednesday or a Friday. The Employer shall have the right to limit the numbers of employees working on the days specified.

(c) Having once selected one of the Compressed Work Schedules described above, the employee must adhere to the schedule until a periodic opportunity to change arises.

(3) Flexitime with Credit Hours. Credit hours are defined as those hours worked at the election of the employee in excess of the regular eight (8) hour workday that are to be accumulated and used to shorten subsequent workday(s). The parties understand and agree that the intent of credit hour accrual and use is to vary the employee's work schedule. It is not intended to serve as a means for creating alternative

work schedules that have not been agreed to

in this Article. Credit hours may be worked only by employees on flexible schedules, and can be earned as follows:

(a) Time worked for credit hour accumulation shall be the result of mutual agreement between the employee and his/her immediate supervisor .

(b) No workdays in excess of ten (10) hours will be permitted.

(c) Accumulation of time in quarter hour increments is permitted, but the entire period must be worked to be earned.

(d) The period worked must be within the regular hours that office buildings are open and available for employee use, unless the employee has obtained approval of his/her immediate supervisor and concurrence of Emergency Management Division to access the buildings outside regular hours.

(e) All hours of work must be indicated on ENG Form 4704 which shall be the official record for employee account balances.

(f) The account balance at the end of any pay period shall not exceed twenty four (24) hours, and in the case of a part-time employee, no more than one-fourth of the hours of his/her biweekly basic work requirements.

(g) Employees shall not be required to work credit hours in lieu of paid overtime.

(h) Credit hours shall be used as follows:

(1) By prior arrangement and permission of the supervisor.

(2) In minimum quarter-hour increments.

(3) Credit hours will be scheduled and used to avoid payment for hours earned as overtime. This means that regardless of the account balance, credit hours earned shall normally be used within eight (8), but in any case within twelve (12) pay periods after the pay period in which earned.

d. In the event the Employer elects to terminate an employee's participation in Flexitime and/or CWS, or modify the employee's flexitime schedule and/or CWS for other than emergency or short-term reasons, the affected employee and Union shall be notified in writing prior to the proposed effective date of termination which shall be no sooner than the beginning of the next complete pay period. This notification will include the specific reasons and instances of negative impact on Agency operations that clearly

establish why Flexitime and/or CWS is no longer appropriate for that employee.
SECTION 4. Employees may not request changes in compressed work schedules more often than every two (2) pay periods. By mutual agreement, in advance, between a unit employee and his/her supervisor, the scheduled day off can be changed in a pay period.

SECTION 5. Normal building hours will be 0630 hours - 1830 hours. Employees will be allowed access to the buildings during the period 0600-0630 on a routine basis if duty during such period is authorized by the employee's supervisor. In such case, it shall be the responsibility of the supervisor and employee ,jointly to make arrangements for the employee to enter the reservation and the building where his/her work station is located. In this regard, vehicles will not be permitted on the reservation prior to 0630, unless the Maintenance Shop supervisor allows such entry. This restriction is necessary to provide for snow plowing and other maintenance of parking areas. Since regular opening of doors and gates might occur after 0600, employees authorized to start at 0600 are entitled to knowledge of gate and door lock combinations on an as-needed basis.

SECTION 6.

a. Both parties recognize that allowing employees to work at home can have a beneficial impact on mission accomplishment, and provide greater service to the public.

b. The parties agree to implement EC 690-1-692. In paragraph 10b, "hours" means "work hours."

c. On an unscheduled or occasional basis, employees shall be permitted to perform work at home subject to the following guidelines.

(1) Request for pay for work at home will be made in writing to the employee's immediate supervisor. The request should include the number or schedule of hours requested, a description of work products to be accomplished, and justification for why the work needs to be done at home rather than in the office.

(2) Written requests may be waived in emergency situations where the employee is responding to mission-related requests from outside the District, or has been directed by the supervisor or someone else in the chain of command to complete a specific task.

(3) Pay for this type of work will be determined by applicable laws and regulations.

ARTICLE 30

PRECEDENCE OF LAW AND REGULATION

SECTION 1. In the administration of all matters covered by this Agreement, the parties are governed by the following: existing or future laws; Government-wide rules or regulations in effect upon the effective date of this Agreement; and Government-wide rules or regulations issued after the effective date of this Agreement that do not conflict with this Agreement.

SECTION 2. On matters affecting personnel policies, practices and working conditions as appropriate under Title VII of the Civil Service Reform Act, all regulations will be applied in a fair and equitable manner, and will not change during the term of this Agreement except by mutual consent of the parties. Prior to implementing any new regulation or policy affecting bargaining unit employees, the Employer shall comply with the provisions of Article 5 of this Agreement.

SECTION 3. In the case of conflict between Agency-wide regulations and this Agreement, the Agreement governs.

ARTICLE 31

DETAILS AND TEMPORARY PROMOTIONS

SECTION 1. A detail is the temporary assignment of an employee to different position or a different set of duties for a specified period, with the employee returning to his/her regular duties at the end of the detail, as the employee continues to be the permanent incumbent of the position from which detailed.

SECTION 2.

a. In the event the Employer determines that a detail to a higher graded position that was expected to last less than thirty (30) days will, in fact, last longer than twenty-nine (29) days, the employee will be temporarily promoted at the earliest opportunity.

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

SECTION 3. A detail exceeding one-hundred and twenty (120) days to a position of higher grade or to a position with known promotion potential shall be made under competitive placement procedures. In the event competitive procedures are not used:

a. selection of a suitable and/or qualified individual to a higher graded position will be made on the basis of seniority, and

b. selection of a suitable and/or qualified individual for a detail to a position at the same or lower grade will be made on a rotation basis.

These "seniority" and "rotation" procedures apply only to the individuals under the direct supervision of the detailing supervisor. Seniority shall be based upon the service computation date. The Employer reserves the right to determine the qualification/suitability requirements for the position to which the employee(s) may be detailed, as well as the qualifications/suitability of the employee(s) involved.

SECTION 4. Performance of lower graded duties while on detail, which are outside an employee's position, shall not result in loss of recorded or credit time in the grade of the employee's permanent position. Performance of lower graded duties officially assigned by the Employer, which are outside an employee's position, shall not be the basis for lowered assessment or appraisal of the employee.

SECTION 5. Details shall be used to meet temporary needs of the Employer's work program. This includes, but is not limited to: meeting unusual workload demands, special projects or studies, change in mission or organization, or employee absences. Details will not be used to reward or punish employees.

SECTION 6. The Employer agrees to provide employees with a written statement that explains the conditions associated with all details and temporary promotions, where they have not already been articulated on the Notification of Personnel Action (SF-50), prior to the effective date of the assignment. This statement will, as a minimum, address management's obligation to promptly terminate such assignments on or before the effective date. The statement will be signed by the employee and the employee's supervisor.

ARTICLE 32

FURLOUGHS FOR THIRTY DAYS OR LESS

SECTION 1.

a. This Article sets forth procedures which will be followed if the employer determines it is necessary to furlough permanent non-seasonal employees, or seasonal employees during their normal work season, for thirty (30) days or less due to:

(1) lack of work,

(2) lack of funds, and/or

(3) unforeseeable circumstances such as a sudden breakdown of equipment, Acts of God, or sudden emergencies requiring immediate curtailment of activities including a lapse of appropriations. Unforeseeable circumstances, in addition to meeting the definition of emergency, also include the inability of the Employer to continue operations to a practical extent.

b. These procedures will be carried out in accordance with law and Government-wide regulations. Furloughs of more than thirty (30) days must be carried out according to reduction-in-force procedures, as stated in Article 27 of this Agreement.

SECTION 2.

a. before the Employer furloughs employees, except where an unforeseeable circumstance arises, the Employer will provide written notification to the Union of:

(l) the reason for the furlough;

(2) the organizational segments affected by the furlough(s); and

(3) the estimated number of employees to be furloughed.

b. If an unforeseeable circumstance arises which causes the Employer to furlough employees, the Employer will give the Union and the affected employees as much advance notice as is possible and time permitting, will engage in impact and implementation bargaining at the affected worksite(s).

SECTION 3.

a. For the purpose of processing grievances and appeals, enforcing this Agreement, and assisting employees in adjusting to furlough status, Union representative(s) shall be placed on "essential" status during furloughs when bargaining

unit employees have been designated to remain on duty. The number of Union representatives placed on "essential" status shall be one representative for each one hundred (100) bargaining unit employees, or portion thereof, who have been designated to remain on duty. The individual(s) must have been designated as a representative for one hundred-twenty (120) days preceding the scheduled separation by furlough. The foregoing cannot be otherwise contrary to law or Government-wide regulation.

b. Essential status will be for such periods of time as is necessary to carry out the purposes of this Article.

SECTION 4. Once the Employer determines the number, types, and grades of employees necessary to accomplish the work, the Employer will notify employees at the worksite and will solicit volunteers for furlough. If a sufficient number of volunteers do not come forth, then the Employer will select employees for furlough on a fair and equitable basis. Any employees not furloughed must be capable of performing the functions that are to continue being performed during the period of furlough.

SECTION 5. When the Employer has made a decision to furlough employees for a specified number of days during a specified period of time, employees will be provided an opportunity to submit a schedule identifying their preferences in accomplishing the necessary number of days off. If the duration of the furlough is such that an employee could qualify to receive unemployment benefits, then the employee shall have the option of being furloughed for the entire period on a continuous basis. If the duration is such that the employee could not qualify for unemployment benefits, then the Employer need only give fair consideration to the employee's request.

SECTION 6. Except when a furlough is caused by unforeseeable circumstances, the Employer will provide written, individual notices to those employees who are to be furloughed thirty (30) days prior to the effective date of the furlough.

SECTION 7. Life insurance enrollment will continue without cost to the employee on a continuous furlough of thirty (30) days or less. Health insurance enrollment will continue, provided the employee continues to assume responsibility for his/her share of the plan's premium. The employee shall have the option of paying his/her share while on furlough, or waiting until returning to duty to make payment. In a discontinuous furlough, life insurance and health benefits will continue and contributions by the employee will continue if the salary in the pay period is sufficient to cover the full deduction for life and/or health insurance coverage.

SECTION 8.

a. Employees who are required to report for duty during a lapse of appropriations will be fully compensated in accordance with law and regulation.

b. Employees who are furloughed because of lapse of appropriations will be

compensated if provided by law.

SECTION 9.

a. When a furlough is required due to a lapse in appropriation, employees on approved annual leave will be permitted to complete the approved leave. Upon expiration of the approved leave, if the absence of an appropriation persists, the employee will be furloughed.

b. When a furlough is required due to a lapse in appropriation, employees on approved sick leave which commenced prior to the furlough may continue on sick leave to the extent that such absence is covered by the employee's accrued sick leave and as long as the employee remains ill or incapacitated as determined by competent medical authority.

Section 10.

a. Employees who are furloughed during a lapse of appropriation will be retroactively paid and otherwise compensated, to the extent permitted by law and regulation.

b. The Employer agrees to take cost-cutting measures to offset the absence of appropriated funds in order to maximize funds available for employee salaries, if such measures are cost effective and allowed by law and regulation. These measures include, but are not limited to, allowing employees to work at home and placing a moratorium on non-essential purchases.

c. Essential personnel will be defined according to applicable laws, rules, or regulations.

ARTICLE 33

INJURY COMPENSATION

SECTION 1.

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

b. Once the Department or Labor has approved his/her claim for compensation, an employee has the right to request a recredit of leave used during recovery from a job-related injury. Such a request for recredit of leave must be approved by the Department of Labor before the recredit of leave can be made.

SECTION 2. Employees will be permitted to review documents relating to their claim which the Office of Workers' Compensation has authorized to be made available. Employees may be accompanied by their designated representatives, if they so desire.

SECTION 3. The Employer agrees to place an employee sustaining a disabling, job-related injury on Traumatic Injury Leave for up to forty-five (45) calendar days, provided the employee has filed and the Employer has received CA-1, "Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation," within thirty (30) days of the injury, and the employee is otherwise eligible to receive continuation of pay under Office of Workers' Compensation Program regulations.

ARTICLE 34

ANNUAL LEAVE

SECTION 1.

a. The use of annual leave is a right of the employee subject to the approval of the employee's immediate supervisor, or other individuals as designated by the Employer. Employee requests for annual leave, for whatever the reason, shall normally be granted unless an emergency exists or work demands leave no alternative but to disapprove the request. In addition to workload considerations, the supervisor's decision to approve or disapprove all annual leave will involve consideration of an employee's expressed desires and personal convenience. The Employer shall normally grant employee annual leave requests if there are other employees who want to work and who are otherwise qualified.

b. Employees may request annual leave without interference or coercion, for any duration, for any time, and in any pattern they desire. The Employer agrees that the reason(s) for the employee's request for annual leave, in and of itself, will not be used as a basis for disapproving the request. Approval or disapproval will be dependent on staffing and/or workload requirements. No arbitrary or capricious restraints will be established to restrict when leave may be requested.

c. Approved leave will not be canceled except when the mission of the Agency would be impaired.

d. The Employer agrees to grant annual leave in a manner which normally permits each employee who wishes to take at least two (2) consecutive weeks of annual leave each year unless permitting such leave causes a severe work interruption. Upon the employee's request, any denial of annual leave must be accompanied by a written statement of the reasons for the denial.

e. In the event of a conflict in requests for annual leave, the supervisor will resolve the conflict by granting preference to the employee with the longest service in the affected organizational unit.

f. An employee's approved annual leave will not be disapproved solely because an employee with longer service in the unit subsequently requests leave for the same period. However, the Employer may disapprove the more senior employee's leave request if approving it would impair the mission of the Agency.

g. In order to facilitate the making of personal plans by employees, the Employer agrees to respond to annual leave requests as soon as possible.

h. Supervisors are responsible for ensuring that all requested annual leave that cannot be carried over is scheduled for use during the leave year. When a leave schedule is prepared, employees shall be allowed to schedule annual leave on the leave schedule in one (1) hour increments.

SECTION 2. It is the responsibility of the supervisor, in consultation with the employee, to reschedule annual leave which is canceled or denied due to workload considerations and to ensure that the leave will not be forfeited. Annual leave that cannot be rescheduled through no fault of the employee, or is denied due to workload considerations, shall be carried over to the succeeding leave year.

SECTION 3.

a. Seasonal employees who are to be placed in a non-pay status for a period of ten (10) workdays or less may charge such time to available annual leave.

b. Annual leave requests made by seasonal employees will be subject to the same considerations as requests made by other employees.

SECTION 4. When personal religious beliefs require an employee to abstain from work during certain periods, the employee may elect to request annual leave or work compensatory overtime and receive, in lieu of overtime pay, an equal amount of compensatory time off. The compensatory overtime may be worked before or after the period of time off.

SECTION 5. An employee will be granted advance annual leave when the following conditions are met:

a. The employee is eligible to earn annual leave;

b. The employee has served more than ninety (90) days in his/her current appointment, and the employee has funds in his/her retirement account that equal the dollar value o£ the advanced annual leave;

c. The requested amount does not exceed the amount the employee may be expected to accrue during the leave year;

d. It is known, or reasonably expected that the employee will return to duty; and

e. The other requirements of this Article are met.

SECTION 6. Employees may take annual leave in quarter-hour increments.

ARTICLE 35

SICK LEAVE

SECTION 1.

a. The Employer shall grant sick leave to an employee when the employee:

(1) receives medical, dental, or optical examination or treatment;

(2) is incapacitated for the performance of duties by sickness, injury, pregnancy and confinement, or severe emotional distress;

(3) is required to give care and attendance to a member of the employee's immediate family who is affected with contagious disease or

(4) would jeopardize the health of others by the employee's presence at his/her post of duty because of exposure to a contagious disease.

b. Requests for routine medical, dental, or optical examination or treatment, even though submitted with proper evidence, may be denied when an emergency exists or work demands leave no other alternative. However, if such denial results in a hardship for the employee, e.g., the rescheduling of the appointment at a later date could pose a threat to the employee's health, or rescheduling for a date in the near future would be impossible, the request shall be approved. The Employer shall grant sick leave in accordance with Public Law 103-388 in the following instances:

(1) to give care 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; or

(2) to make arrangements for or attend the funeral of a family member.

c. Notice of unanticipated sick leave, not requested in advance, will be given by the employee to the supervisor as soon as possible. Normally this notice will be given not later than two (2) hours after the employee was scheduled to be on duty. If the degree of illness or injury prohibits compliance with the two (2) hour limit, the employee will report the absence as soon as possible. Further notification on subsequent days of sick leave will be unnecessary when:

(1) the employee believes that he/she will not return to duty on the next, or subsequent, workdays;

(2) the employee informs the supervisor of that fact; and

(3) the employee provides an estimate of when he/she will return to duty.

SECTION 2.

a. Employees will normally be required to furnish reasonably acceptable evidence to substantiate a request for approval of sick leave if the sick leave exceeds three (3) consecutive workdays. However, it is recognized that there are cases when an employee is legitimately ill and incapacitated, but the services of a physician are not employed for good and sufficient reasons. In such cases, the employee's immediate supervisor may waive this requirement.

b. Employees will not be required to furnish a doctor's certificate to substantiate a request for approval of sick leave for periods of three (3) consecutive work days or less except as follows. Where the Employer has reasonable grounds to question whether an employee is properly using sick leave (e.g., when sick leave is used frequently or in unusual patterns or circumstances), the Employer shall inquire further into the matter and ask the employee to explain. If reasonable grounds continue to exist for questioning an employee's use of sick leave, and the Employer elects to require the employee to furnish doctor's certificate, then the employee will be notified in writing that for a stated period (not to exceed six (6) months) no request for sick leave will be approved unless supported by a doctor's certificate. Any such written notice will describe the frequency, patterns, or circumstances which led to its issuance.

c. Employees who, because of illness, are released from duty, and are not subject to the restrictions of b., above, will not be required to furnish a medical certificate to substantiate sick leave for the day released from duty. Subsequent days of absence will be subject to the provisions of a. and b., above.

d. Except when the Employer has reasonable grounds to question whether the employee is properly using sick leave, an employee will not be required to furnish a doctor's certificate on a continuing basis if the employee suffers from a chronic condition which does not necessarily require medical treatment although absence from work may be necessary and the employee has previously furnished medical certification of the chronic condition.

SECTION 3.

a. An approved absence which would otherwise be chargeable to sick leave will be charged to annual leave if requested by the employee. Retroactive changes will not be permitted.

b. An approved absence which would otherwise be chargeable to sick leave will be charged to leave-without-pay (LWOP) rather than earned annual leave when the employee: (1) has exhausted accrued sick leave, and (2) requests LWOP in lieu of annual leave.

SECTION 4.

a. An employee will be granted advance sick leave when the following conditions are met:

(1) The employee is eligible to earn sick leave;

(2) The employee has funds in his/her retirement account that equal the dollar value of the advanced sick leave;

(3) The requested amount does not exceed thirty (30) days, including any unliquidated amounts from previous similar requests;

(4) It is known, or reasonably expected, that the employee will return to duty; and

(5) The employee had provided acceptable medical documentation of the need for advanced sick leave; and

(6) The other requirements of this Article are met.

b. The Employer agrees there shall be no requirement for an employee to use annual leave prior to the advancement of sick leave.

SECTION 5. Employees may take sick leave in quarter-hour increments.

ARTICLE 36

ADMINISTRATIVE LEAVE/EXCUSED ABSENCES

SECTION 1. Employees may be excused for voting or registration provided their absence does not seriously interfere with operations, as follows:

a. The Employer agrees that when the voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, such employee will be granted an amount of excused leave to vote which will permit the employee to report to work up to three (3) hours after the polls open or leave work up to three (3) hours before the polls close, whichever requires the lesser amount of time off. Employees on flexible work schedules will be excused only for those hours which cannot be accommodated by their flexitime schedule.

b. If an employee's voting place is beyond normal commuting distance and voting by absentee ballot is not permitted, sufficient time off will be granted to enable the employee to make the trip to the voting place. Where more than one (I) day is required, a liberal leave policy shall be observed, and time off in excess of one (1) day shall be charged to annual leave, if available, or to leave-without-pay.

c. Under exceptional circumstances where these general rules do not permit sufficient time, an employee will be excused for such additional time as may be needed to enable the employee to vote, depending upon the particular circumstances to the individual case, but not to exceed a full day.

d. registration, if required to be done in person, may be accomplished on the same basis as voting (see above), except where registration can be accomplished on a non workday and the place of registration is within reasonable distance of the employee's place of residence. In that case, excused leave will not be permitted.

SECTION 2.

a. It is agreed that whenever it becomes necessary to close the office because of inclement weather or any other emergency situation and to grant administrative leave to those who are excused because of the emergency, the Employer will make a good faith effort to inform all employees by private or public media. It is understood that employees should tune to an appropriate radio station in order to remain informed. An emergency situation is one which is general rather than personal in scope and impact. It may be caused by such developments as heavy snow or severe icing condition, flood, earthquake, hurricanes, or other natural disasters; air pollution, massive power failures; major fires or serious interruptions to public transportation caused by incidents such as strikes of local transit employees or mass demonstrations.

b. If the emergency conditions described above exist and prevent an employee

from getting to work and the post of duty is not closed, the employee may be granted administrative leave for absence from work for a part or all of the employee's workday upon providing the Employer with reasonably acceptable documentation that the employee made a reasonable, continuing effort to reach work but that emergency conditions prevented timely arrival. Factors which shall be considered by the Employer and uniformly applied to all employees within the area affected by the emergency include: (1) the fact that the employee lives beyond the normal commuting area: (2) mode of transportation normally used by the employee; (3) efforts by the employee to get to work; (4) success of other employees similarly situated; (5) physical disability of an employee; and (6) local travel restrictions. The Employer, at its option, may waive the above requirement for documentation for absences of two (2) hours or less.

SECTION 3. Upon request, an employee's immediate supervisor may excuse up to one hour of tardiness without charge to the employee's leave.

SECTION 4. Employees may be excused from work without charge to leave for the time necessary to donate blood, for recuperation following blood donation, and for necessary travel to and from the donation site. The minimum excusal time will be (4) hours. When the employee must travel a long distance, or when unusual need for donation or recuperation occurs, up to an additional four (4) hours may be authorized.

SECTION 5. Employees may be excused from work without charge to leave for employment interviews for positions within the Department of Defense.

SECTION 6. Employees who can be spared without interference with essential Agency operations and obligations may be excused to participate in emergency rescue or protective work during an emergency such as fire, flood, or search operations. Such participation shall normally be limited to a maximum of five (5) workdays per year.

SECTION 7. Employees will be granted necessary time off without charge to leave or loss of pay to serve as a juror, or as a witness when one of the Parties is the United States, a state, a municipality, or the District of Columbia. Employees who receive compensation for such services have these options:

a. If the court defines the compensation as "expense," the employee may retain the monies.

b. If the court defines the compensation as "fee," the employee must remit the monies to the Employer.

SECTION 8. When a vehicle used on official Government business breaks down or is otherwise inoperative, the employee shall remain in an official duty status for the purpose of obtaining emergency repairs, if the breakdown occurs while the employee is in an official travel status. In such situations, the employee shall, within one hour of the breakdown, or as soon thereafter as practical, provide the supervisor with an estimate of

the situation and request instructions. The employee's efforts to comply with the supervisor's instructions to get repairs accomplished shall be considered hours of work.

SECTION 9. Career and career-conditional employees who are members of the National Guard, or any reserve unit of the Armed Forces (i.e.; Army, Navy, Air Force, Marines, or Coast Guard), shall be entitled to military leave for each day of active duty in such organizations up to a maximum of thirty (30) calendar days in any fiscal year.

SECTION 10. An employee who fails to report for duty and has not received supervisory approval for leave will be carried on Absence Without Leave (AWOL) status for timekeeping purposes. AWOL in and of itself will not be considered a disciplinary action. If an employee can provide reasonable cause for his or her absence without prior approval, the supervisor will retroactively approve leave of the appropriate category, subject to the provisions of Articles 34 and 35.

ARTICLE 37

MATERNITY LEAVE

SECTION 1. There will be no specified time granted for absence for maternity reasons. The length of time will be determined by the employee, her supervisor, and her physician. The Employer will not ordinarily require her to return to duty earlier than six (6) months after childbirth unless her absence causes a severe work interruption, but use of leave including LWOP in excess of twelve (12) months will be subject to FPM Chapter 630, Subchapter 12. Sick leave may be used for the time due to delivery and recuperation. Annual leave and/or leave without pay may be used by the employee for a period of adjustment and to make arrangements for child care. She may choose how and in what order such absence will be recorded - sick leave, annual leave, or leave without pay. She may use all, a part, or none of her available annual or sick leave.

SECTION 2. If a pregnant employee requests modification of duties or a temporary reassignment, and presents medical evidence acceptable to the Employer of the necessity therefore, the Employer will make a reasonable effort to accommodate her request.

SECTION 3. A male employee who has provided the Employer with reasonable advance notice, may be absent on part-time or full-time annual leave or leave-without-pay for a reasonable period of time for the purpose of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons, subject to leave approval criteria in Article 34.

ARTICLE 38

LEAVES OF ABSENCE

SECTION 1.

a. The Employer will normally approve a request for leave without pay for any employee to serve as an officer or employee of the Union, provided:

(1) the employee provides a minimum of thirty (30) days and a maximum of six (6) months advance notice; and

(2) work demands do not or will not preclude such approval. A decision will be rendered within thirty (30) days of the request.

b. Leave without pay granted under a. above, will be for a period concurrent with the term of office of the official and will be automatically renewed for one more term of office upon notification in writing from the official who has been reelected or reappointed and wishes to continue in a leave of absence status. Further renewals will be at the discretion of the Employer.

SECTION 2. Upon expiration of the leave of absence period, the Employer agrees to accomplish the following:

a. Place an employee returning from the leave of absence in the position held at the time that the leave of absence began;

b. Failing this, an effort will be made to place the employee in a like position in the commuting area; and

c. Failing either of the foregoing, the employee will be placed in a like position somewhere in the District.

ARTICLE 39

INCENTIVE AWARDS PROGRAM

SECTION 1. The Employer agrees that substantial benefits and enhanced productivity accrue when the Incentive Awards Program is maintained to recognize the achievements of employees. In this regard, the Employer shall actively promote an Incentive Awards Program for employees for the purpose of recognizing those employees whose performance or contribution is in excess of normal expectations for the positions they occupy.

SECTION 2. All employees who have received an Exceptional performance rating for the year will be provided an opportunity to receive:

a. a quality step increase (for General Schedule employees); or

b. a cash award of up to ten (10) percent of the employees present salary, rounded to the nearest five (5) dollars.

SECTION 3. Employees who have had superior accomplishments on a special project, assignment, act or task, or who have done a superior job with regard to the quality or quantity of the work performed will be considered by the Employer for an award for special act or service. This award may be given to an individual or to a group of individuals for their work or service in this area.

SECTION 4. Employees shall also be considered for awards under the Employer's Honorary Awards Program.

SECTION 5. The methodology used by the Employer to establish and provide awards under this Article will be developed and applied in a fair and equitable manner. Use of annual or sick leave will not be a consideration in assessing employee qualifications for an award.

SECTION 6. Recognizing that awards are most effective when they are presented as promptly as possible after the performance or act that is being recognized, the Employer agrees to present awards as promptly as possible after the decision is made by the Employer to grant an award. In no case shall the approval or disapproval of the recommendation for an award be longer than thirty (30) days from the date of the submission of the recommendation by the employee's supervisor. If approved, the award normally will be presented to the employee within thirty (30) days of the date of final approval.

SECTION 7. On an annual basis, the Union shall be provided with statistical data and budget information concerning the Incentive Awards Program that the Employer normally maintains.

SECTION 8. The Employer agrees to publicize the recipients of incentive awards by posting on bulletin boards and/or through notices to employees. The notification shall be no less than annually and shall include the names of the award recipients and a description of each award.

SECTION 9. The Employer agrees that Time Off Awards (TOA) are a viable addition to the other cash and non-cash incentive awards. In this regard, supervisors are encouraged to make appropriate use of TOA as a means for recognizing their employees.

ARTICLE 40

PROTECTIONS AGAINST PROHIBITED PERSONNEL PRACTICES

SECTION 1. The Employer agrees that personnel management will be implemented consistent with the following merit system principles:

a. Recruitment will be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement will be determined solely on the basis of relative ability, knowledge, and skills after fair and open competition which assures that all receive equal opportunity.

b. All employees and applicants for employment will receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

c. Equal pay will be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition will be provided for excellence in performance.

d. The Federal work force will be used efficiently and effectively.

e. Employees will be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

f. Employees will be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

g. Employees will be:

(1) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(2) prohibited from using their official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for election.

h. Employees will be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences:

(1) a violation of any law, rule, or regulation, or

(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

SECTION 2.

a. For the purpose of this Article, prohibited personnel practice means any action described in Section 3, below.

b. For the purpose of this Article, "personnel action" means:

(1) an appointment;

(2) a promotion;

(3) an action under Chapter 75 of the Civil Service Reform Act of 1978;

(4) a detail, transfer, or reassignment;

(5) a reinstatement;

(6) a restoration;

(7) a reemployment;

(8) a performance evaluation under Chapter 43 of the Civil Service Reform Act of 1978;

(9) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation or other action described in this Section; or

(10) any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level.

SECTION 3. The Employer shall not:

a. discriminate for or against any employee or applicant for employment:

(1) on the basis of race, color, religion, sex, or national origin as prohibited under Section 717 of the Civil Rights Act of 1964;

(2) on the basis of age, as prohibited under Sections 12 and 15 of the Age Discrimination in Employment Act of 1967;

(3) on the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938;

(4) on the basis of handicapping condition, as prohibited under Section 501 of the Rehabilitation Act of 1973; or

(5) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation.

b. solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of:

(1) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

(2) an evaluation of the character, loyalty, or suitability of such individual.

c. coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity.

d. deceive or willfully obstruct any person with respect to such person's right to compete for employment.

e. influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospect of any other person for employment.

f. grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

g. appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in Title 5 of the United States Code) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in Title 5 of the United States Code) or over which such employee exercises jurisdiction or control as such an official.

h. take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for:

(1) a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences:

(a) a violation of any law, rule or regulation, or

(b) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(2) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences:

(a) a violation of any law, rule, or regulation; or

(b) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety.

i. take or fail to take, or threaten to take any personnel action against any employee or applicant for employment because of:

(1) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

(2) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to earlier in this article;

(3) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

(4) for refusing to obey an order that would require the individual to violate the law.

j. discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this subsection shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States.

k. take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the

merit system principles contained in the Civil Service Reform Act of 1978.

SECTION 4.

a. An employee aggrieved under subsection 3 a., above, may raise the matter under a statutory procedure or under the employee grievance procedure outlined in Article 19 of this Agreement, but not both.

b. Employees shall be deemed to have exercised their option under this Section at such time as they timely initiate an action under the applicable statutory procedure or timely file a written grievance under the provisions of Article 19 of this Agreement, whichever occurs first.

SECTION 5. In reviewing grievances on the provisions of this Article, arbitrators will apply the same standards of evidence and burden of proof as those applied by the Merit Systems Protection Board.

ARTICLE 41

HEALTH BENEFITS IN A NON-PAY STATUS

SECTION 1. Employees in a non-pay status for a period of up to three hundred sixty five (365) calendar days will, at their option remain enrolled in the Federal Employee Health Benefits (FEHB) Program with the Government continuing to pay its share, provided the employee pays his/her share of the premium costs. The requirement that the employee pay his/her share of premiums while in a non-pay status will be announced once a year to all employees. Employees may seek the advice of their Union representative.

SECTION 2. Prior to entering a non-pay status, the employee shall have the right to request and receive counseling from the Personnel Office. The counseling shall include:

a. an explanation of the regulations;

b. an outline of the payment options available to the employee;

c. estimation of the amount owed; and

d. an opportunity for the employee to continue or cancel health benefits coverage.

SECTION 3. Employees who enter a non-pay status without having had a counseling session (i.e., following a period of annual or sick leave) shall be notified by mail immediately following the pay period in which there is insufficient salary to cover FEHB premiums.

SECTION 4. The notice to employees regarding FEHB entitlements while in an LWOP status shall contain:

a. the individual employee's name and the date of the notice;

b. an explanation of the purpose of the notice, including actions required by the Office of Personnel Management;

c. a clear statement of the employee's responsibility to choose to continue or cancel FEHB coverage;

d. if coverage is to be continued, a statement that the premiums may be paid while the employee is in a leave-without-pay status or through payroll withholdings after the employee returns to a pay status;

e. if coverage is to be continued, a clear statement that, upon return to a pay

status, the employee shall contact the Payroll Liaison to establish a biweekly withholding amount. If no contact is made, the employee will be billed for the full amount;

f. a statement that the employee may request and receive more information before making an election to continue or cancel benefits; and

g. a designated space for the employee to make an election to continue or cancel FEHB benefits and a space for the employee's signature and date of decision.

SECTION 5. Cancellations are effective the end of the pay period following the pay period in which the notice of cancellation is received by the Employer.

ARTICLE 42

TRAVEL

SECTION 1.

a. The Employer agrees, if practicable, to schedule and arrange for an employee's travel to occur within the employee's regularly scheduled work hours. However, if circumstances require an employee's presence on Monday, too early to permit travel that day, the employee should perform the travel on the preceding day (Sunday), leaving home or post-of-duty at a reasonable time. If the employee prefers, travel shall be permitted during duty hours on the preceding Friday. In this event, travel reimbursement will start with the departure time, or as if the departure was made on Sunday, whichever is more advantageous to the Government, total costs included. Upon request, employees who are required to travel during non-duty hours will receive the written reasons why such travel was required at those hours.

b. The Employer shall give as much notice as practicable to employees selected for assignments involving travel which requires advance planning,

c. If a temporary duty assignment requires a traveler to be away for thirty-five (35) or more calendar days, the Employer shall, in accordance with applicable decisions, laws, or regulations, and upon request of the employee, authorize the traveler to return to the official duty station during non-duty hours after the traveler has been away twenty-one (21) calendar days.

SECTION 2.

a. Time spent in travel status away from the employee's official duty station is considered as hours of employment for overtime purposes when:

(1) the travel is performed within the days and hours of an employee's administrative workweek (the employee's regular tour of duty, including regular overtime work);

(2) the travel involves the performance of work while traveling or is carried out under such arduous conditions that travel is inseparable from work; or

(3) the travel results from an event that could not be scheduled or controlled administratively.

b. For employees covered under FLSA, the only travel time that can be counted as hours worked for overtime purposes is travel between the starting time and the ending time on a non-workday, usually Saturday or Sunday, that occur within the hours that would be normal working hours if it were a regular workday. For travel time outside

regular duty hours to be considered "hours of work" for overtime purposes, the purpose or condition of the travel must meet one of the criteria in a. above.

SECTION 3. When the nature and location of the work at a temporary duty station are such that suitable meals cannot be obtained there, the expense of daily travel required to obtain meals at the nearest available place shall be approved as necessary transportation, not part of per diem or actual expense reimbursement.

SECTION 4. Official travel will be by the method of transportation most advantageous to the Government, cost and other factors considered. Methods include: common carrier, public transportation, Government- furnished vehicles, privately owned vehicles, and rental of commercial vehicles. An employee is entitled to use a privately owned vehicle in lieu of a Government-furnished vehicle subject to mileage reimbursement criteria prescribed in Joint Travel Regulations. No employee will be required to use their privately owned vehicle in the course of business unless such use was made a condition of employment.

SECTION 5.

a. Employees who are ordered by the Employer to perform official travel shall be reimbursed for all authorized expenses at the maximum standard rate allowed by law, rule or Government-wide regulation.

b. When the use of a privately owned conveyance is advantageous to the Government, the employee will be reimbursed at the maximum standard rate allowed by law, rule or Government-wide regulation.

c. Reimbursement will be authorized in accordance with applicable laws, rules and Government-wide regulations for the use of public transportation, including taxi cabs, to and from an employee's home and office/motor pool when official travel requires use of non-Government transportation and the traveler will remain away from the duty station overnight.

SECTION 6.

a. An employee shall receive an advance for each travel order issued, prior to departure, provided any outstanding travel vouchers have been filed by the employee, and arrangements for settlement of an outstanding over-advance have been made. The requirement for an employee to make arrangements for settlement of an outstanding over-advance shall only be appropriate when the Finance and Accounting Office has computed the amount owed by the employee and the employee has been furnished a bill for collection of the over-advance. All travel advances shall be in the form of ATM cash withdrawal authority and by exception.

b. All permanent employees will be offered the Government credit card for use while traveling on official business (TDY). The card will be the sole source for advance of funds. If an employee refuses the card, he/she will not be provided any advance by the Finance and Accounting Office.

c. Travel advances, in the form of a Treasury Check, are the exception in sub paragraph a., and may be requested by an employee if that individual's poor credit history suggests that possessing a Government credit card is not in the best interests of the employee, the Employer, or both. The Commander will normally approve such a request, unless compelling reasons exist to disapprove it. The burden for demonstrating "poor credit history" rests with the employee.

d. Use of the Government credit card shall be governed by the rules and procedures provided by the vendor, and/or contained in Volume II, DoD Joint Travel Regulations, and by any agreement negotiated as to their implementation. Changes in those rules and procedures shall be subject to provisions of Article 5, Section 2.

SECTION 7.

a. Employees will be given a reasonable period of official time to locate suitable lodgings at the TDY point. This use of official time presupposes that the employee was unable to locate suitable lodgings before leaving his/her official duty station or last TDY point. Use of such official time would be appropriate in cases where making these arrangements ahead of time would cause an out-of-pocket expense for the employee, e.g., a long-distance toll call. Prior arrangements shall be made with the employee's immediate supervisor, before using official time to locate temporary duty lodgings.

b. In the event that an employee's itinerary is changed while he/she is in the field; e.g., the employee will be sent TDY to an unanticipated location, and it is not known whether suitable accommodations are available in that location, it is the responsibility of the employee's supervisor to provide the name(s) and phone number(s) of hotels or motels in the area, as well as information concerning acceptance of Government credit cards and cost.

c. In the event lodging establishments at the TDY location are unavailable, an employee may obtain lodging accommodations in an adjacent locality. In such instances, if the prescribed maximum per diem rate at the adjacent locality is higher than the maximum per diem rate for the TDY location, the employee will be paid the higher maximum rate. Further, employees will be reimbursed for the additional mileage for use of privately owned conveyance, if applicable, in seeking such alternative accommodations.

SECTION 8.

a. Vouchers may be filed every thirty (30) days, beginning with the first day of

travel. Vouchers submitted by long-term travelers (who travel in excess of fifteen (15) days per month) shall have priority over all other travel vouchers.

b. The Employer agrees to make a good faith effort to process properly completed travel vouchers within ten (10) work days, from the date of receipt in the F&A Office. In the event that an individual employee's travel voucher is not processed within that time limit, and the employee remains in a travel status, the employee may request an additional advance of funds of up to twenty (20) days. This additional advance will be furnished to the employee within five (5) calendar days of the request.

SECTION 9.

a. In order to provide adequate time for credit card applications to be submitted by eligible employees, and processed by the Logistics Office and credit card vendor, the Employer agrees to not reduce travel advances until thirty (30) calendar days after the employee is notified by the Employer that he/she is eligible for a Government credit card. If an employee has not received his/her credit card within that thirty (30)-day period, the employee shall continue to receive "80%" travel advances until the credit card is received.

b. In the event an employee's credit standing is damaged due to the Employer's inability to make prompt payment of travel vouchers, the Employer agrees to provide a statement of facts in the form of a confirmation or denial of the employee's allegation that the Employer was at fault. That confirmation/denial will be forwarded either to the employee or to the organization holding the record of the employee's credit standing.

c. Any employee whose card has been revoked through the fault of the employee, is considered eligible for a Government credit card. Any employee whose card has been revoked through no fault of the employee is considered ineligible for a Government credit card. The burden of proving "Employer fault" rests with the employee.

SECTION 10. Consistent with Volume 2 of the Joint Travel Regulations (JTR), employees will not be directed to perform official travel at their own expense or at rates of allowances and amounts of reimbursement inconsistent with the JTR. The miscellaneous and incidental expense (M&IE) amount of CONUS per diem shall be as prescribed by Volume 2, JTR.

SECTION 11. The Employer agrees to bargain on the impact and implementation of any and all changes in travel regulations, in accordance with Article 5 of this Agreement.

SECTION 12. Consistent with the JTR, in the event an employee on official travel is unable to arrive at the assigned destination or return to home or office during regular duty

hours due to unsafe traveling conditions, the employee will be authorized to continue in a travel status until arrival at the destination.

SECTION 13. The Employer agrees to provide field personnel advance notice of weekend call-ins not later than close of business of the previous workday.

SECTION 14.

a. If an employee is in travel or TDY status and has the use government telephones, they may use them to take care of personal business in accordance with 41 CFR Part 201-38. The following are examples of calls that are authorized: emergency calls, such as calls to notify a family doctor, etc., when an employee or an immediate family member is injured or seriously ill; calls to advise the family of a change in a schedule; or calls to make alternate transportation arrangements. If government telephones are not available, then these calls shall be considered an authorized reimbursable expense. Each employee is authorized to call home once a day while on TDY to check on the status of their home. These calls are authorized as being in the Government's interest. Calls to the office for official business should first be made using the toll free (800) number, then by use of the FTS dialing card, and finally by use of commercial service. Additional guidance for telephone calls while in a temporary duty location is reflected in the DoD Joint Travel Regulations.

b. Personal calls that are made under the circumstances described in subsection a. will be reimbursed only with a written record of the telephone call attached to the travel voucher. If possible, such calls will be made during lunch, break, or other off-duty periods. Reimbursement is subject to the following conditions:

(1) Calls will be reimbursed for an average cost of $5.00 per day, plus any telephone use surcharges levied by the lodging vendor. The claimant will enter on the travel voucher a statement designating the points between which service was rendered, the cost, and the date of each call. If this information is not provided, the Finance and Accounting Office shall disallow that portion of the claim. The employee may resubmit the claim later, and be reimbursed, provided the correct information is included with the resubmitted claim.

(2) All calls must be to the employee's permanent duty station or within the local calling area of the employee's residence. Calls from a traveler's residence to their TDY point are also reimbursable, subject to the requirements stated earlier. Calls to an area outside the permanent duty station may also be approved on a case-by-case basis, provided the circumstances are consistent with 41 CFR Part 201-38.

(3) Payment for calls will only be authorized when the travel period is more than one night (overnight). The total number of calls may not exceed an average of one call for each 24-hour period, i.e., reimbursement will be made for more than one call in the same day if the average of the number of calls for the travel period does not exceed

one call per day.

(4) Calls made by employees for the purpose of securing TDY-related hotel accommodations are reimbursable, but not to be considered in any of the limiting circumstances set forth in this subsection.

ARTICLE 43

OVERTIME

SECTION 1. This Article refers to the following types of overtime work:

a. Regular and recurring overtime work scheduled in advance, and

b. Irregular or occasional overtime which is intermittent and usually ordered on short notice.

SECTION 2. The Employer agrees that the assignment of overtime shall be based on factors which are pertinent to the work to be done, deadlines involved, funds available, and which are reasonable, fair, equitable, and do not favor or discriminate against any employee.

SECTION 3. Consistent with governing law, and Government-wide regulations nonexempt employees under the Fair Labor Standards Act and exempt employees whose salary is equal to or less than the maximum rate of Grade GS-10, shall receive overtime pay for irregular or occasional overtime work. Exempt employees whose salary is in excess of the maximum rate of GS-10 shall be given the option to receive overtime pay or compensatory time for irregular or occasional overtime. The option for compensatory time in lieu of payment for any overtime is not available to wage grade employees. All regular overtime for both exempt and nonexempt employees must be paid.

SECTION 4. Compensatory time credits shall normally be used by the end of thirteen (13) pay periods after it is earned. The Employer and the employee are responsible for assuring that earned compensatory time credits are used within the above time frame. If compensatory time credits are not used within the above time periods, and employee shall receive paid overtime for the amount of compensatory time credits he/she has accumulated by the end of the applicable time period.

SECTION 5.

a. The Employer agrees that in the scheduling of overtime in advance, such work will be scheduled in quarter-hour increments. Such increments will be aggregated into hours or portions thereof at the end of each pay period for compensation.

b. Quarter hour increments must be fully worked to be credited as time worked except when the job is completed within a quarter hour increment. In this event, any portion of a quarter hour worked will be rounded off to the next higher increment.

SECTION 6. Each employee who works overtime shall be entitled to a rest break of fifteen (15) minutes for each four (4) hours of overtime. A rest break may be taken after the first two (2) hours of the overtime period, but cannot be taken at the end of the

overtime period in order to extend the period of compensation.

SECTION 7. Overtime shall normally be assigned to employees who perform work of the same nature during the time falling within their basic workweek. Assignments of overtime shall be made on a fair and equitable basis and will, as determined by the Employer, be distributed in line with the necessary qualifications and job knowledge. The Employer shall, to the extent practicable, see that all bargaining unit employees have an opportunity to participate in overtime work.

SECTION 8.

a. The Employer will consider volunteers for overtime work from among qualified employees having the requisite skills and personal qualifications for the work to be performed.

b. The Employer will excuse an employee from an overtime assignment provided that a comparably qualified employee is available for the assignment.

SECTION 9. The Employer shall, to the extent practicable, provide employees with two (2) days advance notice of overtime assignments.

SECTION 10. The election by an employee to request either compensatory time or overtime
pay shall not be a factor in the assignment of overtime work.

SECTION 11. Employees called back to work outside of and unconnected with their regular hours of work shall be paid for at least two (2) hours of work.

ARTICLE 44

UNION RIGHTS

SECTION 1. In all matters relating to personnel policies, practices, and other conditions of employment, the parties will have due regard for the obligations imposed by 5 USC 71, this Agreement, and supplements thereto.

SECTION 2. The Union is the exclusive representative of the employees in the Unit and is entitled to act and contract for all employees in the Unit.

SECTION 3. The Civil Service Reform Act of 1978 provides that the Union shall be informed of and be entitled to be present at all formal discussions between one or more representatives of the Employer and one or more bargaining unit employees or their representatives concerning any grievance, personnel policies and practices, and other general conditions of employment.

SECTION 4. The Union shall have the right to be present during an employee grievance proceeding under the negotiated grievance procedure as provided for in Article 19 of this Agreement.

SECTION 5. The Union may select whatever agent it deems appropriate to exercise the Union's authority as exclusive representative. The Employer shall recognize such agents and conduct appropriate labor relations business with them, upon receipt of written designations signed by an Officer of the Union.

SECTION 6.

a. The Employer will furnish to the Union, or its authorized representatives, upon request, and to the extent not prohibited by law, data which:

(1) is normally maintained by the Employer in the regular course of business;

(2) is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(3) does not constitute guidance, advice, counsel, or training provided for Management officials or supervisors relating to collective bargaining.

b. Information furnished under a. above will be provided without unnecessary delay.

SECTION 7. If the Employer establishes a committee, task force, or work group which includes bargaining unit employees and which is established to address personnel practices, policies, and procedures which affect working conditions, the Employer agrees to give the Union advance notice and allow the Union to designate its representative.

SECTION 8. The Union may refuse to represent employees in statutory appeals (for example, Adverse Actions, Unacceptable Performance Actions, EEO Complaints).

SECTION 9. The Union will be informed of all new employee orientation sessions, and will be afforded the opportunity to participate in these sessions. Participation will include the right to orient the new employee(s) either through written handouts, oral means, or media afforded other participants. Time will be limited, consistent with the time afforded other participants. The Union agrees not to conduct internal Union business while participating in the orientation.

Section 10.

a. Pursuant to Section 2(d) of Executive Order 12871, the Employer agrees to negotiate on the numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, and on the technology, methods, and means of performing work.

b. In the event Section 2(d) of the Executive order 12871 is no longer binding on the Employer, the parties agree to strike from the Agreement Subsection a. in section 10 of this Article. Subsequent inclusion in the Agreement of some or all of Subsection a., with regard to the negotiability of the subjects listed, shall be determined through good faith bargaining upon the request of the Union.

ARTICLE 45

CONTRACTING OUT

SECTION 1. The Employer agrees to consult openly and fully with the Union regarding any review of a function for contracting out within the bargaining unit. The duty to consult does not extend to sessions where Management officials are engaged in deliberations as part of the contracting out decision-making process, but shall include discussions of items of mutual interest with the Union. The Employer further agrees to comply with all provisions of OMB Circular A-76, this Agreement, and other applicable laws and regulations concerning contracting out.

SECTION 2. Pursuant to OMB Circular A-76, functions will not be contracted out solely to meet personnel ceilings or to avoid salary limitations. If unit work is contracted out, no bargaining unit employee will be under the supervision of a contractor employee.

SECTION 3. If unit work is contracted out and unit employees are displaced, the Employer will make every reasonable and credible effort to minimize the impact on employees. Efforts utilized to minimize impact on employees shall include, but will not be limited to, reassigning affected employees to the extent possible. Maximum retention of career employees shall be achieved by considering attrition patterns and restricting new hires.

SECTION 4. The Employer will retrain affected career employees if necessary when they are reassigned as a result of contracting out.

SECTION 5. Periodic briefings will be held between the employer and the Union to provide the Union with appropriate information pursuant to OMB Circular A-76, on decisions affecting unit employees.

SECTION 6. The Employer will provide the Union copies of pertinent information concerning all cost studies, specifically to include: the invitation for bid (IFB) or request for proposal (RFP); abstract of bids; correspondence from higher authority directing the cost study; correspondence from Department of Labor regarding certification of a wage rate; the performance work statement; the "milestone" chart or similar document setting forth the estimated dates for the contracting out process; all changes to the performance work statement; all bidder questions in writing and the Employer's written answers related to the performance work statement.

SECTION 7.

a. For purposes of presenting views and recommendations to the Commander, the Employer will include one Union representative on any A-76 cost study oversight or advisory/steering group that may be formed. Membership on this group does not extend to matters that are related to the Employer's retained rights. When such matters are discussed the Union member may be excluded from the meeting.

b. The Employer will include a Union representative in the "walk through" by bidders of the functions undergoing a cost study.

SECTION 8. Briefings will be held with affected unit employees for the purpose of providing information concerning contracting out. The Union will be given an opportunity to attend such briefings.

SECTION 9. The Employer recognizes the "right of first refusal" required by OMB Circular A-76, which provides that the contractor will grant those Federal employees displaced by direct result of such contract the right of first refusal of employment openings created by the contractor. This applies only to job openings for which such displaced employees are qualified, and does not apply when such employees would otherwise be prohibited from such employment by the Government post-employment conflict of interest standards. Refusing the right of first refusal because of displacement due to contracting out shall not deny a unit employee of any right he or she might otherwise have under applicable RIF procedures.

SECTION 10. Subsequent to bid opening and before a contract is awarded, the Union shall be provided, upon request, all data concerning the"in-house" estimate of the cost of the work to be performed. The Union will be given ten (10) to fifteen (15) workdays to review the "in-house" estimate and other pertinent data. Once a decision has been announced by the Employer, the Union shall be given fifteen (15) to thirty (30) workdays to file an appeal. The maximum length of time, within the time frame above, shall be provided if the cost study is particularly complex.

SECTION 11. The parties understand and agree that the Union and/or employees have the right to grieve a contracting out decision. In this regard, the grievance procedures shall be as outlined in Article 19 of the Agreement. The timeframe for filing a grievance shall begin on the date the final decision is made to contract out.

ARTICLE 46

PRINTING AND PUBLISHING THE AGREEMENT

SECTION 1. The cost of printing this Agreement and any supplements thereto shall be borne by the Employer.

SECTION 2. Initially, three-hundred (300) copies will be furnished to the Union. Additional copies will be made in lots of twenty-five (25), as previous supplies are exhausted.

APPENDIX A

DUES WITHHOLDING AGREEMENT

SECTION 1.

a. This is an Agreement between the Commander, Buffalo District CORPS of Engineers, Buffalo, New York, hereinafter referred to as the Employer, and Local 2930, American Federation of Government Employees (AFL-CIO), hereinafter referred to as the Union, for the purpose of permitting employees who are members of the Union to pay dues through the authorization of voluntary allotments from their compensation.

b. This Agreement is based on Exclusive Recognition granted to the Union under Title VII of the Civil Service Reform Act of 1978, and covers all eligible employees in the unit established (1) who are represented under this recognition (2) who are members in good standing in the Union (3) who voluntarily complete Standard Form 1187, Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues, or a reasonable facsimile and (4) who receive compensation sufficient to cover the total amount of the allotment.

c. The parties agree that the provisions of this Agreement are subject to, and will be governed by, applicable laws, rules and regula t ions.

SECTION 2. The Union agrees to assume the responsibility for:

a. informing and educating its members on the voluntary nature of the dues, including the conditions under which the allotment may be revoked;

b. supplying and making available to its members Standard Form 1187;

c. Certifying on SF-1187 the amount of dues to be withheld each bi-weekly pay period;

d. notifying the Employer in writing of:

(1) the names and titles of Union officials authorized to make necessary certification of Standard Form 1187 in accordance with this Agreement;

(2) the name, title, and address of the specific Union officer to whom remittances should be sent, including how the check should be made out, as follows:

A.F.G.E., Local 2930
ATTN: Treasurer
1776 Niagara Street
Buffalo, NY 14207-3199

(3) any change in the amount of membership dues (See Section 4a.); and

(4) the name of any employee who has ceased to be a member in good standing in the Union;

e. forwarding properly executed and certified Standard Form 1187 to the Personnel office; and

f. promptly forwarding an employee's revocation (memorandum or Standard Form 1188, Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Dues) to the Personnel Office when such revocation is submitted to the Union.

SECTION 3.

a. The Employer agrees to be responsible for:

(1) processing voluntary allotment of dues in accordance with this Agreement and Title VII of the Civil Service Reform Act of 1978; and

(2) notifying the Union when an employee is not eligible for initiating or continuing an allotment because he/she is not or is no longer included in the unit to which this Agreement is applicable.

b. It is understood that the servicing Payroll Office is responsible for:

(1) withholding dues on a bi-weekly basis;

(2) withholding new amounts of dues upon certification from the authorizing official of the Union so long as the amount has not been changed during the past four (4) months and the Union has complied with Section 2d. (3) above;

(3) transmitting remittance check to the designated Union official together with a listing of employees for whom deductions were made; and

(4) providing the following information on the remittance listing:

(a) the name of each employee for whom a deduction is being made during the current pay period, plus the name of each employee for whom authorization was applicable in the previous pay period but for whom deduction is not being made in the current pay period; and

(b) for each employee, the following information will be given if applicable:

(1) amount withheld;

(2) a statement that there was no deduction because an employee's compensation is insufficient to permit a deduction and

(3) the gross amount deducted.

SECTION 4. Both parties agree that:

a. the amount of the dues to be deducted as allotments from compensation may not be changed more frequently than once each four (4) months; and

b. administrative errors in remittance checks will be corrected and adjusted. The Union agrees to promptly refund the amount of any erroneous remittance.

SECTION 5. The effective dates for actions under this Agreement are as follows:

Action	Effective Date
a. Starting dues withholding	The beginning of the first pay period after the date of receipt of the properly executed and certified Standard Form 1187 in the Payroll Office.
b. Change in amounts of dues	Beginning of first pay period after receipt of the certification in the Payroll Office.
c. Revocation by employee	Beginning the first full pay period following one year from the date the first deduction was made by the Payroll Office, provided the form or request is received in a timely fashion. Thereafter, such revocation will not be effective until the first full pay period following any successive anniversary date, provided the form or request is received no later than such anniversary date and no earlier than thirty (30) days before such anniversary date.

Action	Effective Date
d. Termination due to loss of membership in good standing; or due to separation, reassignment or transfer to area not covered by this Agreement	(a) If action is effective first day of a pay period, termination of allotments will be at end of preceding pay period. (b) If action is effective on any day other than first day of a pay period, termination of allotment will automatically be at the end of the current pay period or when salary stops.

Section 6. An allotment authorization which has not been properly completed or properly certified will not be accepted and will be returned by the Employer, within five (5) workdays after receipt, to the authorizing Union official with notice of the reason that it has not been processed.