



Negotiated Agreement

b e t w e e n t h e

NASA Ames Research Center

Moffett Field, California 94035-1000

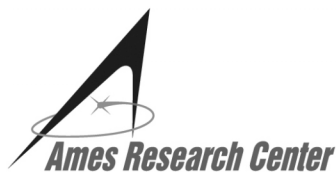
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Ames Federal Employees Union International Federation of Professional and Technical Engineers (AFL-CIO) as IFPTE Local 30

<http://www.arc.nasa.gov>

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Annual Review Update
August 3, 2004 and September 30, 2004
Ratified on May 2005



negotiated agreement

REPRESENTATION RIGHTS AND DUTIES

TITLE 5 U.S. Code Section 7114

“(a)(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at:

“(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

“(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if:

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

“(ii) the employee requests representation.”

ANNUAL REVIEW UPDATE NEGOTIATIONS AMENDMENTS TO ARTICLES:

Articles amended as of August 03, 2004

III	MANAGEMENT RIGHTS
IV	UNION RIGHTS
VIII	OVERTIME
XI	ENVIRONMENT, HEALTH AND SAFETY
XIII	COMPETITIVE PLACEMENT PLAN
XV	PERFORMANCE PLANNING AND APPRAISAL
XXV	CAREER PROMOTIONS

Article amended as of September 30, 2004

XXIV	PROFESSIONAL RECOGNITION
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These amendments were reviewed by the NASA Administrator's designees as required by Article XXXVI, and ratified by the Union membership as required by the Union's Constitution and Bylaws on May 25, 2005. The amendments are now in effect.

These amendments do not change the original Negotiated Agreement anniversary date of October 26, 1998.

Signatures and Names Redacted

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PREAMBLE

This agreement is entered into between the Ames Research Center, Moffett Field, California, of the National Aeronautics and Space Administration, hereinafter referred to as the Center, and the Ames Federal Employees Union (affiliated with the International Federation of Professional and Technical Engineers as IFPTE Local 30), hereinafter referred to as the Union.

It is the intent and purpose of the parties to this Agreement to promote and improve the efficient administration of the Federal Service and the well being of employees within the meaning of the Civil Service Reform Act of 1978, to establish a basic understanding relative to personnel policy, practices, and procedures and matters affecting conditions of employment that fall within the lawful scope of collective bargaining and deemed necessary by the Director, Ames Research Center, and to provide a means for amicable discussion and adjustment of matters of mutual interest at the Ames Research Center, Moffett Field, California. In order to provide a forum for constructive discussions, both parties agree that all meetings will be conducted in an atmosphere of courtesy and mutual respect.

1. Neither the Union nor the Center shall discriminate in any matter under this contract on the basis of race, color, religion, national origin, marital status, sex, sexual orientation, age, non-disqualifying disability, union affiliation, or political affiliation.
2. No employee shall fear reprisal for exercising a right under this contract.

In consideration of the mutual covenants herein set forth, the parties hereto, intending to be bound hereby, agree as follows:

ARTICLE I

I RECOGNITION AND UNIT DESCRIPTION

Section 1. Recognition—The Center recognizes the Union as the exclusive bargaining agent, under the provisions of Title 5, U.S.C., for all employees of NASA in the bargaining unit located at NASA Ames Research Center (as described in Section 2), including employees located at sites other than Moffett Field. The Union recognizes its responsibility to represent interests of all employees of this bargaining unit according to the articles of this Agreement without discrimination, and without regard to Union membership.¹

Section 2. Collective Bargaining Unit—The unit to which this agreement is applicable consists of permanent and term:

- a. Wage Grade employees (WG, WL & WD), less supervisors (WS).
- b. General Schedule professional and all General Schedule nonprofessional employees of the National Aeronautics and Space Administration, Ames Research Center, Moffett Field, California, excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7)² which states:

“(2) a confidential employee;

“(3) an employee engaged in personnel work in other than a purely clerical capacity;

“(4) an employee engaged in administering the provisions of this chapter;

“(5) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

“(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.”

Section 3. Union Membership—Neither the Center nor the Union will restrain, coerce, or interfere with any employee in the exercise of his or her rights to join or to refrain from joining the Union; nor because of membership or non-membership in the Union, or participation in activities on behalf of the Union (which are set forth in 5 U.S.C. Chapter 71, as amended, NASA regulations or this agreement). No employees shall be required to pay dues to the Union, except through voluntary membership established by written authorization by a member of the bargaining unit for payroll deductions, or by written application for membership.

¹ 5 U.S.C. 7114.

² FLRA “Certification for Inclusion in Existing Unit”, Case No. SF-20-60025, Dated June 4, 1996.

ARTICLE II

II RESTRICTIONS OF LAW AND REGULATIONS

Section 1. Applicable Laws, Rules, and Regulations—It is agreed and understood by the Center and the Union that this agreement is subject to the provisions of 5 U.S.C. and any applicable amendments or other Federal statutes. It is also subject to government-wide rules and regulations published by cognizant Federal authorities such as the Federal Labor Relations Authority, the Department of Labor, the Office of Management and Budget, the Office of Personnel Management.³

Section 2. Bargaining in Good Faith—It is understood by the Center and the Union that subject to the provisions of 5 U.S.C. 7117, both parties to this agreement shall bargain in good faith upon any and all rules and regulations that are not inconsistent with any Federal law or government-wide regulation.

³ 5 U.S.C. 7117 (a)

ARTICLE III

Annual Review Amendment August 3, 2004

III MANAGEMENT RIGHTS

Definition—Where this contract refers to a management official, it shall be understood to mean the management official or a designee, as stated in writing.

Section 1. Management Authority—It is agreed that Center management retains the right, in accordance with applicable laws and regulations, to exercise the functions and authorities of management, and that these functions and authorities are not subject to negotiation under the provisions of 5 U.S.C. 7106, or the terms of this Agreement. This authority includes but is not limited to the following rights:

- a. to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and
- b. in accordance with applicable laws:
 - (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:
 - (i) among properly ranked and certified candidates for promotion; or
 - (ii) any other appropriate source; and
 - (4) to take whatever actions may be necessary to carry out the agency mission during emergencies.

Section 2. Scope—In accordance with 5 U.S.C. 7106 (b), nothing shall preclude the Center and the Union from negotiating:

- a. at the election of the Center, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
- b. procedures which management officials of the Center will observe in exercising any authority under this section; or
- c. appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

Section 3. Consultation—During the formulation and/or implementation of new policies, or changes in existing policies, concerning conditions of employment, management may consult proactively with the Union.

ARTICLE IV
Annual Review Amendment August 3, 2004

IV UNION RIGHTS AND REPRESENTATION

Definition—Where this contract refers to a Union official, it shall be understood to mean the Union official or a designee, as stated in writing.

Section 1. Exclusive Representative—The Union is the exclusive representative of the collective bargaining unit. Both the Union and Center agree to consult and negotiate in good faith on all matters that directly relate to conditions of employment of bargaining unit employees.

a. Representation may occur at any level of Center or Union authority, but resolution of controversy should begin at the lowest level management official and Union official having authority to act. If either party feels a matter is beyond its jurisdiction or capability, either party may refer the matter to a higher authority.

b. Management will recognize the duly elected officers of the Union and representatives designated by the Union, including stewards. The Union will supply the Center up-to-date lists of the Union officers and officials, including the stewards and assigned areas of representation. The Union may post the list of Local officers, officials, and stewards on official bulletin boards.

- (1) Stewards: Stewards shall represent the Union and the bargaining unit at large. The number, representational areas, and assignments of stewards shall be at the sole discretion of the Union.

Any steward or official of the Union may receive, investigate, prepare and present employee complaints, grievances or appeals during official time. An employee may request a steward from another line organization for representation; however, the assignment shall be at the discretion of the Chief Steward, and may be made without regard to a steward's assigned area.

- (2) Union representatives shall have the discretion to determine the means by which representational matters are resolved, and will make reasonable efforts to use economical means of communication and transportation to resolve these matters.

c. Management agrees to recognize representatives of the IFPTE International Office in lieu of or in addition to officials of the Union local.

Section 2. Union Representation—Representation includes the right of the Union:

a. to represent the interests of the bargaining unit to representatives of the Federal, State, County and Municipal governments on legislation, policy or change in policy affecting the employees or their conditions of employment;

b. to negotiate policy and resolutions of problems with the Center and such meetings shall be scheduled during the Center's core business hours of 9:00 a.m. to 3:30 p.m. unless agreed otherwise by the attending Union and Management representatives;

c. to be represented at all formal discussions between management and one or more employees conducted to resolve grievances of members of the bargaining unit. A Union representative shall be permitted to present the views of the Union during the discussions;

d. to represent an employee or group of employees in a grievance or appeal, or when raising matters of concern or dissatisfaction with management; notwithstanding an employee or group of employees may present a grievance without representation by the Union. The Union has the right to representation at all such formal grievance meetings. Adjustments to grievances must be consistent with the terms of this Agreement. The Union may request and have access to the grievance file and any other information as required by law. The Union will be provided copies of all decisions;

e. to represent the employees with Union membership on the Ames Exchange Council and the Equal Employment Opportunity Council with one position and one alternate.

f. to advise all bargaining unit members of their right to Union representation. The Union may utilize the Center's internal telephone and mail systems, including electronic mail, for such notices.

Section 3. Union-Management Meetings—Union-Management meetings may be requested by either party. Requests for meetings must include an agenda (written or oral), and relevant information should be exchanged in advance for preparation by both parties. Meetings will be conducted during official time.

Section 4. Formal Discussions⁴—The Center recognizes that it is the right of the Union to have the opportunity to have a representative present at any formal discussion between one or more representatives of the National Aeronautics and Space Administration and one or more employees in the bargaining unit or their representatives concerning any grievance, personnel policy, practices or other general condition of employment. The Union President, or designee, shall be notified in advance of such a meeting with reasonable time to select a representative to be present. Representation by the Union at meetings called by management shall be at the sole discretion of the Union President or designee.

If a meeting that might not begin as a formal discussion evolves into a formal discussion, further discussion on that issue must be deferred to give an opportunity for a Union representative to attend.

Section 6. Union Requests for Information—The Union may request information from the Center's Labor Relations Officer in accordance with 5 U.S.C. 7114(b)4. The Center shall provide such information to the requester in a reasonable and timely manner.

⁴ 5 U.S.C. 7114(a)(2)(A)—*reprinted on inside front cover of this agreement.*

Section 7. Official Time—Union officers and officials, including stewards, shall be granted reasonable amounts of official time during duty hours to effectively represent employees and to ensure protection of employees' rights. Union representatives may not receive overtime compensation for representational duties. However, overtime is permitted if the employee is already in overtime duty status when the representational duties must be undertaken. Union officials are not expected to use personal time to represent employees. A union official is responsible for notifying the supervisor in a timely fashion of the use of official time. The union official will provide an estimate of the time required. A supervisor may deny the official time in the event that the supervisor can factually demonstrate that the use of such time will adversely impact the mission and no alternate arrangements can be made. In such a case, the supervisor will inform the union official as to when they may take the official time. If the supervisor of a Union representative believes that any aspect of a representative's performance of Union work interferes unduly with official Center duties, the matter will be discussed directly by the supervisor and the representative. If the dispute cannot be resolved, the matter shall be referred to the Chief Steward or Union President and the Labor Relations Officer.

a. Negotiations shall be conducted on official duty time. This shall include preparation and presentation to management, the Federal Mediation and Conciliation Service, the Federal Impasses Panel, and the Federal Labor Relations Authority.

b. Reasonable time will be granted for receiving, investigating, preparing, presenting, and concluding grievances and statutory appeals; e.g. EEO, MSPB, GAO, and FLRA in accordance with 5 U.S.C. 7131(c). The amount of reasonable time will depend on the complexity of each case; e.g., the nature of allegations and supporting evidence; availability of documents and witnesses; and similar considerations.

c. Reasonable time for reviewing the Center's proposals concerning changes in personnel policies, practices, and matters concerning working conditions shall be accorded to Union officials.

d. Union officers, stewards, and representatives shall be allowed reasonable amounts of official time for matters of mutual concern and benefit to the Center. Such matters may include performing representational duties, attending Union conferences and training on employee-management relations, lobbying to represent the interests of the bargaining unit to government representatives on labor issues, and meeting with other Union officials regarding representational functions. Requests for use of this time will be submitted to the Labor Relations Officer. The Union will be allowed to use the Center's available facilities and equipment for such functions.

e. Job order numbers dedicated to accountability of Union activities shall be assigned by the Center for use by Union officials for performance of duties during official time and shall be accurately reported in the time and attendance reports.

f. Use of official time will not be limited to the confines of Ames Research Center, but will allow representatives to travel in accordance with the needs of individual cases (e.g. other Ames locations, meetings and hearings conducted by FLRA, MSPB, EEO, GAO, arbitrators, etc.).

Section 8. Travel and Per Diem Expenses—The Center shall reimburse the Union for travel and per diem expenses for representational duties subject to budgetary limitations.

Section 9. Membership Drives—The Union may conduct membership drives. The solicitation of membership shall be performed during the time the Union representative is in non-duty status including break times and lunch time. The Union may use available space and equipment in such drives. The Union may use internal communications and mail distribution.

Section 10. Restraint—There shall be no restraint, coercion, or discrimination against any Union official because of the performance of duties in consonance with this Agreement or 5 U.S.C. Chapter 71; or against any employee for filing a complaint or acting as a witness under this Agreement, the law or applicable regulations.

Section 11. Employee Orientation—All employees will be notified of their bargaining unit status and that the Union is the exclusive representative of the bargaining unit. The Chief of the Human Resources Division shall notify the Union of the orientation schedule. The Union may send a representative who may provide information and answer questions on the Union's representational duty.

Section 12. Distribution of the Agreement—The Center shall distribute a copy of this Agreement, and amendments thereto, to each employee of the bargaining unit, to management, and to all new employees in the bargaining unit; plus an additional two hundred and fifty (250) copies of the Agreement to the Union for its own use.

Section 13. Union Office Facilities—The Center agrees to provide to the Union sufficient space in a central location at Ames Research Center to be used for a Union office, Union meetings, and other appropriate activities. Furniture, equipment, and services necessary for conducting official business and meetings shall be provided by the Center for use by the Union.

Section 14. Bulletin Boards—With appropriate discretion, the Union may post union information, newsletters, and notices on the bulletin boards. The Center will provide bulletin boards, when requested by the Union, as necessary and within budgetary constraints.

Section 15. Lists of Employees and Members—The Center agrees to furnish to the Union:

- a. at least quarterly, an up-to-date electronic listing of all employees in the bargaining unit (in a mutually acceptable electronic spreadsheet format), showing first name, middle initial or name, last name, position title, office phone number, mail stop, organization code, NASA code, and official station. The Union will receive notification in a timely manner when an event occurs that affects a minimum of five percent of the bargaining unit.
- b. for each pay period, a list of Union members in a mutually acceptable electronic spreadsheet format who have authorized automatic withholding of dues on a Standard Form 1187 "Authorization to Withhold Union Dues".

Section 16. Union Officer's Work Hours—The President or designee of the Union will not be required to work any shift other than a day shift. Participation in discussions with Center

management or active participation in resolving grievances or problems takes precedence over normal work. The Union President, Vice President for Legislative Affairs, Vice President for Negotiations, Vice President for Safety and the Chief Steward or designees shall be allowed an average of at least four hours of official time per day to conduct Union business and to perform the representational duties associated with their positions. The procedural requirements for use of official time shall be the same as set forth in Section 7.

ARTICLE V

V EMPLOYEE RIGHTS

The Center and the Union agree to mutually establish and maintain an environment that protects health and human dignity, assures fair and equal treatment of employees, and promotes good workmanship and high standards of employee performance. Each employee shall enjoy the right:

- a. to be informed of all matters affecting conditions of employment
- b. to be informed of the laws, rules, regulations and policies under which they are obligated to work;
- c. to a harmonious environment free from unlawful discrimination, harassment, animosity, and fear of harm; and
- d. to a healthful and safe work environment.

Employees may exercise the rights and provisions of this Agreement without intimidation, threat or coercion. For purposes of this Agreement, the term “intimidation, threat, or coercion” includes, but is not limited to promising to confer or conferring any benefit (such as appointment, promotion, compensation, settlement, or redress), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

Section 1. Employee Protections

- a. The Center shall respect each employee’s constitutional rights.
- b. Unannounced searches by the Center of an employee’s computer, file cabinet, desk, or other repository of government-owned equipment, materials, or records, pursuant to an investigation of work-related misconduct, will be conducted in accordance with Chief Counsel guidance and established internal security practices. The Center will make every reasonable effort, if consistent with its internal security practices, to have the employee and/or a Union representative present when conducting such searches. This provision does not preclude management’s right to retrieve materials necessary for the timely conduct of the work.
- c. Any change in NASA policy concerning the use of polygraphs will be negotiated with the Union.

Section 2. Nondiscrimination—The Center and the Union agree that no employee shall be subjected to discrimination or harassment because of race, color, religion, gender, sexual orientation, national origin, age, marital status, non-disqualifying disability, Union affiliation, or lawful political affiliation.

Section 3. Respect—Every employee has the right to be treated with courtesy and consideration.

Section 4. Accountability—As a general rule, the Center affirms the right of employees to conduct their private lives as they see fit, and to pursue their individual lifestyles. However, the Center and the Union agree that when employees are off the job they should act in accordance with applicable laws and regulations. Except as required by law or government-wide regulations, employees shall have the right to engage in outside activities and employment of their choosing.⁵

Section 5. Union Membership—Employees in the bargaining unit shall be protected in the exercise of their right, freely and without fear of penalty or reprisal, to join and assist the Union, or to refrain from such activity. Inclusion in the bargaining unit is solely a function of an employee's assigned duties. No duties described under 5 U.S.C. 7112(b) shall be assigned solely to gain exclusion of an employee from the bargaining unit.

Section 6. Employee Communication—Employees may use telephones, personal computers, facsimile machines, and internal mail for communication of comments and information regarding conditions of employment.

Section 7. Rights to Representation—

a. Investigative Meetings (Weingarten Right): An employee has the right to be represented by the Union at any examination of the employee by a representative of the agency in connection with an investigation:

(1) if the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(2) the employee requests representation.⁶

b. Employees will be notified annually by the Center of the right to have Union representation during investigative meetings.⁷ In addition, the Center Management will include this notification in an employee orientation package for new employees

c. Employees may exercise their grievance or appellate rights according to the procedures of this Agreement. The exclusive representation rights of the Union shall not preclude an employee from:

(1) being represented by an attorney or representative other than the Union, of the employee's own choosing, in any grievance or appeal action; or

(2) exercising grievance or appellate rights established by law, rule, or regulation,

except in the case of grievance or appeal procedures negotiated under 5 U.S.C. Chapter 71.⁸

⁵ These restrictions appear in the NASA Supplemental Standards of Conduct, 14 CFR §1207, 5 CFR §6901

⁶ 5 U.S.C. 7114 (a)(2)(B).

⁷ 5 U.S.C. 7114 (a)(3).

⁸ 5 U.S.C. 7114 (a)(5).

Section 8. Employee Concerns—This Agreement does not prevent any employee, regardless of Union membership, from bringing matters of personal concern to the attention of their supervisor or appropriate Center officials.

Section 9. Career Opportunities—An employee may seek career opportunities or reassignment at any time.

Section 10. Charitable Donations—Employees may choose, solely at their discretion, whether or not to invest their money, donate to charity, or participate in unofficial activities.

Section 11. Posting of Notices—In organizations where employees do not have individual computers, management shall ensure that electronic announcements are printed and either distributed or posted in a prominent area in order to notify employees of issues, opportunities, or announcements.

Section 12. Equipment and Services—The Center shall provide equipment and services essential for employees to perform the duties of their position. Employees should notify and work with their supervisor if required equipment is not readily available. The Center shall make computer hardware and software manuals readily available for the use of employees.

The Center agrees to provide to each employee:

- a. access to a telephone with outside line for official calls and authorized personal calls (the Center's policy for telephone calls is included in the Ames Telephone Directory);
- b. a name listing in Ames telephone directory and on-line e-mail directory;
- c. voicemail, where practicable;
- d. the ability to request modifications (or removal) of address from on-line directories;
- e. access to a desktop computer or terminal with printer;
- f. access to e-mail and the internet;
- g. training on the operation of the hardware and software necessary to do the work;
- h. reasonable time to access phone and e-mail.

Section 13. Internet Policy—The impact and implementation of any change in the Center's policy on use of the internet will be negotiated in advance with the Union.

Section 14. Contracting Officer's Technical Representative (COTR) Responsibility—A COTR shall only perform those functions that are described in their delegation of authority that is signed by the cognizant Contracting Officer. In the event the COTR believes that a contractor is performing in a manner that is inappropriate or incongruent with the term and conditions of the contract, to limit the COTR's liability, he/she should inform the cognizant Contracting Officer immediately. In addition, he/she should document these instances in

writing. The COTR should request assistance from the supervisor of record in handling the situation.

Section 15. Prohibited Personnel Practices—The Center's personnel practices are subject to the limitations under 5 U.S.C. 2302 (see inside back cover).

Section 16. Private Space for Counseling—Supervisors shall seek and use available private space for individual counseling.

Section 17. New Programs—The implementation of new programs (e.g., Full Cost Accounting, ISO 9000, IFMP, ODIN) at the Center shall not abridge the rights of employees under this Agreement or under the law.

Section 18. Personnel Regulation Information—The Human Resources Division shall make available to employees and to the Union all current procedural information applicable to any personnel action affecting an employee such as reduction-in-force; classification change; classification appeal; adverse action; performance rating or grievance. Such information shall include OPM position classification standards and qualification standards, Ames Management Issuances, or other documents as appropriate to the action. An employee affected by any of the above actions must be made aware of any time limitations involved.

ARTICLE VI

VI NEGOTIATION

Section 1. Responsibility to Bargain in Good Faith—Both parties to this Agreement have the obligation to bargain in good faith⁹ and in such manner as will further the public interest. The parties agree that bargaining in good faith involves more than an exchange of paper, and shall negotiate with sincere resolve to reach agreement. The Center and the Union shall be represented at negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment, which means full authority to commit the Center and the Union to an agreement.

Section 2. Negotiable Issues—It is agreed that the Center and Union will negotiate in good faith on policies, practices, and working conditions, including rules and regulations that are not in conflict with any Federal law or government-wide regulation.¹⁰ Such matters include, but are not limited to: safety, employee development, labor-management cooperation, employee services, methods of resolving complaints, appeal procedures, leave administration, promotion plans, demotion practices, implementation of NASA pay practices, directed reassignments, reduction-in-force practices, and hours of work, as they directly affect the employees of the units.

Section 3. Types of Negotiation—

a. Contract Negotiations—The Center and Union shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement.

- (1) Collective Bargaining Agreement—The terms for revision and life of this agreement are contained in the final article.
- (2) Annual Review—This agreement will be subject to review on an annual basis to discuss matters mandated by a change in law or regulation, agency policy, and policies or practices arising from mid-term, impact and implementation or representational duty negotiations. Under Annual Review Negotiation, each party may propose to reopen up to three articles of the existing contract.
- (3) Additions or changes to this Agreement as negotiated during its lifetime will be documented as Memoranda of Understanding and may be incorporated as amendments during the annual review.

b. Mid-Term negotiations—may occur at any time and are separate from the annual review or collective bargaining agreement negotiations.

- (1) Impact & Implementation Bargaining—If the Center plans a change in policies, practices, or working conditions, the Center will notify the Union at least 15 calendar days in advance in writing so that the parties may negotiate regarding

⁹ 5 U.S.C. 7114(b).

¹⁰ 5 U.S.C. 7116(a)(5).

impact and implementation. In requesting negotiations, the Union will provide for discussion a descriptive summary of the issues.

(i) Any change in Management Instructions or directives (that are not law or government-wide regulation) is subject to negotiation with the Union.

(ii) The impact and implementation of Center proposed reorganizations are negotiable. When the Center proposes a reorganization, it shall provide the Union with the complete reorganization package including FORM ARC 583 REQUEST/APPROVAL OF PROPOSED ORGANIZATIONAL CHANGES, the roster of affected employees, a Eudora electronic mail address book for the employees, and any supporting documentation. Within 15 calendar days of receiving such package, the Union may request negotiations on the impact and implementation. When the Union puts forth proposals to deal with the reorganization, the Center will bargain on such proposals, insofar as they are negotiable, i.e., do not violate law, controlling regulations or management rights under the Federal Labor Relations Statute.

(iii) During the reorganization process, the Center encourages the organizations to maximize employee involvement, as appropriate, in decisions affecting such employees. Employees may request Union representation for any matter that affects them under the reorganization. Any substantive agreement shall be documented in a Record of Negotiation, signed by authorized officials of the Center and the Union.

(2) The Union may request mid-term negotiations on policies and practices concerning conditions of employment to facilitate timely resolution of issues and to avoid potential grievances. However, the Center reserves the right to determine whether such negotiations would be in the best interest of the Center and to decline such negotiations. If the negotiations result in an agreement, the authorized Union and management officials shall sign a Record of Negotiation. If mid-term negotiations result in impasse, the parties may seek mediation from the Federal Mediation and Conciliation Service.

Section 4. Past Practices—The parties to this Agreement understand that there are existing past practices and benefits not specifically mentioned which are by custom and tradition, agreeable to both parties. The adoption of new policies which alter a past practice concerning conditions of employment are subject to negotiation. The waiver of any breach of condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all the terms and conditions herein.

Section 5. Contract Negotiation Procedures—When negotiations are requested under the collective bargaining process, such requests shall state the specific subject matter to be considered. Unless otherwise agreed, the following procedures shall be utilized:

- a. The number of members on either the Union's or the Center's negotiating committee shall not exceed four (4) negotiators, and two (2) alternates.
- b. A chairperson and alternate chairperson will be designated in writing for each negotiating committee. The chairperson of each will speak for the respective committee.

c. Names of the members on each negotiation committee will be exchanged formally by the parties in writing no later than seven (7) calendar days prior to the beginning of negotiations. Any changes regarding committee membership will be submitted to the other party no later than one (1) day prior to the next negotiating session.

d. Employees preparing for and negotiating on behalf of the Union shall be on official duty time.

e. The committees shall meet as frequently as necessary when negotiating a new contract or articles. Impasse items will be disseminated in an amendment form after their resolution.

Section 6. Negotiation Impasse—When impasse over a negotiable item occurs, either or both parties may seek the services of the Federal Mediation and Conciliation Service. When mediation does not resolve the impasse, either party may seek the services of the Federal Service Impasses Panel, or arbitration.

Section 7. Negotiability—When the Center believes that a matter is non-negotiable it will upon request advise the Union in writing of its rationale for such belief. The Union has the right to proceed to the Federal Labor Relations Authority in accordance with 5 U.S.C. 71.

ARTICLE VII

VII WORK SCHEDULES-AND HOURS OF DUTYWork Schedules

The available work schedules are the basic 40-hour workweek, maxiflex, or compressed work schedule as described in this Article.¹¹

With the approval of the first line supervisor, employees may work one of the above work schedules. A high degree of employee involvement is encouraged in the establishment of individual work schedules, and individual preferences should be accommodated whenever practicable.

The Center workweek is Monday through Friday. The day shift tours of duty shall be established between 6:00 a.m. to 6:00 p.m. The Center's core business hours are typically 9:00 a.m. to 3:30 p.m.

Special Tours of Duty

Any work schedule which does not fit one of the above categories is a special tour of duty and can only be established with the approval of the cognizant Division Chief and the Chief, Human Resources Division.

Nothing in this Agreement will preclude continuation of schedules previously approved or negotiated.

Compensation

The Center agrees that members of the bargaining unit shall not work or perform official duties without compensation. Employees shall be compensated for regular work, paid leave, and overtime work.

Two laws govern compensation for federal employees:

- a. Title 5, U.S. Code applies to all Civil Servants.
- b. Title 29, U.S. Code is the Fair Labor Standards Act (FLSA), and applies to all nonsupervisory clerical, wage grade, and technician employees. Employees who are not covered by the FLSA are referred to as "exempt employees." Employees who are covered by the FLSA are referred to as "non-exempt employees." The status is established when selected for a position or promotion, and is indicated on Personnel Action Forms issued to each employee.

The differences in these laws affect premium pay, overtime compensation, and the rules that govern payment.

Section 1. Requesting Work Schedules—All work schedules must be approved by the supervisor and recorded on the ARC FORM 351 EMPLOYEE WORK SCHEDULE, or ARC Form 351A TEMPORARY ADJUSTMENT IN WORK SCHEDULE.

¹¹ 5 U.S.C. Chapter 61.

A supervisor may deny an employee's requested schedule on either an individual or organizational basis. The decision to deny an employee's requested schedule shall not be made unless the work schedule would have an adverse agency impact, as defined below.

Management-initiated schedule modifications or restrictions that would prohibit or limit the use of work schedule options shall not be made unless the work schedule has had or would have an adverse agency impact. Disputes on selection and administration of tours of duty may be resolved by grievance or negotiating with the Union.

Adverse agency impact is defined as a reduction of productivity of the Center, a diminished level of services furnished to the public by the Center, or an increase in the costs of the Center's operations (other than a reasonable administrative cost relating to the process of establishing such a schedule).

Section 2. Changes of Work Schedule—

- a. Employees may request a permanent change from the approved work schedules with Form ARC 351. Employees may request a temporary change from the approved work schedules with Form ARC 351A. Changes require approval of the immediate supervisor based on the requirements for productivity, services, and costs.
- b. Changes to an approved work schedule will not be made to circumvent the payment of overtime, night differential, or holiday pay.
- c. When management requires that an employee's work schedule be changed, it will give employees notice as soon as is known, but at least 72 hours, before directing a change to a shift or schedule, except for emergency situations.

Section 3. Overtime—Any hours worked in excess of an approved work schedule shall be compensated either by premium pay for overtime or compensatory time if the hours have been ordered or approved under the provisions of 5 U.S.C. 5542 or the Fair Labor Standards Act. Employees on a maxiflex work schedule who are ordered to work overtime, may ask to receive credit hours instead of premium pay or compensatory time off. Exempt employees may be paid overtime pay and/or compensatory time only to the extent that the payment does not cause the total of his/her basic pay and premium pay for any pay period to exceed the maximum rate for GS-15.¹² .

- a. Compensatory time (comp time) shall be credited to exempt employees whose basic pay exceeds that earned by a GS-10 Step 10¹³ (including locality and special pay rates) unless the employee requests and is granted premium pay instead of comp time.
- b. Exempt employees earning GS-10 Step 10 or less and all non-exempt employees will automatically be paid overtime unless the employee requests comp time instead of overtime.

¹² 5 U.S.C. 5547.

¹³ 5 C.F.R. 550.114.

Section 4. Basic 40-hour Workweek—The standard workweek for full-time employees will consist of five consecutive 8-hour days (40 hours per week) on Monday through Friday. First-line supervisors normally assign duty shifts. With the supervisor's approval, however, each employee shall be allowed to select a schedule within the assigned shift._

a. The standard shifts shall be eight hours plus a non-paid 30-minute lunch period as follows:

(1) Day Shift

7:00 a.m. to 3:30 p.m.;

7:30 a.m. to 4:00 p.m.;

8:00 a.m. to 4:30 p.m.;

8:30 a.m. to 5:00 p.m.

Starting times between 6 am and 9 am shall be allowed with the supervisor's approval.

(2) Swing Shift

3:00 p.m. to 11:30 p.m.;

3:30 p.m. to 12:00 midnight

(3) Night Shift

11:30 p.m. to 8:00 a.m.;

12:00 midnight to 8:30 a.m.

b. All hours in the basic 40-hour workweek are core time.

c. Overtime work shall be compensated:

(1) for all employees under Title 5 of the U.S. Code that exceed eight hours per day or forty hours per week and are ordered or approved

(2) for nonexempt employees covered by the FLSA that exceed forty hours per week and are suffered or permitted.

d. Credit hours are not allowed under the basic 40-hour workweek schedule.

Section 5. First 40-Hour Tours—When it is impracticable to prescribe a regular schedule of definite hours of duty for each workday of a regularly scheduled administrative workweek, the Chief of the Human Resources Division may establish the first 40-hour tour of duty. A first 40-hour tour of duty is the basic workweek without the requirement for specific days and hours within the administrative workweek. All work performed by an employee within the first 40-hours of each week is considered regularly scheduled work

for premium pay and hours of duty purposes. First-40 hour tours will not be used to circumvent the payment of overtime, night differential and holiday pay.

- a. Core time does not apply to the first 40-hour tour.
- b. Overtime is compensated for exempt employees under CFR 550.111(d).¹⁴ Non-exempt employees are paid in accordance with FLSA.
- c. Credit hours are not applicable to the first 40-hour tour of duty.

Section 6. Maxiflex Schedule—An employee with a maxiflex schedule has a basic work requirement of 80 hours for the biweekly pay period. Employees may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the organization by earning and using credit hours.

- a. Work schedules may be established Monday through Friday up to 10 hours a day and may contain starting or stopping times outside the Center's tour of duty (i.e., 6:00 a.m. to 6:00 p.m.). Work must be scheduled on at least 8 days per biweekly pay period.
- b. Core time—Organizational obligations necessitate a core time when the full staff must be present so that meetings, activities or other communications can be conducted. Work schedules must be scheduled to include core hours. The supervisor may approve individual or organizational core hours that differ from the Center's core business hours. Core hours must be scheduled on at least 8 days per pay period.
- c. Credit Hours—Employees working an approved maxiflex schedule may use credit hours to vary the length of workday or workweek. "Credit hours" means any hours within a maxiflex schedule which are in excess of an employee's basic work requirement, and which the employee elects to work so as to vary the length of a workday or the workweek. This provides flexibility to employee schedules. Overtime must be ordered or approved, whereas credit hours may be earned and used as defined below.

- (1) Credit hours may be earned and used within the same biweekly pay period. Full-time employees may earn up to eight credit hours in a week and accumulate a total of twenty-four credit hours without prior approval. Supervisor's approval is needed to exceed these limits (see #2 below). Approval can be verbal or written and/or on a long term basis.
- (2) For full-time employees, no more than 24 credit hours shall be carried over to a new pay period. For part time employees, no more than one fourth the hours in the employee's biweekly basic work requirement may be carried over as credit hours.
- (3) Credit hours can not be converted to overtime or compensatory time. An employee who is ordered to work overtime may choose to record it as credit hours.

¹⁴ 5 U.S.C. 5542.

- (4) Credit hours are earned outside the employee's established work schedule.
 - (5) Employees must schedule the use of credit hours with the approval of the supervisor.
 - (6) Employees cannot be coerced to earn credit hours, nor coerced to use credit hours.
 - (7) Employees will be paid for unused credit hours upon resignation, retirement, transfer to another Agency, or removal of an employee from the flexible schedule:
 - (i) up to a maximum of twenty-four hours, and
 - (ii) at the employee's current rate of pay.
- d. Overtime—Management may order an employee to work hours that exceed the number of hours the employee planned to work on a specific day, as indicated on the approved schedule, Form 351. If the hours ordered to be worked are not in excess of 8 hours in a day or 40 hours in a week at the time they are performed, the employee may
- (1) take off from work on a subsequent workday within the pay period for a period of time equal to the number of extra hours of work ordered;
 - (2) complete the basic work requirement as scheduled and count the extra hours of work ordered as credit hours; or
 - (3) complete the basic work requirement as scheduled and be compensated as overtime for the extra hours of work ordered.¹⁵ This will result in an employee entitlement to be compensated at the rate of basic pay for any hours equal to or less than 8 hours in a day or 40 hours in a week. An employee would be entitled to overtime pay for hours of work ordered in excess of 8 hours in a day or 40 hours in a week.
- e. Premium pay for night differential:
- (1) Day shift—Will not be paid solely because an employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which premium pay is otherwise authorized.¹⁶
 - (2) Swing and Night shifts—Will be paid in accordance with 5 U.S.C. 6123(c).

¹⁵ Note: There is no concept of "suffer and permit" for overtime work performed under the flexible schedule.

¹⁶ 5 U.S.C. 6123(c).

f. Premium pay for holidays— An employee may not be paid premium pay for credit hours worked on holidays. When an employee is ordered to work on a holiday, that time shall be paid at the normal rate for the hours worked in addition to the eight hours of holiday pay.

g. Holidays are recorded as 8 hours for full-time employees under flexible work schedules. Part-time employees are entitled to the number of scheduled hours for that day. When a holiday falls on a day when full time employees on flexible schedules are scheduled to work other than 8 hours, they are required to adjust their work schedule accordingly during that pay period. Employees may choose the method of adjustment, including credit hours, comp time, annual leave or working extra hours.

Section 7. Compressed Schedules—Compressed schedules allowed at the Center during the standard administrative workweek include:

a. 5-4/9 Compressed Schedule—Employee works eight 9-hour days and one 8-hour day with a compressed day off in each biweekly pay period. For the day shift work days begin between 6:00 a.m. and 9:00 a.m. One non-work day per pay period is scheduled with the supervisor's approval.

b. 4-10 Compressed Schedule—Employee works four 10-hour days per week. For the day shift work days begin between 6:00 a.m. and 7:30 a.m. One non-work day per week is scheduled with the supervisor's approval.

c. Compressed schedules for the swing shift and night shifts may be approved.

d. All hours in the compressed schedule are core time.

e. Overtime worked in excess of the compressed schedule shall be compensated:

(1) for all employees under Title 5 of the U.S. Code that are ordered or approved

(2) for nonexempt employees covered by the FLSA that are suffered or permitted.

f. Credit hours do not apply to compressed schedules.

g. Night differential is paid for hours of work scheduled between 6:00 p.m. and 6:00 a.m.

Section 8. Meal Breaks—Depending upon an employee's tour of duty, the employee shall schedule a 30-minute to 60-minute non-paid meal break approximately midway through each scheduled workday. With supervisor's approval an employee on a maxiflex work schedule may schedule a meal break in excess of sixty minutes. However, employees are responsible for completing their daily work requirement by adjusting their starting and stopping times. Supervisors may not require meal breaks in excess of sixty minutes.

Section 9. Rest Breaks—Commensurate with need and nature of work, the supervisor shall establish an equitable policy for brief rest periods during the workday. Rest periods are allowed on duty time as long as employees remain subject to the assignment of work.

Such periods are considered part of the employee's basic workday and cannot be combined to either augment the lunch period or modify the approved work schedule.

Section 10. Clean-up Time—Employees in occupations requiring exposure to grease, dirt, grime, chemicals or biohazards shall be allowed official time to clean-up, commensurate with need, prior to meal breaks and prior to the end of the work shift.

- a. Any employee required to change clothes will be allotted adequate time not to exceed fifteen minutes upon entering duty and fifteen minutes prior to leaving duty to wash up and change clothes.
- b. Each employee will be allotted a sufficient period of time, normally fifteen minutes, at the close of business each day to clean up the work area.
- c. In special situations clean up and dressing time will be considered separately.

Section 11. Overnight Travel—If employees are required to travel overnight during the pay period, there is no requirement to change their work schedule. When an employee's work schedule conflicts with the travel requirement, the employee and supervisor shall work out an alternative temporary schedule prior to departure. If it is not possible to work out an alternative temporary schedule, the employee will revert to an 8-hour day schedule for the week(s) on travel.

Section 12. Participation in "Volunteer Activities"—The Center encourages employees to participate in Center-approved "volunteer activities" such as public outreach and education (e.g., lecture/demonstrations at schools and science fairs). Official time is authorized for these activities and shall be recorded on their time sheet to an appropriate JO number. Supervisory approval is required. Participation in these activities should not unduly interfere with the employee's regular work assignment.

ARTICLE VIII
Annual Review Amendment August 3, 2004

VIII OVERTIME

Section 1. Overtime Assignments—All overtime assignments shall be distributed fairly and impartially, and will depend on qualifications required in the performance of the work. In making overtime assignments, the supervisor will give careful consideration to the extent of work and the possible hardships that the overtime creates for individual employees. Information regarding overtime may be obtained from the appropriate supervisor.

When the Union finds that there has been an inequitable distribution, and upon the Union's request, a list will be posted biweekly in industrial shop areas showing each individual's overtime status, in hours worked or declined. When additional support is required for a project, the foreman will ask the qualified employee(s) on the project with the least amount of overtime to work. If these employees decline, the foreman will ask the next lowest employee(s) in ascending order. When an employee is given proper notice and declines, the employee's hourly standing will be raised as if overtime had been accepted. (If the employee has less than one (1) hour notice for overtime work, no charge to the list will be noted. Only one (1) refusal will be charged to the employee during a 24-hour period.) An employee's refusal on the day prior to a scheduled leave will not be charged. The Union will be notified in advance if a variation to this procedure is required.

Section 2. Retroactive Approval—The parties recognize that on rare occasions a circumstance may arise involving a critical or urgent situation. In the absence of managerial or supervisory authority, an employee may take the initiative to work a limited amount of overtime if:

- a. the overtime worked would reasonably preclude a more costly solution at a later date; or
- b. the overtime would prevent or reduce a safety hazard, injury, or loss to the Center. If the supervisor determines that there were valid reasons, the time worked shall be approved and compensated as overtime.

Section 3. Assignment of Overtime—No employee shall be requested or required to work uncompensated overtime. Employees asked, assigned, or directed to work on time critical or time intensive projects shall be compensated for overtime with overtime pay or compensatory time off for hours worked, providing prior approval has been obtained. It is essential that employees request overtime in advance rather than presume its approval.

A management "call for volunteers" to work off-duty hours constitutes ordered or approved overtime for those employees who choose to respond and are accepted. Employees must request compensation for participation in these events in advance through their supervisor. That time shall be approved and compensated as overtime; however, voluntary overtime performed by exempt employees solely on their own initiative will not be the basis for overtime pay or compensatory time off.

Section 4. Resolving Disagreements about Overtime—Disagreements over assignment or payment of overtime, justification of emergencies, critical deadlines, and tasks may be resolved through grievance or negotiation with the Union.

Section 5. Scheduling Overtime—Management shall schedule overtime in advance, in consultation with the employees they are asking to work overtime. In the assignment of overtime, management agrees to provide employees with advance notice, unless there are emergency conditions or exigencies beyond the control of management which preclude advance notice. When management directs an employee to work either Saturday or Sunday, or on a non-work day, management shall provide at least one full workday advance notice. When management directs an employee to work on a holiday, management shall provide at least three workdays advance notice.

Section 6. Call-back overtime—An employee called back for unscheduled overtime duty, whether on a workday or a non-workday, shall be compensated for a minimum of two (2) hours regardless of whether the employee is required to work the entire two hours.

Section 7. Compensatory Time Off—Compensatory time off in lieu of pay shall be granted when requested by an employee, unless management determines granting compensatory time off would result in adverse agency impact. If management denies a request for compensatory time off, the employee shall receive overtime pay.

Section 8. Expiration of Compensatory Time Off—Earned compensatory time should be used within fourteen pay periods following the pay period during which it was earned.

Management must ensure that eligible employees are granted compensatory time off within the prescribed time limit. When an employee accrues compensatory time, the employee and supervisor shall discuss the planning and scheduling for use of the compensatory time or converting it to pay.

If management denies a request for compensatory time off or determines the workload makes it impossible to take time away from work before the end of the prescribed time limit, the employee shall be paid overtime rather than lose compensation for that time. If compensatory time cannot be used within the 14 pay periods:

- a. Non-exempt employees will automatically be paid.
- b. In the pay period following expiration of the compensatory time, exempt employees may request one extension of 14 pay periods, or, if they cannot use the compensatory time, exempt employees may request conversion to overtime pay.

Section 9. Religious Observance—For purpose of religious observance only, compensatory overtime may be worked before or after the granting of compensatory time off. A grant of advance compensatory time off must be repaid with compensatory overtime work within a reasonable time frame, generally within two pay periods. (See Article IX).

Section 10. Overtime Records—Upon the Union's request, and in accordance with applicable law and regulation, the Center shall provide existing records of overtime, to the extent available, to aid in settling specific or potential grievances.

Section 11. Tour of Duty—The supervisor shall not change an employee's tour of duty for the sole purpose of avoiding overtime.

Section 12. Scheduling Overtime—Authorized overtime will be scheduled and worked in increments of one (1) hour.

ARTICLE IX

IX LEAVE ADMINISTRATION

Section 1. Governing Document—The Pay and Leave Handbook, AHB 3600.1, is the document of record governing pay and leave administration. In case of a conflict, this Agreement takes precedence. The Center agrees to consult with the Union before revising the Handbook. The Handbook covers topics such as:

Ames General Policy for Administering Leave and Absence

Annual Leave

Leave for Parental and Family Responsibilities

Military Leave

Court Leave

Leave without Pay

Excused Absence

Absence without Leave

Leave for Religious Observances

Sick Leave

Section 2. Tardiness and Brief Absences—Supervisors have the option to excuse an employee's infrequent absences and tardiness up to one hour per day. Each case shall be considered on its merits and each employee will be afforded equitable consideration. In a case where leave is charged, the employee cannot be required to perform work for any part of the period charged to leave.

Section 3. Leave for Religious Observances—

a. Any employee (exempt or non-exempt) whose religious beliefs require absence from work during the workday or workweek may request annual leave or leave without pay. Such an employee requesting to work overtime for this purpose will be allowed to do so whenever possible and will be granted (in lieu of overtime pay) an equal amount of compensatory time off. For purpose of religious observance only, compensatory overtime may be worked before or after the granting of compensatory time off. A grant of advance compensatory time off must be repaid with compensatory overtime work within a reasonable time frame, generally within two pay periods.

b. Supervisors are encouraged to approve such requests, or to make other reasonable accommodations to the religious observance needs of the employee if such accommodation does not cause undue hardship on the business of the Center. "Reasonable accommodations" may include changing a tour of duty, substituting another qualified employee, or granting compensatory time off, when appropriate. Excused absence (administrative leave) is not appropriate for this purpose.

c. Approval Authority—The employee's immediate supervisor may approve leave and compensatory time off for religious observances. An Organizational Director, however, may disapprove an employee's request to take leave or use compensatory overtime for religious observances when it is determined that the altered work schedule would interfere with the efficient accomplishment of the organization's mission. The supervisor shall document the reasons for denial, along with the attempts to accommodate the employee's request, and shall provide a copy to the employee.

d. Procedures for Compensatory Overtime Work Request—The employee must submit a request for compensatory overtime work to the immediate supervisor. The immediate supervisor will approve the request and schedule the work or refer the request through the supervisory chain to the organizational director for a final decision.

ARTICLE X

X DISCIPLINARY ACTION

Section 1. Union Representation—In all cases of formal disciplinary action against any employee of the units, the employee may advise a Union Steward or a Union official (e.g. President, Vice President, or Trustee) and seek their assistance.

Section 2. Grievance Jurisdiction

- a. Official written reprimands and suspensions of fourteen (14) days or less may be grieved under the Negotiated Grievance Procedure.
- b. Removals, reductions in grade or pay and suspensions for more than fourteen (14) days may be grieved under the Negotiated Grievance Procedure or appealed to the Merit Systems Protection Board (MSPB), but not both.

Section 3. Table of Penalties—The Center agrees to follow the NASA Standard Table of Penalties as a guide in administering formal discipline and further agrees to apply this table and all applicable laws and regulations in a fair and equitable manner. The least degree of discipline likely to correct the problem shall normally be taken.

Section 4. Annual Notification—The Civil Service Reform Act requires that the agency publish the following information annually. Therefore, the Act is quoted as a convenience here:

“(a)(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at:

“(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

“(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if:

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

“(ii) the employee requests representation.”

However, if the employee does not request the presence of a Union representative or waives this right, no settlement arrived at without Union representation shall be inconsistent with the provisions of this agreement.

Section 5. Proposed Disciplinary Actions—Notices of proposed disciplinary actions will be signed and dated on official NASA letterhead stating the specific reasons for the proposed action and the time allotted for the employee to respond. The notice of proposal

shall inform the employee of his or her right to review the material upon which the Center relied to support the reasons for action given in the notice. (5 CFR 752).

For any disciplinary action that could result in placing a letter of reprimand into the employee's Official Personnel Folder the employee shall have no less than 5 calendar days to respond to the proposed discipline.

An employee against whom a suspension is proposed for 14 days or less shall have a reasonable time to respond, but no less than 7 calendar days.

For an action involving suspension for more than 14 days, removal, reduction in grade or pay or furlough for 30 days or less, the employee shall have a reasonable time to respond, but not less than 10 calendar days. At least 30 days advance written notice will be given before the proposed action would take place.

In circumstances where the employee's continued presence in the work place during the notice period may pose a threat to the employee or others, result in loss of equipment, or damage to government property or otherwise jeopardize legitimate government interests, the Center will follow the procedures in 5 CFR 752.

Section 6. Disciplinary Letters—

Letter of Caution: A letter of caution is an informal notice to an employee concerning conduct. It resides with the immediate supervisor who issued it and is not filed in the Official Personnel Folder. A letter of caution shall bear an expiration date not to exceed one year.

Letter of Reprimand: A letter of reprimand is a formal notification to an employee that is filed in the Official Personnel Folder. A letter of reprimand shall bear an expiration date not to exceed two years.

ARTICLE XI
Annual Review Amendment August 3, 2004

XI ENVIRONMENT, HEALTH AND SAFETY

Section 1. Safe Working Conditions—The Center and the Union agree to work together to provide a work environment free of recognized hazards and to prevent and eliminate all accidents and injuries. It is both the Union's and the Center's goal to comply with applicable federal, state, and local laws and regulations protecting the working environment, health and safety of the employees covered by this Agreement.

Section 2. Hazardous Conditions—If an employee believes that a hazardous condition exists, the employee shall first report it to the first line supervisor. If the supervisor does not act in a timely manner, the employee shall contact the Safety, Health and Medical Services Division.

- a. Imminent Danger— Imminent danger means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated.¹⁷

Managers and employees are responsible for suspending operations if imminent danger is found. No employee (except those authorized to assess or correct the problem) shall be required to perform work in areas or on equipment where imminent danger exists.

- b. Cumulative Exposure Hazard—If a cumulative exposure hazard is determined by the Safety Division to exceed OSHA standards, the Center shall take appropriate action to abate or mitigate the hazard.

- c. Suspension of Operations— In the event of a suspension of operations due to imminent danger or cumulative exposure hazard, management will make a reasonable and appropriate effort to provide work for employees affected by suspension of operations, pending correction of any unsafe condition and may temporarily assign employee(s) to other work areas.

Section 3. Injuries and Mishaps—Except as restricted by law and subject to confidentiality requirements, the Safety Office will upon reasonable notice by the Union President or the Union Vice President for Safety, provide injury and mishap data, as would be provided to OSHA. Such requests will normally be made at the Union-Management Safety Committee meeting, and the response provided at the next monthly meeting, unless a special need arises for more frequent requests.

Section 4. Reporting Hazards—An employee may report environmental, health and safety concerns without fear of reprisal.

¹⁷ Occupational Safety and Health Act of 1970, Section 13(a)

Section 5. Regulatory Agencies—

- a. Employee Reporting to Regulatory Agencies—The Center and the Union encourage employees to report hazardous conditions to management before notifying outside regulatory agencies of safety and health concerns.
- b. Union Reporting to Regulatory Agencies—The Union agrees to notify management before notifying outside regulatory agencies of safety or health concerns or compliance issues and agrees to afford the Center reasonable time and opportunity to implement corrective measures.
- c. Union Participation in OSHA Inspections—The Center agrees to make reasonable efforts to notify the Union of OSHA inspections. Notification will be by telephone and/or e-mail. A Union representative may participate in all OSHA inspections as an observer, to the full extent permitted by OSHA.
- d. Non-Inspection Visits—Each party agrees to notify the other in advance of any visitors from OSHA invited to the Center by management or by the Union. Each party agrees to inform the other of the reason for the visit, the length of stay, and the locations. Each party will allow a representative of the other party to meet with the visitor at the beginning of the visit.

Section 6. Employee Notification—Employees have a right to be informed of all current health and safety conditions in their workplace. Management shall conspicuously post in the work area, or on safety bulletin boards, if available, all citations for violations of health and safety regulations as required by OSHA.

Section 7. Working Alone—Working alone is defined as the performance of work by a person who is out of audio or visual contact with a coworker (a "buddy"). For safety reasons, working alone is not permitted under hazardous conditions that would cause an inability to self-rescue. These conditions include:

- a. Electrical work on high voltages over 600V;
- b. Work on high pressure equipment with pressures above 15 psig, excluding shop air or instrument supply air up to 140 psig in lines not exceeding 0.5 inches in diameter;
- c. Work with explosives for which the Explosive Safety Officer prohibits working alone;
- d. Work involving large machine shop type tools that rotate or spin in a manner that could entangle a person, such as large open/unguarded lathes and open/unguarded milling machines;
- e. Work involving use of Class IIIb or IV lasers;
- f. Work involving radioisotopes/radiation equipment capable of producing a dose rate of 100 mrem/hour in any area accessible to individuals;

- g. Work involving Permit Required Confined Spaces as defined by OSHA regulations¹⁸;
- h. Work with cryogenic materials or other asphyxiants, capable of creating an oxygen deficient atmosphere containing less than 16% oxygen, unless the applicable Laboratory Safety Plan defines acceptable conditions for working alone;
- i. Work with hazardous chemicals that could cause an inability to self-rescue.

A supervisor may place additional limitations on working alone when in his or her judgment it is appropriate. Also, management may designate other conditions requiring a buddy. The supervisor shall provide instruction in the buddy system for employees working under these conditions.

Section 8. Environmental/Hazard Pay—An employee who performs duties under conditions determined by Center management as hazardous or involving physical hardship, shall receive environmental/hazard pay in accordance with Office of Personnel Management regulations. When the Union identifies additional hazardous areas, the Union may report them to the Center for investigation and may request that the Center incorporates them into the appropriate hazard pay category. The Ames Pay and Leave Handbook states the procedures for requesting Environmental/Hazard Pay.

Section 9. Union-Management Safety Committee--The Center and Union agree to have a Union-Management Safety Committee that meets on a regularly scheduled basis, and as needed. The Committee will serve as a forum for exchange of safety information. Safety concerns having general applicability may be presented to the Committee.

The Union Vice President for Safety and the Chief of the Safety, Health and Medical Services Division will serve as co-chairs of the Committee. They will jointly determine the membership and procedural rules of the Committee. If any differences cannot be resolved, either co-chair may refer it to the Union President and the Labor Relations Officer.

Section 10. Personal Protective Equipment—The Center will provide all required personal protective equipment and the training in its proper use. Such clothing and equipment shall meet all applicable standards. The Center and the Union agree to cooperate in promoting the use of proper protective equipment.

- a. Employees whose work requires the use of safety shoes shall be entitled to one pair of ANSI-approved safety shoes annually, or more frequently if deemed appropriate by the supervisor. The Center shall cover the full reasonable cost of ANSI-approved safety shoes. Employees are required to use ANSI-approved safety shoes in all areas designated by the Center.
- b. Employees whose work requires the use of safety glasses will be provided prescription or non-prescription ANSI safety glasses (or sunglasses when needed). Employees are required to use ANSI-approved safety glasses in all areas designated

¹⁸ Permit-Required Confined Spaces 29 CFR [1910.146](#)

by the Center. Prescription ANSI safety glasses will be provided no more frequently than annually unless required by the employee's ophthalmologist. Approval for ANSI safety glasses, sunglasses or other special eyewear will be done by the Safety Division.

Section 11. Health—In the interest of improving and maintaining employee health, fitness, and wellness, the Center agrees-- with full support of the Union -- to provide the following:

- a. First Aid—In the event of any accident at the Center, the Ames Health Unit, ambulance provider, or other designated provider will provide first aid to treat the employee.
- b. Reporting Injuries and Illnesses—Employees shall report all work-related injuries and illnesses to the first line supervisor and the Health Unit immediately. After occurrence of such injuries, employees shall be seen by a licensed physician at the Health Unit. After being seen by a licensed physician at the Health Unit, employees have the right to be treated by a medical practitioner of their choice. In fitness for duty questions, the employee may provide written physician's opinions to the Health Unit for inclusion in their medical record file. Adherence to this procedure for proper reporting of illnesses and injuries to the Ames Health Unit is essential to the processing of Worker's Compensation and Disability claims.
- c. Return to Work—Before returning to work, to resume normal duties, after an occupational injury or illness, or returning to work after 5 or more days of sick leave for a non-occupational injury, employees are required to report to the Health Unit.
- d. Health Unit—Subject to budgetary constraints the Ames Health Unit shall be staffed for emergency requirements for 8.5 hours, including the Center's core business hours (as defined in Article VII) on federal workdays. Employees will receive their regular pay without charge to sick or annual leave for the period of time to secure medical services at the Ames Health Unit. The Health Unit also provides consultation to employees and supervisors concerning medical-related conditions that may affect an employee's ability to perform work.
- e. Additional Tests—Employees whose work requires exposure to a known hazard (i.e. high noise levels or radiation) shall be given tests as required by OSHA or the Ames Health Unit.
- f. Transportation in a Medical Emergency—In the event of a medical emergency that requires facilities and specialties not available at the Ames Health Unit, the Center shall arrange for transportation at employee expense to a medical facility. The employee may request to be transported to the medical facility of his/her choice.
- g. Vaccinations and Immunizations—The Center will provide vaccinations and other immunizations when determined appropriate by the Safety, Health and Medical Services Division.

- h. Exercise Program—The Center agrees to support the Ames Fitness Program as budget allows.
- i. Employee Assistance Program (EAP)—The Center will make counseling services available to employees under the Employee Assistance Program, subject to budgetary constraints. All records of counseling sessions shall be strictly confidential, and may not be released except in accordance with law.

Section 12. Drug and Alcohol Testing of Employees—The Center and Union support the Drug Free Workplace Program. The Center’s implementation of a mandatory alcohol-testing program will be negotiated with the Union in advance of its implementation. When the Union or management raises issues about the drug and alcohol-testing program, which are deemed negotiable by law, the Parties will negotiate such issues.

Section 13. Asbestos—The Center will abide by OSHA requirements and the NASA Ames Research Center Asbestos Management Plan during the use and control of asbestos containing materials as defined by OSHA. The Center will maintain a file of all air sampling and bulk sampling results collected by the Safety, Health, and Medical Services Division, consistent with records retention rules. The Union may request asbestos information in the same manner as under Section 3 above.

Section 14. Integrated Pest Management—The Center seeks to minimize employee exposure to toxic pesticides and chemicals. The Center agrees that all pest control efforts will implement integrated pest management methods that use frequent monitoring to discover pest problems, and when found, uses physical, mechanical, biological, cultural, and educational approaches to fight pests and keep their damage to a tolerable level. Integrated Pest Management employs the least amount of toxic chemicals possible. The Center shall use toxic chemical pesticides only if other methods are impractical. The Center will allow only individuals who are trained or certified as required by law to handle and apply pesticides. The Center shall provide notice of affected areas by prominently posting such notice at building entrances and will use other notification methods as determined necessary by Environmental Services.

Section 15. Disability and Worker’s Compensation Claims—The Center shall ensure that claims for disability and worker’s compensation will be filed for affected employees and provide benefits counseling to assist employees with the filing of employee disability and worker’s compensation claims. When an employee is injured and has lost time in the performance of her/his duties, management will inform the employee about the procedures for filing a claim for benefits under the Federal Employee’s Compensation Act.

Section 16. Life Safety, Fire Safety, and Building Safety—The Center and the Union will work together to identify and correct life safety, fire safety and building code issues.

Section 17. Safety Meetings—The Center agrees that the Union is invited to attend all employee safety meetings. The Union President or Vice President for Safety shall designate the Union representative to each meeting. The Center and the Union agree to strive for consistency in representation at Safety meetings.

Section 18. Personal Security (See Also Section 20, Preventing Workplace Violence)

- a. Upon employee request, the Security Office will provide assistance at all hours to employees; e.g., allow entry of towing services through Main Gate, provide temporary sanctuary, unlock building, and office doors for authorized employees.
- b. Whenever possible, a security escort shall be provided to employees upon request to the Ames Dispatch Center, (604-5416), which will decide the appropriateness of the request.
- c. The Center will provide security awareness training as mandated by regulation or NASA instruction.
- d. Center telephones will be labeled with the current emergency telephone number.

Section 19. Working Environment—In accordance with Federal standards, the Center shall provide appropriate lighted, heated, and air conditioned, cooled, or ventilated working areas, consistent with national efforts to conserve energy. When an employee feels that a problem regarding heating, cooling, lighting, or ventilation exists, the situation should be brought to the attention of their building Facilities Services Manager (FSM) and the supervisor.

Section 20. Cleaning—The Center shall provide cleaning services to maintain a clean and sanitary work environment. Employees may request special arrangements through the Facility Services Manager (FSM) for cleaning that does not affect employee health and does not interfere with sensitive equipment.

Section 21. Preventing Workplace Violence—The Union and the Center agree to work together to prevent workplace violence and work-related violence. This cooperation may include co-sponsoring training and sharing information. If an employee has a protective order from a court, the employee is encouraged to notify the Protective Services Office of such order. The employee may request security assistance to help ensure personal safety while at the Center. If a violent incident occurs, and it involves members of the bargaining unit, the Center shall brief the Union and discuss ways of preventing a recurrence.

Section 22. Voluntary Protection Program.—The parties agree to abide by the most current *Record of Negotiation between the Ames Federal Employees Union and NASA-Ames Research Center for a Voluntary Protection Program*.

ARTICLE XII

XII REDUCTION IN FORCE

If the implementation of any policy may result in the elimination of positions, the Center will make a reasonable effort to reassign the affected employees to other positions at the Center before a reduction-in-force.

Section 1. Notification—The Center agrees to notify the Union sixty (60) days in advance of the effective date of reduction-in-force actions, at which time, the Union may make its views and recommendations known concerning the implementation of such reduction-in-force actions. In the event of a reduction-in-force, the Center agrees to document and communicate to the Union the competitive levels to be affected and the justification thereof.

The Center will make a reasonable effort, consistent with its responsibility to maintain efficiency of operations, to assure that work directly affected by reduction in the Civil Service work force will not be accomplished thereafter by a corresponding increase in support service contractor levels for the same occupation or function.

Section 2. Mitigating Impact—In the event of a reduction-in-force, existing vacancies may be utilized to place qualified employees in continuing positions who otherwise would be separated from the service.

- a. The Center agrees to provide reduction-in-force training to three (3) Union representatives.
- b. The Center agrees to consider a written protest that the employee may wish to submit to the Chief, Human Resources Division concerning the application of reduction-in-force procedures.
- c. Additionally, the Center will explore other avenues to reduce the impact upon the workforce such as: early retirement; restructuring positions to the extent possible to accommodate affected employees; waiving qualifications in assignments to vacancies where reasonable; or restructuring unfilled lower level positions to provide for journeyman employees. If a RIF situation affects a journeyman position or higher, the Center will make a reasonable effort to structure a new position in another organization at an equal or lower grade level. This method may be necessary, where his/her skills can be used in a meaningful work situation to avoid the employee's separation. Reasonable time for training in the new occupation is required for the reassigned employee. A review of progress after a ninety (90) day period with the supervisor and Union representative is suggested.

Section 3. Hiring During a RIF—When the Center undertakes a reduction-in-force, the Center will avoid hiring into the bargaining unit, except for those vacancies that the Center considers necessary to fill in order to maintain Center operations and commitments and adhere to external controls for which no affected employee is retrainable.

Section 4. Information and Assistance to Employees—Retention registers will be available for review by Union officers, and employees in accordance with the Privacy Act, during a RIF. Registers will be promptly annotated or revised to reflect all current changes. The Center will provide reasonable career counseling service to an employee affected by a RIF.

A Union representative may accompany an employee to RIF counseling. Additionally, the Center will provide a reasonable number of group informational sessions to explain RIF procedures and to respond to questions of general interest. Any applicable action under RIF procedures will not be grievable under the Negotiated Grievance Procedure, but may be appealed to the Merit Systems Protection Board in accordance with Board regulations.

Section 5. Priority Placement—Any career or career-conditional employee who is separated because of reduction-in-force will be placed on the Re-employment Priority List in accordance with applicable rules and regulations. It is the Center's policy to give such employees preference over new hires for rehiring in temporary and permanent positions for which qualified. It is understood that acceptance of a temporary appointment will not alter the employee's right to be offered permanent employment.

ARTICLE XIII
Annual Review Amendment August 3, 2004

XIII COMPETITIVE PLACEMENT PLAN (CPP)

Scope—This article applies to competitive promotions within the bargaining unit. For other promotions see Article XXV, Career Promotions.

Section 1. Purpose of Competitive Placement—All competitive promotions among unit employees will be made on the basis of merit, fitness, and qualifications, and without regard to religion, political or union affiliation, marital status, race, color, national origin, sex, sexual orientation, age or non-disqualifying disability. This Article is intended to ensure all qualified unit employees receive fair and equitable consideration for competitive promotion opportunities and to facilitate employee mobility and career advancement within the Center. Nothing in this Article will be construed to prevent the Center from selecting an individual from a group of properly ranked and certified candidates or from any other appropriate source.

Section 2. Implementation—Actions taken under the merit promotion program for positions within the bargaining unit will be implemented in accordance with the NASA Competitive Placement Plan, Government-wide rules and regulations, and this Agreement.

Section 3. NASA STARS—The Center has adopted the NASA STARS (Staffing and Recruitment System) for hiring and competitive placement, which will be integrated with the OPM Recruitment One Stop (ROS) system. The purpose of NASA STARS is to provide a fair and impartial process for managing hiring and competitive placement. NPG 3335.1F, Internal Placement of NASA Employees, describes the competitive placement process.

a. Vacancy Announcements—The position requirements are described in the vacancy announcement in the summary of duties and qualifications sections.

(1) Posting—The HR Division will issue the Career Opportunities Bulletin every Monday. The announcements are available on the NASA employment page, <http://www.nasajobs.nasa.gov>.

(2) Changes to an Announcement—The major duties and qualifications requirements cannot be changed after the announcement is issued, unless the announcement is amended or re-issued.

b. Audits—The Center will perform periodic audits to confirm validity of computer ratings for selected jobs. Upon request of the Union, the Human Resources Office will review with the Union the results of the annual audit.

c. Résumé-Builder—After the existing NASA STARS Résumé-Builder is superseded, applicants must submit electronic résumés through the OPM ROS system.

(1) Confidentiality — NASA is following OPM's rules and procedures for confidentiality. When the Center receives résumés from OPM, the Center shall

take all necessary precautions within its authority to protect the confidentiality of Social Security numbers and other personal information.

- (2) Computer Security—Computer Security for the Center’s handling of the résumés shall be in full compliance with the applicable NASA or OPM standards.
- (3) Center Access to Résumés—Only the applicant, the hiring supervisors and panels, Human Resources staff, or other properly authorized officials will have access to résumés stored within the NASA STARS database.

d. Evaluation of Applicants—

- (1) Resumix—The automated résumé evaluation component of NASA STARS is Resumix. The system includes the Resumix knowledge base, plus NASA augmentation with NASA-specific terms and rules. The Center will consult NASA subject matter experts and the Union for periodic updating, as appropriate, while respecting the confidentiality of the knowledge base. In this way, the knowledge base will be complete, specialized, relevant and accurate from the technical perspective.
- (2) Evaluation and Certification of Eligibles— Candidates will be screened against the job-related evaluation criteria and the best available qualified candidates will be placed on the certificate of eligibles. Hiring actions can be reconstructed from electronic files for audit and complaint purposes.

Section 4. Area of Consideration—The area of consideration is stated in the vacancy announcement. The minimum area of consideration for CPP announcements will normally be no smaller than Ames Research Center. Exceptions to this minimum area of consideration will be limited to those outlined in the NASA Competitive Placement Plan. Upon request, management shall provide the Union with a written explanation of its reasoning for the limitation, and explain how it conforms to the NASA Competitive Placement Plan.

Section 5. Non-Referral—When an employee applies for a position under the CPP, and meets the minimum qualifications but is not referred to the selecting official on the certificate of eligibles, the Human Resources Office shall notify the Union to afford the Union the opportunity for an explanation of the basis for the rating.

Section 6. Temporary Promotions—Employees who are required to perform additional duties in a lead, chief or supervisory capacity for at least two weeks shall be promoted temporarily to the higher level position subject to the following provisions:

- a. Management shall define in advance the scope of duties and period of time in a formal manner so that the employee and the supervisor will be fully informed concerning the full range of higher level duties that will be in fact performed so that the temporary promotion would be warranted.
- b. Management shall make a reasonable effort to ensure that temporary promotions will be equitably distributed among the best qualified employees.

Section 7. Candidate Interviews—When interviews are held, the selecting official shall give all the Ames candidates who are on the certificate of eligibles the opportunity for an interview before final selection is made. When interviews are held and where travel costs would be involved, a telephone interview may be arranged. Exceptions to these requirements may be made where candidates are unavailable due to absence on extended travel or leave and where they cannot be reached by phone.

Section 8. CPP File—Upon request of the Union, the cognizant Human Resources Manager shall make the CPP file for any advertised position in the bargaining unit available for review within the limitations imposed by the Privacy Act of 1974, and the confidentiality of the Resumix knowledge base.

Section 9. Feedback to Applicants—Upon specific request to the Human Resources Office, any employee (or his/her designated representative) considered for a vacancy under CPP procedures will be furnished the name of the individual selected, whether the employee was found to be qualified, and whether the employee's name was on the certificate from which selection was made. An employee not selected may request that either the cognizant Human Resources Manager or the selecting official discuss the decision with the employee.

Section 10. Relevant Training and Experience—The Center and the Union acknowledge the employee's responsibility to list all relevant training and experience on his or her application for a position. Credit will be given to an employee for all such training and experience relevant to the position for which an application has been made.

Section 11. Unfilled Vacancies—When a previously announced vacancy has not been filled the Center will, when requested, inform the Union of the position's status.

Section 12. Time in Grade & Qualification Requirements—Employees must meet time-in-grade, time-after-competitive appointment, and qualification requirements by the closing date of the vacancy announcement to be eligible for consideration.

Section 13. Wage Grade To General Schedule—WG employees may apply for GS positions based on their qualifications and experience, and they shall not be disqualified solely on the basis of their wage grade status.

Section 14. Advancement To Management—The Center and Union agree that it is within the reasonable career aspirations of any employee to serve the agency someday in a managerial capacity. The Center and Union agree that it is in the best interest of management and all employees for advancement to management to occur based upon merit and qualifications in accordance with applicable rules and regulations. Employees interested in advancing to management are encouraged to seek mentoring and advice from appropriate Ames managers. Complaints regarding vacancy announcements and hiring actions for non-bargaining unit positions should be directed to the NASA Agency Grievance System.

Section 15. Upward Mobility Programs—It is agreed that the policy for Upward Mobility Programs such as the Specialty Training for Entry Professionals (STEP) and the Growth Opportunity (GO) is to develop and promote current Center and NASA employees.

ARTICLE XIV

XIV CONTRACTING OUT OF BARGAINING UNIT WORK

Section 1. Before Contracting Out—It is agreed by the Center that before contracting out any work which is normally or historically performed by members of the bargaining unit or which impacts any member of the bargaining unit, the specific details of such contracting out will be discussed with the Union.

Section 2. Terms and Conditions of Contracting Out—Contracting out of bargaining unit work will not be effected for the sole purpose of meeting civil service manpower limitations. If it becomes necessary to contract out bargaining unit work, the Center will make every reasonable effort to comply with the following conditions:

- a. No one will be separated as a result of contracting out the work.
- b. No one will be downgraded as a result of contracting out the work.
- c. Training will be afforded the employee reassigned to a different line of work as a result of contracting out his or her job.
- d. The promotional potential for those persons reassigned will remain essentially the same.

Section 3. On-Site Contractors—The Center agrees to review and respond to concerns that the Union may wish to raise with regard to the utilization of contractor personnel on-site in work similar to, or formerly performed by bargaining unit personnel. The circumstances in which it is permissible are limited to situations in which the contract employees can perform the work without direct agency supervision; situations to be avoided are defined as, where such employment would result in a supervisory, employer-employee relationship between the Center and a contractor's personnel.¹⁹

There shall be a clear distinction between civil servant and contractor work assignments. There is a clear definition or description of the assignment performed by civil service employees. The work specification or contract defines contractor work.

In the event that employees witness defective or deficient work being performed by an Ames contractor, they are encouraged to report these instances to the appropriate Contracting Officers Technical Representative (COTR) and/or Contracting Officer.

If employees disagree with the technical decision of a contractor, employees may express their concerns either orally or in writing to the COTR.

Section 4. Mitigating Impact—The Center will take all possible actions to mitigate the impact on employees when functions are contracted out.

¹⁹ CG Decision No. B-226413 of May 1, 1987

Section 5. Contracting Out Employment "Right of First Refusal" — The right of first refusal shall be implemented as specified in Federal statute and regulations (including OMB Circular A-76 and Federal Acquisition Regulations).

The right of first refusal provides that the contractor will offer those Federal employees who have been or will be adversely affected or separated by contracting out employment opportunities created by the contractor. The employees must be qualified and the employment must be consistent with post-Government employment conflict of interest standards.

Management shall ensure that contracting out civil service work does not contradict employee rights and protections under this Agreement or the law.

ARTICLE XV
Annual Review Amendment August 3, 2004

XV PERFORMANCE PLANNING AND APPRAISAL

Preamble—The Center uses the Employee Performance Communication System (EPCS) as the performance appraisal system. Particular emphasis is placed upon communication in the preparation of the performance plan, including the Individual Development Plan, and in assessing the employee's accomplishments.

Section 1. Performance Planning—Performance plans should stress the mission aspects of the agency and, where appropriate, ensure the plan provides continuity for the long-term goals of the agency. The performance plan should reflect the employee's work and professional capabilities. The performance planning and appraisal meetings are opportunities for the employee to discuss work assignment, career path, potential for additional responsibilities, or career development. The supervisor shall document the performance plan on the Center's EPCS performance appraisal form. All "specific job elements" of the employee's performance appraisal must be linked to the NASA Strategic Plan or to the ARC Center implementation plan. Guidance is available in the EPCS Handbook.

Section 2. Performance Evaluation—Supervisors are responsible for advising employees as to their performance. This must be accomplished through informal discussion at least once a year or more often as the need arises. The supervisor should initiate the discussion. An employee may, however, make this request. No employee shall be coerced to sign the discussed performance appraisal.

Section 3. Performance Standards—The Union recognizes the right of the Center to establish performance standards under the NASA Performance Management System consistent with 5 U.S.C. 4302, and the Center agrees to apply such standards in a fair and equitable manner.

Section 4. Pay for Performance—In the event that pay for performance type regulations are established, the parties retain the right to reopen this section for further negotiation.

Section 5. Performance Appraisal and Union Activities—Union Officers, Stewards, Trustees, and Representatives are expected to meet the same standards as other employees. When Management has authorized official time for Union activities, Management shall make reasonable adjustments in the work requirements as necessary so that the employee is not penalized for engaging in authorized functions.

Section 6. Appraisals for Employees on Integrated Project Teams (IPTs), Matrix Assignments, and Details—Employees are entitled to credit for their work. When employees serve on IPTs, matrix assignments, or details, the performance plan shall reflect those assignments. The IPT Lead, Matrix Manager, or detail supervisor should provide input to the supervisor of record for consideration in assigning an annual rating of record.

Section 7. Timeliness of Performance Plans and Appraisals—A written performance plan will be established by the rating official at the beginning of each appraisal period (normally

within 30 days), or upon entering a new position. A written rating of record must be given to each employee as soon as practicable (generally within 30 days) after the end of the appraisal period. Employees and supervisors shall date the performance plan and appraisal to reflect the date upon which they sign them. A copy of the performance plan and appraisal will be given to the employee, upon request, at that time.

Section 8. Minimize Conflict of Interest—The Center recognizes the need to minimize the potential for conflicts of interest or other serious friction between "Level 3 Program Leads" and the Branch Chiefs to whose Branches they receive assignments.

Section 9. Requesting Reconsideration—An employee may request reconsideration of the performance appraisal in writing within 15 calendar days of receipt. It is the employee's responsibility to provide documentation as to why the performance appraisal should change. The supervisor will provide a written reply to the employee within 30 calendar days of receipt of the request for reconsideration. An employee who wishes to grieve the reconsideration decision must file the grievance within 30 calendar days of receipt. Supervisors shall not subject employees to reprisal, retaliation, reprimand, or other adverse action for requesting reconsideration of a performance appraisal.

Section 10. Career Development—Employees are encouraged to pursue career development opportunities. Employees may develop with their supervisors Individual Development Plans (IDP) under the performance appraisal system to propose opportunities to improve in their current positions or to prepare the employee for future advancement.

Section 11. Privacy of Discussions—Discussion of a performance plan or performance appraisal shall occur in a private environment. Third parties may attend a performance appraisal discussion by mutual consent of the employee and the supervisor. If either party denies the request, written information of the employee's work may be requested from the third party. Contractors may not sit in on employee performance planning or appraisal meetings.

Section 12. Individual Development Plan (IDP)—Supervisors are obligated to counsel employees on their career aspirations and options. The development discussion can be initiated by either the supervisor or the employee. Career development opportunities do not assure advancement to the next grade level, but could lead to opportunities for lateral movement and career enrichment. The IDP section of the EPCS is used to record IDP discussions and document the training, skills, certification, or qualifications needed to maintain and enhance the employees ability to perform the duties of the position.

Section 13. Supplemental Documentation—Employees may provide a written summary or listing of their accomplishments to their supervisor to document the substance of their work. The supervisor may also use ARC form 746, Performance Discussion Guide, and ARC 747 Individual Development Plan (IDP) Worksheet to stimulate discussion or to document performance plans and midterm and final performance appraisals. All supplemental documentation should be filed in the EPCS folder that is retained by the supervisor.

Section 14. Supervisor's Responsibility—Supervisors should have knowledge of their employees' work assignments. If there is a new supervisor, he or she will meet the

employee and become knowledgeable about the employee's work before a midterm review or final performance appraisal.

Section 15. Changes to Performance Plan—If the supervisor wishes to change an employee's performance plan, the supervisor shall inform the employee, afford an opportunity for discussion, and provide the employee with a written copy of the revised plan.

ARTICLE XVI

XVI POSITION DESCRIPTIONS AND CLASSIFICATION APPEALS

Section 1. Classification Program—The classification program at the Center will be administered in accordance with applicable OPM regulations, NASA, and Ames implementing instructions. In making the determination of title and grade level, duties that are performed infrequently or for the purpose of demonstrating ability to perform higher level work shall not be considered or made on the basis of granting a higher classification. Once the employee has demonstrated to the satisfaction of the Center, through job growth, the ability to perform duties of a higher level as defined by appropriate classification criteria and performs these duties on a regular and recurring basis, the employee will be recommended for the appropriate grade.

In the event there are significant changes in the work situation such as a result of mission changes or curtailment of work, resulting in the inability of the Center to continue to assign employees work commensurate with their grade level or in the event an employee fails to continue to demonstrate the ability to perform work commensurate with the grade level, the Center will make a reasonable effort to make appropriate readjustments. In addition, it is understood that changes in classification standards may make it necessary for management to demote, discharge, reassign or take other appropriate action in accordance with applicable laws and regulations.

Section 2. Current and Accurate Position Description—The Center will maintain a current position description on each unit employee that accurately reflects the duties of the position. Advanced degrees or professional qualifications that may be required for those duties may be documented in the position description. The Center shall furnish each employee with a copy of the position description.

Section 3. Changes to Position Description—Employees may request to meet with the supervisor to discuss the content of the position description and any changes that may be appropriate. The Center will provide the employee with an updated copy of his/her position description normally within 30 days after the effective date of a position description change.

Section 4. Reclassification of a Position—An employee who believes that his/her position description contains inaccuracies or is improperly classified has the right to discuss the matter with the supervisor. If both the employee and the supervisor agree that the employee's position description is inaccurate, the matter should be referred to the cognizant Human Resources Manager for review. The Human Resources Manager will review and determine the classification of the position. The employee will be informed of the outcome and may discuss it with the supervisor or Human Resources Manager.

Section 5. Other Duties as Assigned—The phrase “other duties as assigned” contained in a position description will not be used regularly to assign work to an employee that is not reasonably related to his/her basic job description.

Section 6. Classification Appeals—General Schedule employees may appeal the classification of their positions by (1) requesting a review within NASA, and, if dissatisfied, requesting a review by OPM, or (2) filing a request directly with OPM. Wage grade employees may appeal the classification of their position within NASA, and if

dissatisfied, request a review by OPM. No employee will be subject to reprisal for initiating a classification appeal.

Section 7. Classification Actions—The Union may represent employees regarding the classification of their position.

ARTICLE XVII

XVII EQUAL EMPLOYMENT OPPORTUNITY

Section 1. Center/Union Cooperation—The Center and the Union agree to cooperate in providing equal opportunity and treatment to all persons and groups in accordance with the Ames Management Instruction.²⁰ In this regard, the parties agree that there will be no preference given in the consideration and treatment of any such person or group.

Section 2. Affirmative Action—Center shall consult with the Union on the Affirmative Employment Plan.

Section 3. EEO Board—The Union will nominate one member (and an alternate) to serve on the Ames Equal Employment Opportunity Board. Actions of this Board shall be consistent with this Agreement regarding equal employment opportunities.

Section 4. Representation in Equal Employment Opportunity Matters—An employee may select the representative of his or her choice in an EEO complaint. A Union representative may represent an employee in EEO matters. The parties agree that an EEO proceeding is not a formal meeting under 5 U.S.C. 7114(a)(2)(A) that requires management to invite the Union to attend.

²⁰ AMI 3713.1

ARTICLE XVIII

XVIII GRIEVANCE PROCEDURE

Section 1. Exclusive Procedure—The procedure described herein shall be the exclusive procedure available to all employees in the unit for resolving grievances. The grievance procedure covers any matter of employee concern or dissatisfaction involving (1) the interpretation or application of this Agreement, and (2) application of published NASA or Ames policies and regulations which concern personnel policies, practices, and procedures, and matters affecting the general working conditions of unit employees.

Section 2. Exceptions to the Procedure—This grievance procedure does not apply to:

- a. any claimed violation of Subchapter III of Chapter 73 5 U.S. C. (relating to prohibited political activities);
- b. retirement, life insurance or health insurance;
- c. a suspension or removal under Section 7532 5 U.S.C. (involving national security);
- d. any examination, certification, or appointment;
- e. the classification of any position which does not result in the reduction in grade or pay of an employee;
- f. individual actions derived from a reduction in force which are appealable to MSPB;
- g. a formal complaint involving prohibited discrimination, appealable to MSPB or EEOC.

Section 3. Submission of Grievances—Grievances may be submitted by an individual employee or groups of employees who have the same complaint. The employee(s) may be represented by a Union representative, if the employees so desires. Any employee or group of employees in the unit may present grievances under this Article and have them adjusted, without the intervention of the Union, as long as the adjustment is not inconsistent with the terms of the Agreement and the Union has been given the opportunity to be present at any formal meetings held in processing and adjusting the grievance. Any employee in a group grievance, if not satisfied with a decision, has the right to further appeal the decision as provided in the Article. If the decision is favorable, the benefit of the decision will be applied to all employees affected by the decision.

Section 4. Timeliness of Complaint—If the complaint concerns a particular action (or occurrence) it must be presented to the supervisor within thirty (30) calendar days of the date of the incident or after the employee first became aware of the incident. If the grievance is about a continuing practice or condition, there is no time limit.

Section 5.—Any complaint between an employee and the Center will be processed in accordance with the following steps. The intention of the negotiated grievance procedure is to resolve complaints at the lowest level with a minimum of organizational complexity and paperwork:

Step 1. Informal Phase—An employee with a complaint will first discuss the matter with his or her immediate supervisor in an attempt to resolve the matter informally. The employee will identify the issue as a complaint and request a written response.

If resolution of the complaint requires the involvement of an official other than the immediate supervisor, the supervisor shall so inform the employee, and the employee may present the complaint to that official. The official with the ability to resolve the complaint shall provide the employee with a written decision, with the reasons for the decision, within 10 calendar days from receipt of the complaint.

The Union and the Center agree that in the informal Step 1, employee-initiated discussions about complaints do not meet the definition of a formal grievance discussion under 5 U.S.C. 7114 (a) and 7121 to require management to invite the Union to the meeting. An employee may request Union representation at any time.²¹

Step 2. Formal Phase—If a satisfactory settlement of the complaint has not been reached at Step 1, the complaint shall be expressed in writing as a grievance and submitted to the Chief, Human Resources Division within 15 calendar days. The Chief, Human Resources Division will review the grievance for procedural compliance and, if not in compliance (e.g., untimely, excluded from coverage, the relief requested is not personal, or if the grievant did not use the informal procedure), provide the employee with a written decision within 10 calendar days of receipt of grievance. If accepted, the Chief, Human Resources Division will designate a Deciding Official within 10 calendar days of acceptance.

The written grievance must be dated, signed by the grievant(s), and include:

- (1) specific information as to the basis for the grievance;
- (2) the remedial action requested;
- (3) the name of the employee's Union representative, if any;
- (4) the dates and names of the supervisor or officials with whom the complaint was discussed in Step 1.

After receipt of the grievance, the Deciding Official will provide the employee with a written decision, with the reasons for the decision, within 15 calendar days. Prior to the decision, the Deciding Official will meet with the employee to discuss the grievance. The Union will be given the opportunity to be present at the meeting OR

The Step 2 Deciding Official may request the Chief, Human Resources Division to appoint a neutral, trained factfinder. The fact finder shall prepare an impartial report and submit the report to the parties in the grievance within 30 calendar days. The parties may comment on the report within 7 calendar days. The report with the attached comments is then forwarded to the Step 2 Deciding Official. The Deciding Official will then meet with the employee,

²¹ Employee or management-initiated discussions of personnel practices, policies and general conditions of employment as defined under 7114 (a) require notice to the Union.

and his/her representative, if any, within 7 calendar of receipt of the factfinder's report. The Union will be given the opportunity to be present at the meeting. The Deciding Official will issue a final decision, with the reasons for the decision, within 15 calendar days.

Step 3. Appeal Phase—If the grievance is not resolved to the satisfaction of the employee, he/she may submit it in writing to the Center Director with a copy to the Chief, Human Resources Division within 15 calendar days of receipt of the Step 2 decision. The employee and his/her representative, if any, will be given the opportunity to make a personal presentation of the grievance to the Center Director or designee. The Union will be given the opportunity to be present at the meeting. The employee will be given a written decision, with the reasons for the decision, within 15 calendar days.

Section 6. Adverse Actions—Appeals of adverse actions processed under 5 U.S.C. Chapter 43 or 5 U.S.C. Chapter 75 may be grieved through the negotiated grievance procedure or appealed to the MSPB, but not both. Appeals will be begin at Step 3 of the negotiated procedure.

Section 7. Union Right to Representation—When an employee is pursuing a grievance under this Article, the Center will ensure that the employee is aware of the Union right to have a Union representative present at any formal meeting scheduled by management to discuss the grievance with the employee.

Section 8. Official Time—Employees and their Union representatives will be given a reasonable amount of official time to prepare and present grievances or appeals.

Section 9. Parties to a Grievance—An employee or group of employees for whom personal relief or remedial action is requested under this grievance procedure must be a party to the grievance. If an employee or group of employees withdraws a grievance before pursuing it to the final step, and the Union believes the issue in the grievance involves a violation of this Agreement, the matter may be submitted as a Union grievance. Under the procedures provided in Section 10, the grievance will not be required to start at Step 1, but will advance from the previously discussed position.

Section 10. Center/Union Grievances—Either the Union or Center may file grievances concerning alleged violations of this Agreement. If the Union is the grievant, the written complaint will be submitted to the Chief, Human Resources Division. If the Center is the grievant, the complaint will be submitted to the Union President who will render a decision. A written decision will be given to the grievant within 30 calendar days. If the grievant is not satisfied, either party may refer the issue to the Federal Mediation and Conciliation Service or to arbitration for resolution in accordance with Article XIX.

Section 11. Extensions of Time Limits—The time limits provided in this Article may be extended by mutual agreement of the parties if the request is presented prior to the end of the prescribed time limit. Requests for extensions will not be unreasonably withheld.

Section 12. Grievability—Unresolved questions of grievability will be submitted as a threshold issue when the issue is submitted to arbitration.

ARTICLE XIX

XIX MEDIATION AND ARBITRATION

Section 1. Arbitration—If any grievance processed under the preceding steps is not settled, such grievance may be submitted to arbitration within fifteen (15) calendar days after receipt of the Director's decision. The request for arbitration must be in writing to the Director and must be signed by the Union. Within ten (10) days after receipt of the request for arbitration, the parties will meet to mutually establish criteria and select an arbitrator from a source such as the Federal Mediation and Conciliation Service or the American Arbitration Association. The arbitrator will not have the authority to add to or subtract from, to disregard or modify, any of the terms of this or any agreements made by the parties. The arbitrator's fee and the expenses of the arbitration will be shared equally by the parties. The arbitration hearing will be held at the Center during the regular day shift hours and will not be open to the public or the press without the consent of both parties. All personnel actively participating in the hearing shall be given official work time without charge to leave. The arbitrator will be requested to render a decision as quickly as possible, but in any event not later than 30 days after the conclusion of the hearing unless the parties mutually agree to extend the time limit.

Section 2. Appeal to the Federal Labor Relations Authority—Either party may file an exception to an arbitrator's award with the Federal Labor Relations Authority under procedures established by the Authority. A copy of the exceptions filed will be given to the other party.

Section 3. Third Party Mediation of Grievance—The Center or Union may invoke third party mediation before arbitration in accordance with the guidelines of the Federal Mediation and Conciliation Service (FMCS) within fifteen (15) calendar days of receipt of the Step 3 decision. Going to mediation does not abridge or deny the Center's or the Union's right to invoke arbitration. The availability of mediation does not abridge the Center's or Union's right to invoke arbitration directly after completion of the negotiated grievance procedure.

ARTICLE XX

XX EMPLOYEE ASSISTANCE PROGRAM

The Center offers an Employee Assistance Program (CONCERN) meeting the requirements of applicable laws, regulations, and guidelines. The Center and the Union shall discuss and negotiate any proposed changes or recommendations relative to the program. Union members involved in activities or representation pursuant to this article shall be considered to be on official duty. The Steering Committee includes the Union President or one designated officer, the Labor Relations Advisor, Chief of Equal Opportunity, and the EAP Coordinator.

ARTICLE XXI

XXI DUES WITHHOLDING AGREEMENT

Section 1. Voluntary Allotment—The Center and the Union agree to the following provisions concerning voluntary allotment of compensation for payment of employee organization dues:

- a. The Union accepts the responsibility of informing and educating its members concerning the programs for the allotment of dues, the uses and availability of: SF 1187 REQUEST AND AUTHORIZATION FOR VOLUNTARY ALLOTMENT OF COMPENSATION FOR PAYMENT OF EMPLOYEE ORGANIZATION DUES and SF 1188 CANCELLATION OF PAYROLL DEDUCTION FOR LABOR ORGANIZATION DUES.
- b. The Union agrees to furnish form SF 1187 to eligible employees desiring to authorize an allotment for withholding of dues from their pay.
- c. An officer of the Union hereby agrees to certify each SF 1187 and will insert the amount of dues to be withheld.
- d. The Treasurer of the Union is responsible for submitting the completed SF 1187 to the payroll servicing officer of the Center.
- e. Allotments will be effective at the beginning of the first full pay period after receipt of SF 1187's by the payroll servicing officer, if possible. All allotments as designated by SF 1187 should be in the Payroll Office at least five (5) working days before the end of the pay period in which the deduction is to be effected.
- f. The President of the Union hereby agrees to immediately notify, in writing, the appropriate payroll servicing officer of any change in the name and/or address of the Treasurer of the Union.
- g. The Center hereby agrees to have the payroll servicing officer prepare a biweekly remittance to the Union at the close of each pay period for which deductions are made. The remittance will be for the total amount of dues withheld for that pay period and will be forwarded to the Union's account by a mutually agreed method.
- h. The Center further agrees to submit to the Union Treasurer a pay period listing of the members and amounts withheld.
- i. Changes in the amount of allotment for dues shall not be made more frequently than twice during each calendar year.
- j. An employee wishing to revoke his or her dues withholding may do so only by submitting a complete SF 1188 during the month of August of any calendar year. Payroll will immediately forward a copy to the Treasurer of the Union. The deduction will stop as of the first pay period beginning on or after September 1. A SF 1188 may be obtained from the Payroll Branch.

ARTICLE XXII

XXII REASSIGNMENTS AND TRANSFERS

Section 1. Reassignment—Reassignment is defined as the permanent change of an employee from one position to another without promotion or change to a lower grade. With the exception of RIF and STEP assignments, all NASA Classification Code series positions in the unit will be filled by personnel in accordance with the OPM or AST qualification requirements for those positions.

Section 2. Notice to Employee—Unit employees will not be assigned to new positions without being informed by the responsible supervisor. The employee is entitled to be informed of the reasons for the action and why the employee was selected for the permanent reassignment. Employees will normally be given a reasonable amount of notice to allow for a smooth transfer.

Section 3. Training for Reassignment—The Center shall provide appropriate training necessary to prepare the employee for the new assignment.

Section 4. Reassignment Opportunities—Management will take employee concerns into consideration when making decisions regarding reassignments. The Center agrees, consistent with its right to direct the work force, to consider individual employee requests for reassignment. Employees are free to pursue reassignment opportunities on their own initiative either within or outside of their organization. No employee shall be subject to reprisal for seeking or requesting a lateral reassignment.

Section 5. Job Interviews—Employees may attend interviews at the Center on official time. In accordance with 5 U.S.C. 2303(f), supervisors may solicit, accept, and consider any statement with respect to an employee who is under consideration if the statement furnished consists of an evaluation of the work performance, ability, aptitude, and general qualifications of the employee. As a courtesy, informal job inquiries and discussions shall remain confidential, if the employee so requests.

Section 6. Documenting Reassignments—When the gaining and losing organizations agree that the employee shall be reassigned, the parties shall complete a form ARC FORM 52 REQUEST FOR PERSONNEL ACTION, indicating the effective date. If immediate reassignment is not possible, the parties may agree to a detail with the intent of a permanent reassignment stated on the ARC-52. Reassignments are official personnel actions that are recorded on SF-50 NOTIFICATION OF PERSONNEL ACTION. The SF-50 is filed in the employee's Official Personnel Folder and a copy is sent to the employee. The position description identifying the organization and describing the duties of the new position will be provided to the employee. The supervisor of the losing organization should document the employee's performance, and forward the appraisal to the supervisor in the gaining organization for consideration in determining the employee's annual rating of record.

Section 7. Reassignment & Transfer Relocation Benefits—For reassignments involving a change of duty station, employees shall be given time for such things as real estate transactions, moving, completion of school year, etc., within the applicable regulations. The Center agrees that employees who must relocate shall receive the Federal moving expense

and relocation real estate benefit consistent with Federal travel regulations. The Center shall provide relocation benefits counseling to all transferred employees.

Section 8. Directed Reassignment—Reassignments will only be made to support the mission of the agency and not to discriminate or punish.

ARTICLE XXIII

XXIII INTERGOVERNMENTAL PERSONNEL ACT ASSIGNMENTS (IPA)

Section 1. Authority—IPA assignments will be made in accordance with applicable Federal statutes and regulations.²² Under the authority of the Intergovernmental Personnel Act (IPA) of 1970, IPAs authorize the temporary assignments of employees between Federal agencies and State, local, and Indian tribal governments, institutions of higher education and other eligible organizations.

Section 2. Assignments—An employee or his/her supervisor contemplating an IPA should consult the Human Resources Division at the earliest opportunity to discuss employee obligations, compensation, expenses, and benefit options. Employees may request Union representation for these negotiations.

The Center will not use incoming IPA assignments for the sole purpose of filling or replacing bargaining unit positions. Upon request, the Center will provide a listing of positions at the Center filled through IPA assignments.

Section 3. IPA Compensation and Expenses—All benefits, compensation, and expenses shall be agreed in advance. The Center shall inform the IPA assignee about all resources and funding normally available to IPA assignees, including per diem, temporary lodging, scheduled mid-IPA travel, return round trip transportation, moving and other relocation expenses, and the relocation real estate benefit.

²² 5 CFR 334

ARTICLE XXIV

Amended September 30, 2004

XXIV PROFESSIONAL RECOGNITION

Section 1. Publications and Author Credits—The Center and the Union recognize the importance of publishing the results of scientific and technical work in conformance with the highest appropriate standards of scientific and technical reporting. Such reporting may be in NASA scientific or technical publications, in scientific or technical reports, in journals, in proceedings of professional meetings, and in books. These publications and other technical reports, such as project documents, proposals, and specifications shall bear the names of principal authors and co-authors to ensure proper credit and tractability.

Section 2. Photographic and Graphic Credit—When a report includes photos or graphics, and the photographer or graphic artist requests credit be given, reviewers and authors shall ensure due credit. This provision does not apply to material for which credit is unknown.

Section 3. Authors—Authors shall be those persons who substantially contribute to the work. Credit for substantial assistance by other employees may be given through an acknowledgment. Co-authors shall normally be responsible for determining the principal author. The principal author will be capable of defending the main technical content of the publication to a peer audience.

Section 4. Approval and Editing—

(a) Review and approval of the contents of all publications and presentations shall be through a standard Center review process.

(b) The Center must fully comply with the applicable Center-wide rules for review and authorization of manuscripts and other publications under the ARC Form 310 PUBLICATION REVIEW AND AUTHORIZATION RECORD process in 53.ARC.009.2.1 (or equivalent Center-wide work rule). Management recognizes that there shall be no changes to these rules (and to the associated Ames Management documentation), without first notifying and negotiating with the Union, unless required by Federal law or Government-wide regulation.

(c) Prior to signing the ARC 310 Form, NASA management has the right to decide whether or where to publish a manuscript with proper consideration given to the author's request. Ames Management must however provide the author with a specific reason for any disapproval and, to the extent possible, indicate to the author what could be done to receive approval. Ames management must allow for a timely appeal process to the Directorate and Center Management (if need be).

(d) Substantial alterations to a paper or report suggested by an editor, supervisor, or reviewer will be discussed with the author prior to submission for publication. The

principal author reserves the right to withdraw or retract the publication. After the author signs the author's approval of editing on the ARC FORM 310, the Center shall make no editorial changes except upon the approval of the author.

(e) A signed ARC Form 310 is evidence of Management's final approval and cannot be rescinded, unless revisions are subsequently made that substantively change the original intent or conclusions of the manuscript. It is understood that approval can be rescinded if required by Federal law or Government-wide regulation.

Section 5. Presentations—The parties recognize that personal presentation of research is a part of an employee's professional development. It is agreed that when material is approved by the Center for presentation at technical meetings the Center shall make every effort to ensure that the principal author make the presentation, and that opportunities to present will be distributed on a fair and equitable basis.

Section 6. Professional and Technical Societies—Professional employees are encouraged to join and participate in technical societies. Employees may be authorized to attend or chair meetings of technical societies on regular duty time, subject to the Center's approval.

Section 7. Patents and Inventions—Employees are encouraged to submit invention disclosures in accordance with NASA and Ames Commercial Technology Policy. Management will negotiate the impact and implementation of any changes in commercial technology policy and patent policy when such changes constitute a change in conditions of employment.

Management will make every effort to notify the Union and the employee patent holder 60 days in advance of proposing to terminate payment of patent maintenance fees on any existing patent. The employee patent holder will be given an opportunity to assume an interest, subject to a government use license, so long as he or she pays the maintenance fees.

Section 10. Intellectual Freedom—Employees have complete intellectual freedom to pursue excellent research consistent with the mission of their Division as it supports the Center implementation of the NASA Mission and Strategic Enterprises. This provision does not abridge management's right to assign work.

ARTICLE XXV
Annual Review Amendment August 3, 2004

XXV CAREER PROMOTIONS

Scope—This article applies only to the personnel actions in Section 4. For other promotions see Article XIII, Competitive Placement Plan.

Section 1. Promotion System—The Center and the Union agree that the promotion process should be fair and should be perceived as fair. The key elements of the fair promotion system are education, communication, employee input, common understandings, professional development, and formal process.

Section 2. Formal Process—Reviews will follow a written procedure that includes consideration of all employees and promotions based on published classification standards and principles.

Section 3. Basis for Promotion—All promotions will be made on the basis of accomplishments, merit, and qualifications, in accordance with OPM regulations. This Article is intended to ensure all qualified unit employees receive fair and equitable consideration for career promotions.

Section 4. Career Promotions—Employees may be promoted without the application of competitive procedures under the NASA Competitive Placement Plan. The career promotions normally recognized at the Center are:

- a. A promotion within a career ladder when competition was held at an earlier stage (e.g. OPM register, NASA CPP) and the promotion is to a grade at or below the full performance level of the position.
- b. A promotion resulting from an employee's position being reclassified at a higher grade because of additional duties and responsibilities, and the employee has demonstrated the ability to perform at the next higher level.
- c. Promotion following non-competitive conversion of a cooperative education student, a Veteran Readjustment Act (VRA) appointee or other such authorized actions within the career ladder.
- d. This Article does not preclude other promotions without competition as outlined by the NASA Competitive Placement Plan.

Section 5. Data on Promotions—Upon request, the Center shall provide information to the Union regarding the number, types, and grade levels of promotions.

Section 6 Schedule of Promotion Boards—Upon request, the Center shall make a schedule for Promotion Boards available to the Union.

Section 7. Credit Toward Promotion — An employees retains credit for all his or her relevant accomplishments since the last promotion, regardless of organizational changes.

Section 8. Candidacy for Promotion — When an employee becomes a candidate for promotion (e.g. promotion board or memo promotion), management and the employee may work together to ensure a successful promotion candidacy.

a. When management involves the employee in document preparation, the supervisor shall give the employee sufficient advance notice. The employee and supervisor may review the documentation together before submitting it for memo promotion or to the promotion board.

b. If the candidacy is not successful, the employee and management are encouraged to work together to improve the employee's qualifications for promotion.

c. Supervisors are encouraged to provide feedback to employees who are proposed but not approved for promotion. This debriefing should be more than nominal and shall address issues of substance that are particular to that individual employee, and offer suggestions for how the employee may become a better candidate in the future. The employee may transcribe the debriefing in writing as a memorandum to the record and give a copy to the supervisor, who shall keep it in the employee's EPCS folder.

ARTICLE XXVI

XXVI DETAIL ASSIGNMENTS

Section 1. Temporary Assignment—A detail is the temporary assignment of an employee to a different position or set of duties for a specified period with the employee returning to regular duties at the end of the detail. The Center may detail employees where such action will relieve a temporary shortage of personnel, reduce an exceptional volume of work, provide a special skill where it is not otherwise available or enable more effective administration by permitting necessary flexibility in assigning the work force.

Section 2. Detail Positions—The Center agrees that normally detail positions in the bargaining unit will be filled by bargaining unit employees.

Section 3. Management of Details—The supervisor of record remains responsible for all requests for personnel action, maintenance of employee's records, and administration of performance ratings. The supervisor to whom an employee is detailed shall oversee the employee's day-to-day activities.

An employee on detail assignment for a significant part of the year shall receive recognition for accomplishments during that assignment on the performance appraisal.

Section 4. Duration of Detail—Details will be made in increments not to exceed 120 days. Details of 30 days or more are recorded on an SF-50 or other official document and filed in the employee's Official Personnel Folder. If the work for which the detail exists must continue for a substantially longer period of time, or indefinitely, an employee may request a permanent reassignment.

Section 5. Details and the Merit System—Details will be made in accordance with the merit principles.

Section 6. Notification of Detail—Supervisors responsible for detailing employees will normally notify the employee at least one pay period prior to the detail. The supervisor should discuss the assignment with the employee upon the employee's request.

Section 7. Absence of Supervisor—If an employee is authorized to act in the absence of the employee's supervisor for more than one day, authorization shall be documented by the supervisor via written memorandum to all employees under the supervisor's supervision. When the authorization is for 30 days or more, an SF-50 is processed and filed in the Official Personnel Folder.

ARTICLE XXVII

XXVII TRAINING AND EMPLOYEE DEVELOPMENT

Section 1. Purpose of Training and Development—Training serves to improve and advance individual and organizational performance in a rapidly changing work environment, in order to increase the knowledge, proficiency, ability, and skill of the employee in the performance of official duties. The Center will endeavor to provide bargaining unit employees with training and development opportunities, including prerequisite training, as appropriate.

Section 2. Individual Career Development—Unit employees are encouraged to discuss their individual career development goals and objectives with their supervisors and the HR Division. The HR Division will provide information, advice and counseling, to unit employees. At the employee's request, the supervisor of record shall establish an Individual Development Plan (IDP) for the employee. The supervisor shall record the IDP summary with the NASA EMPLOYEE PERFORMANCE COMMUNICATION SYSTEM (EPCS).

Section 3. Retraining of Employees—When employees are reassigned due to a reorganization or other change in mission, budget or technology, the Center will negotiate with the Union to provide reasonable and appropriate training to bargaining unit employees who will be affected by such change.

Section 4. Training Announcements—Training announcements will be issued, if possible, at least 30 calendar days prior to the beginning date of the course. The Center shall issue these announcements electronically and shall post a hard paper copy in the Human Resources Division, and in each Branch, where employees do not have individual computers, on a monthly basis.

Section 5. Eligibility for Training—Training announcements will include the eligibility requirements for participation in the training session. Interested employees must obtain the appropriate approval and submit requests by the deadline. Employees are accepted for the training based on meeting eligibility and deadline requirements. In general, candidates for training will be selected on a first-come, first-served basis. However, for training that requires management referrals, candidates will be selected based on need and merit. Management will make every reasonable effort to reschedule classes which are overbooked.

Section 6. Tuition and Official Time—The Center agrees to pay tuition, within budgetary and programmatic constraints, for all approved training. Official time, per diem and travel expenses to attend such training will not be unreasonably denied.

Section 7. Documenting Training—At the employee's request, certification of any completed, job-related training may be filed alongside official performance documentation.

Section 8. Record of Training—A record of all official training of one hour or more, will be issued to unit employees, upon request, and it shall be placed in the employee's EPCS File or maintained electronically in the NASA Training and Development System (NTDS).

Section 9. Assessment of Training Needs—To assist in the allocation of available resources, the Center will periodically assess the training needs of employees as determined by management. The Union and individual employees are encouraged to submit specific training recommendations of unit employees for Center consideration.

Section 10. Foreign Customs and Official Travel Training—Employees may need specialized training before official travel to foreign countries or when working on projects that require them to interact with foreign partners. Based upon determined needs and available funds, management will make every reasonable effort to provide appropriate training in travel procedures (such as security, passports, and embassy services), in cultural sensitivity, and, when appropriate, in foreign customs or languages.

Section 11. Mentoring—The Center recognizes the value of employees training and assisting fellow employees who work in similar fields. When such training constitutes a significant part of the employee's workload, the supervisor and employee may refer to the EMPLOYEE PERFORMANCE COMMUNICATION SYSTEM (EPCS) USER HANDBOOK for guidance on inclusion of such training/consulting into the employee's performance plan.

Section 12. Use of Equipment—Upon Management approval, employees enrolled in job-related training courses may use relevant equipment, such as computers, if available at the work site, during off-hours and during mutually agreeable on-duty hours.

Section 13. Career Counseling—The Center agrees that as career counseling programs are developed at the Center they shall provide such services to bargaining unit employees on an equitable basis.

ARTICLE XXVIII
XXVIII TRAVEL

Section 1. Time in Travel Status—

a. For FLSA exempt employees, time in travel status away from the official duty station of an employee is deemed employment for pay purposes only when:

- (1) It is within his regularly scheduled administrative workweek including regular overtime work; or
- (2) The travel —
 - (i) Involves the performance of actual work while traveling;
 - (ii) Is incident to travel that involves the performance of work while traveling;
 - (iii) Is carried out under such arduous and unusual conditions that the travel is inseparable from work; or
 - (iv) Results from an event which could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of the employee to his or her official duty station.²³

b. For FLSA nonexempt employees, time in a travel status away from the official duty station of a employee is deemed employment for pay purposes only when:

- (1) An employee is required to travel during regular working hours;
- (2) An employee is required to drive a vehicle or perform other work while traveling;
- (3) An employee is required to travel as a passenger on a one-day assignment away from the official duty stations; or
- (4) An employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours.²⁴

Section 2. Overtime Pay and Compensatory Time Off for Travel—If travel outside regularly scheduled duty hours is officially ordered and performed *under one of the conditions listed above*, it shall be considered as hours of employment and compensated as overtime or compensatory time. In addition, Management may, in consultation with the

²³ 5 C.F.R. 550.112(g)

²⁴ 5 C.F.R 551.422

employee, schedule overtime work beyond the regularly scheduled workday while the employee is on temporary duty during the period of travel.

Section 3. Travel Performed During Non-Duty Hours—Insofar as practicable, travel during non-duty hours (e.g., Sunday) shall not be required of an employee. When it is essential that this be required and the employee may not be paid overtime under 5 CFR 550.112(e), the official concerned shall record reasons for ordering travel at those hours and shall, upon request, furnish a copy to the employee.²⁵

Section 4. Travel Time—Normally employees on official travel shall not be required to travel during unreasonable hours if sleeping accommodations are not available on the mode of common carrier transportation used. Management shall not normally expect an employee to use a carrier whose schedule requires boarding or leaving the carrier between 10:00 p.m. and 6:00 a.m. if there are more reasonable departure or arrival scheduled times that will meet mission requirements.

a. Early Departure—Employees who must begin temporary duty assignments at an hour that would necessitate using transportation scheduled to depart from their official duty station before 6:00 a.m. of that day may commence travel on the previous day, even though that day is a non-work day.

b. Late Return—Employees who complete temporary duty assignments at an hour that would necessitate using transportation scheduled to arrive at their official duty station after 10:00 p.m. of that day may delay start of return travel until the earliest reasonable hour on the ensuing day, even though that day is a non-work day.

c. Late Arrival Home—Employees who are required to perform official travel and who arrive at their residence after midnight may be granted an excused absence from their supervisor without loss of pay or leave to provide adequate rest before reporting to work at their permanent duty station. The excused absence shall not exceed eight (8) hours.

Section 5. Advance Travel Funds—When requested by the employee, the Center agrees to advance travel funds up to the maximum extent authorized by the applicable laws and governmentwide regulations.

Section 6. Injury or Illness During Travel or TDY—Any injury or illness suffered by an employee while on required travel or temporary duty status shall be compensated in accordance with applicable laws and regulations. The injured employee shall be advised of all related rights and benefits under the Federal Employee's Compensation Act.

Section 7. Travel Voucher Claims—Prior to travel, employees are responsible for knowing what expenses are reimbursable. Employees may check with the Travel Office staff prior to travel if a potential expense is in question. If the traveler disagrees with a reimbursement, a memorandum should be sent to the Chief, Accounting Branch requesting reconsideration.

Section 8. Local Travel—Claims for reimbursement of mileage, parking, tolls and other local transportation costs may be submitted to the Travel Office. Employees should submit

²⁵ 5 C.F.R. 610.123

an ARC FORM 243 AUTHORIZATION FOR LOCAL TRAVEL, prior to travel, and SF-1164 CLAIM FOR REIMBURSEMENT FOR EXPENDITURES ON OFFICIAL BUSINESS to claim reimbursement.

Section 9. Processing Travel Vouchers—Employees have a responsibility to submit their travel vouchers in a timely manner. The Center agrees to process travel vouchers expeditiously.

Section 10. Disposition of Travel Requests—Management shall make every reasonable effort to notify employees of the final disposition of travel requests not less than seventy-two (72) hours before the scheduled start of travel.

Section 11. Other than Preferred Modes of Travel—Employees may request approval to travel by other than the preferred mode to meet personal needs. Additional costs incurred as a result of not using the mode of transportation most advantageous to the government will be borne by the traveler.

Travel on official business shall be by the mode of transportation which will result in the greatest advantage to NASA, when cost and other factors are considered. In selecting the mode of transportation, authorizing officials should consider the most expeditious means of transportation available practicable that is commensurate with nature and purpose of the duties of the traveler.

Section 12. Annual Leave while on Travel—Employees may request annual leave in conjunction with official travel. Such requests must be properly documented on the travel authorization. As a guideline supervisors may approve one day of leave for one day of travel. Supervisors have the authority to authorize exceptions to the guideline. The authorizing officials are responsible for ensuring that only essential travel is authorized and that the official purpose of the travel stated on the travel authorization is the sole reason for the trip.

Employees are not required to use annual leave to account for delays in travel.

Section 13. Per Diem—The Center shall pay employees on travel per diem for expenses as allowed by government wide and NASA regulations.

Section 14. Prearranged Conference Site—For travel to a "Prearranged conference site" employees can claim actual expenses up to 300% of the per diem rate if the appropriate documentation is provided and approved by the organization and the Chief, Financial Management Division. Employees shall complete ARC FORM 68 REQUEST FOR ACTUAL EXPENSES, and provide a copy of the conference itinerary showing the lodging rate and submit it with the travel voucher.

Employees may request and the Center may authorize rental cars for travel while at Prearranged Conference Sites.

ARTICLE XXIX

XXIX SUPERVISION

Section 1. Matrix and Co-location Assignments—When matrix assignments or integrated product teams (IPTs) are formed at the Center, co-location of employees into other organizations often results. In these situations, employees typically have a supervisor of record in addition to a project or technical leader in the organization to which the employee is matrixed or collocated. Each employee is entitled to know who the technical leader and supervisor of record are. There should be clear definitions of lines of authority and the reporting structure.

Section 2. Work Assignments—All employees have an official supervisor of record who normally assigns work. However, this does not prohibit an employee from receiving work assignments or directions from authorized technical or project leaders or supervisors other than the supervisor of record. In the event of assignments or directions which are conflicting in nature, the employee will report this conflict to the supervisor of record for resolution. If an employee is given multiple tasks to perform simultaneously, the employee may ask the supervisor of record to resolve the priorities.

Section 3. Professional Standards and Ethics—Employees have the right to refuse an order to violate a law or that would place an employee in danger of death or injury. If an order would require an employee to violate a professional standard of care or ethics, the employee should bring the matter to the supervisor's attention and explain the problem. When employees and supervisors disagree about technical matters, employees have the right to document such matters for the record and to present the memorandum to their supervisor.

Section 4. Project Team Skill Mix—Employees assigned to a project team shall have a responsibility to inform management if a project team lacks the necessary skills and qualifications to perform the work. The employees may discuss with management how best to obtain those skills.

Section 5. Supervisor of Record—In the majority of organizations at the Center, bargaining unit employees typically have a NASA supervisor of record. In those organizations where a supervisor may be from another agency (e.g., Army, Air Force, FAA), management will ensure that the employees are supervised in a manner consistent with NASA guidelines and procedures.

ARTICLE XXX

XXX LABOR / MANAGEMENT PARTNERSHIP

Both the Center and Union support labor-management partnership and are committed to work together over the long term to achieve common goals. The purpose of partnership is to design, implement, and maintain a cooperative and constructive working relationship. During the partnering process, the parties explore issues, identify problems, and work together to contribute to achieving the strategic objectives of the Center, providing the best possible service to its customers, maximizing the efficiency and effectiveness of the utilization of the Center's work force, and providing for means of improving job satisfaction, morale, and working conditions of all employees.

The partnership is established by the Partnership Agreement between the Center and the Union as of June 13, 1996, as amended. The terms and conditions of the partnership are established by the Partnership Agreement.

ARTICLE XXXI

XXXI LIBRARY SUPPORT

Section 1. Support of the Library—The Ames Library is a vital tool and resource for many employees. The Center and the Union understand the importance of developing and maintaining the library to the highest academic and professional standards. A Union representative shall participate with the Library User Committee to support furtherance of Library quality.

Section 2. Publications—The Library posts lists of planned journal subscriptions on the Library website for comment. The Union may evaluate the proposed changes, and advise the Library on the impact.

Section 3. Additional Resources—The Center and Union will work together to identify additional resources beyond relying upon the Ames library such as establishing and maintaining a number of library cards to local Universities.

ARTICLE XXXII

XXXII POSITIVE WORK ENVIRONMENT

Section 1. Definition of Positive Work Environment—The Center and Union agree

- a. that a positive work environment is essential to achieve and maintain productivity and team work;
- b. to promote a work environment free from personal animosity, hatred, intimidation, harassment, verbal abuse and undue scrutiny; and
- c. to work together to promote a positive work environment that is conducive to higher productivity, creativity, and harmony.

Section 2. Remedies—It is the responsibility of management to promote, maintain and take corrective action, when necessary, to ensure a positive work environment. Employees are encouraged to seek remedies concerning their work environments with their supervisor, Human Resources Manager, the Union or EEO, as appropriate.

ARTICLE XXXIII

XXXIII INCENTIVE AWARDS

Section 1. Purpose of Awards—The Federal Incentive Awards program is a vital part of the mission at the Center. The program is designed to improve government operations through incentive and reward and to motivate employees to increase productivity and creativity. Employees are recognized and rewarded individually or in groups for their inventions, suggestions, superior accomplishments, or other personal efforts that contribute to improvements. Awards may be either monetary or honorary, and recognition may be given at the Center level, NASA-wide level, or at the Federal government level.

The Center and the Union agree that the values of awards should be commensurate with metrics such as the level of challenge and value to the Center. Awards shall be impartially distributed among employees based upon merit and in accordance with APD 3451.

The Union may request information concerning incentive awards to the extent allowed by law.

Section 2. Presentation—The Center will schedule appropriate presentations of awards to employees.

ARTICLE XXXIV

XXXIV OFFICE MOVES AND WORKSPACE RELOCATION

This article provides for the planning and conduct of office and laboratory relocation moves.

- a. The Center shall arrange for office moves and allocation of workspace to improve productivity and the efficiency of operations.
- b. The Center shall take into account the employee's type of work, work group, need for specialized facilities and equipment, and need for access to them.
- c. An employee may request Union representation at any time in the workspace relocation process.
- d. When office and laboratory moves are required, the Center shall:
 - (1) inform the employees of the purpose of the move;
 - (2) consider employee concerns and needs, and involve the employees, as appropriate, in the planning process;
 - (3) inform the employee of the location to which the employee is to relocate including the sequence, if appropriate, and dates of specific moves. If the relocation will involve a substantial number of employees, the supervisor in charge of the move shall make accessible to affected employees a written plan of the new workspace assignment;
 - (4) give the employee the opportunity to inspect the new workspace location;
 - (5) give the employee a reasonable amount of time in which to prepare for the move, normally 10-15 calendar days from the time the employee has the opportunity to inspect the new location;
 - (6) provide packing materials, assistance in packing as requested by the employee, and moving services, as appropriate, to carry out the move;
 - (7) inform the affected employees promptly if there are changes in the times, dates, or locations for (a) through (f) above;
 - (8) discuss with employee any mission critical tasks that the move may impact during the period of transition.

ARTICLE XXXV

XXXV TELECOMMUTING

The Union and Center recognize that telecommuting can enhance employee productivity and agree to negotiate a policy to expand the telecommuting program at the Center. The parties agree to conduct a joint survey of telecommuting practices at the Center to provide an empirical basis for such a policy. The telecommuting program shall address issues of government provided versus employee-owned hardware and software, workweek, and overtime.

ARTICLE XXXVI

XXXVI LIFE OF THE AGREEMENT

Section 1. Effective Date—The effective date of the Agreement will be the date of approval by the Administrator, NASA, or a designee.

Section 2. Duration of the Agreement—This Agreement will remain in full force and effect for a three- year period from the effective date of this Agreement, and thereafter for additional three-year periods unless written notice of intent to terminate at the end of the current term is given to the other party not less that sixty (60) days before the termination date, and provided that such agreements and recognition are permitted by laws and regulations. This Agreement will be subject to review and discussion annually, and the proposed agenda for such discussions must be submitted to the other party in writing not less than thirty (30) days prior to the end of one year from the effective date of this agreement. The joint meeting will be held on or about thirty (30) days after receipt of the above agenda. At any time during the life of this Agreement, the parties may, by mutual accord, terminate, extend, change, or revise this Agreement, subject to approval by the Administrator, NASA, or his or her designee.

PROHIBITED PERSONNEL PRACTICES

TITLE 5 U.S.CodeSec. 2302

(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority -

(1) discriminate for or against any employee or applicant for employment -

(A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

(B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

(C) on the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(D) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or

(E) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;

(2) 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 -

(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

(B) an evaluation of the character, loyalty, or suitability of such individual;

(3) 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;

(4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;

(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

(6) 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;

(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

(8) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of -

(A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences -

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

(ii) gross 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

(B) any disclosure to the Special Counsel, 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 -

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

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

(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of -

(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A);

(C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

(D) for refusing to obey an order that would require the individual to violate a law;

(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States;

(11)(A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or

(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or

(12) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.

