

NEGOTIATED AGREEMENT

BETWEEN

**U.S. FOOD AND DRUG ADMINISTRATION
MINNEAPOLIS DISTRICT, DHHS REGION V**

AND

**AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 3381, AFL-CIO**

MEMORANDUM OF UNDERSTANDING

The following constitutes an agreement between the Food and Drug Administration (FDA), Minneapolis District Office (the Employer) and the American Federation of Government Employees (AFGE) (the Union) and the represented employees of the Midwest Laboratory for Microbiological Investigations (MLMI), FDA, Minneapolis District Office, concerning the negotiated agreement between the Employer and the Union and employees of MLMI and Union representation of employees of MLMI. The undersigned parties agree that the language of the NEGOTIATED AGREEMENT BETWEEN U.S. FOOD AND DRUG ADMINISTRATION MINNEAPOLIS DISTRICT, AND AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3381, AFL-CIO, and any subsequent Employer/Union agreements are incorporated by the employees of MLMI and that the employees of MLMI will be represented by the Union in future negotiations and representational activities. The parties further agree that the procedures of Article XVII, Grievance Procedures, of the above-referenced Negotiated Agreement will apply to any grievance filed subsequent to January 1, 1996.

For the Union:

Redacted, President, AFGE
Local 3381

1-22-96
Date

For MLMI:

Redacted
Representative for MLMI

1-22-96
Date

For the Employer:

Redacted
District Director

1/22/96
Date

FDA MINDO -- AFGE

contract effective 9/15/83 to 9/15/86

60 days prior = 7/17/86

90 days prior = 6/17/86

automatic rollover still in effect per CS 8/8/90

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The Effective Date of this Agreement is: Sept. 15
~~19th August~~, 1983.

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PREAMBLE

This agreement is made in accordance with Public Law 95-454, The Civil Service Reform Act of 1978, and pursuant to the exclusive recognition granted by the Food and Drug Administration, Minneapolis District (hereinafter referred to as "Management") to AFGE Local 3381 (AFL-CIO) (hereinafter referred to as the "Union").

Management and the Union recognize that the public interest-requires high standards of employee performance, conduct and the continued development and implementation of modern and progressive work practices to ensure the efficient accomplishment of the operations of the District. Effective collective bargaining is in the public interest. Consistent with this policy and with the-Civil Service Reform Act, it is the purpose of this agreement to prescribe rights and obligations of the employees and to establish procedures which are designed to assure participation in the formulation and implementation of personnel policies and practices relating to their conditions of employment through such collective bargaining in those areas in which bargaining is appropriate in the Federal Service.

ARTICLE I

DEFINITIONS

Section 1

Unit Definition: AFGE Local 3381 is recognized as the exclusive representative of both professional and non-professional 'employees of the Minneapolis District; therefore, the units to which this Agreement is applicable -include:

all employees of Region V, DHHS/PHS/Food and Drug Administration, Minneapolis District with its office located at 240 Hennepin Avenue; Minneapolis, Minnesota, and resident posts located at Green Bay, Wisconsin; Madison, Wisconsin; and Milwaukee, Wisconsin, and exclude:

all management officials, confidential employees, employee engaged in Federal personnel work in other than a purely clerical capacity, and supervisors and guards as defined in Public Law 95-454.

Section 2

Consultation: Verbal or written discussion between representatives of Management and representatives of the Union for the purpose of obtaining or exchanging viewpoints on any aspect of working conditions, and on new or changed policies or programs that affect the morale and general working conditions of employees in the bargaining units. It is not mandatory that the end result of consultation be agreement between the parties.

Negotiation: Joint discussions by representatives of Management and the Union on subjects appropriate for negotiation as set forth in the Civil Service Reform Act of 1978 to include policies affecting personnel and practices, and matters affecting working conditions which are under control of the District Director. Negotiation should result in execution of a written agreement, including amendments or supplements thereto, or a memorandum of understanding.

ARTICLE II

MANAGEMENT RIGHTS AND RESPONSIBILITIES

Section 1

Management officials of the agency retain the right, in accordance with Public Law 95-454 to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and in accordance with applicable laws --

- A. to hire, assign, direct, layoff T-.and retain employees in the agency and to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;-
- B. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
- C. with respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion; or any other appropriate source available;
- D. to take whatever actions may be necessary to carry out the agency mission during emergencies.

Section 2

In the administration of all matters covered by this Agreement, officials and Employees are governed by existing laws and regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published Agency policies and regulations in existence at the time this Agreement was approved; and by subsequently published Agency policies and regulations required by law. Where any appropriate authority, policy and/or regulation, not required by law, conflicts with this Agreement, the Agreement shall govern.

Section 3

Management shall not encourage or discourage membership in the Union.

Section 4

In accordance with 5 U.S.C. 7114(a)(3), Management shall annually inform its employees of their rights under paragraph 7114(a)(2)(B) of the act.

ARTICLE III

UNION RIGHTS AND RESPONSIBILITIES

Section 1

As the exclusive representative of the bargaining units, the Union shall have the right and obligation to represent all employees in the units on matters of concern regarding personnel policies, practices, and working conditions that are presented either orally or in writing. The Union shall represent the interests of all employees in the unit without discrimination and without regard to union membership.

Section 2

The Union has the right and will be given the opportunity to be represented at any formal discussion concerning any grievance, or any personnel policy or practices or other matters which affect the general working conditions of employees in the units.

The Union shall be given the opportunity to be represented at any examination of an employee in the bargaining units by a representative of the agency in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee and the employee requests representation.

Section 3

Internal Union business shall be conducted only during the non-duty hours of the employees concerned.

Section 4

An employee who is a Union representative may be granted official time for the purpose of attending training sessions on subject matter of mutual concern to the government and employee in his capacity as a Union representative and the government's interest will be served by the employee's attendance. Official time granted for this purpose may be approved only for short periods of time, ordinarily not to exceed eight (8) hours per course. Prior approval by Management is required. Such requests must be in

writing and be supported by a statement of the purpose of attendance and official agenda for the program.

ARTICLE IV

UNION REPRESENTATION

Section 1

Management agrees to recognize the Union officers of AFGE Local 3381 and up to one representative per branch. The Union will inform members of the bargaining unit and management of the names of their designated representatives.

The Union shall provide Management -with a current roster of its officers and representatives and the area each Union representative is authorized to represent. This roster will be updated by the Union when changes occur.

Section 2

The primary responsibility of each Union Officer or designee is his/her assigned duties as a Government employee; however, a Union Officer or designee may be authorized to be absent from official duties for a reasonable period of time under the following conditions:

- a. Meetings called by Management or Union requested meetings with Management.
- b. Safety Committee and EEO meetings.
- c. As an appointed representative, consulting with employee who has filed or is preparing a grievance.
- d. Representation of an employee at a hearing under the grievance procedure.

Before any Union representative leaves his/her work area to conduct any of the above functions, he/she will first obtain approval from his/her immediate supervisor. The representative will advise the supervisor upon his/her return to work after the meeting. The time spent in these duties will be appropriately recorded with employee's supervisor.

Section 3

The Union President and District Director or their designees will be the principal contact for carrying out administrative matters between parties.

ARTICLE V

EMPLOYEE RIGHTS

Section 1

In accordance with 5 USC 7102, each employee shall have the right to form, join, or assist any labor organization, or to refrain from such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right.

Section 2

No employee shall be required to become or to remain a member of the Union or to pay money to the Union except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions, or direct payment to the Union.

Section 3

All employees of the unit, whether Union members or not, are entitled to equal representation by the Union regarding complaints, grievances, or other consultations with District Management. The Union's status as a representative of all employees in such unit shall not preclude any employee, regardless of whether he/she is a member or not a member of the Union, from bringing matter(s)-of personal concern to the attention of their branch Union representative or to the Union President.

ARTICLE VI

UNION MANAGEMENT MEETINGS

Management and the Union may meet monthly on a mutually agreeable date. The meetings will be held during official duty hours. Unfinished business will be rescheduled promptly. No more than three (3) representatives each from Management and the Union will participate. No later than five (5) workdays preceding the meeting, Management and the Union will exchange written agenda. If no agenda is presented by either party no meeting will be held that month. This section will not preclude the Union or the Employer, from being accompanied at these meetings by National Representatives or appropriate Management officials. However, each group will inform the other within the written agenda when non-employees will attend.

ARTICLE VII

EMPLOYEE PERFORMANCE APPRAISALS

The application of job elements and performance standards and the resulting employee performance appraisals will be conducted in accordance with terms as stated in this article as well as those in the Memorandum of Understanding Between AFGE Locals 112, 3269, 3381, and 3831 and The Food and Drug Administration, Chicago, Detroit, Minneapolis, and Cincinnati District Offices dated 8-6-81 as well as any subsequent updates of the Memorandum of Understanding. The section of that agreement currently in impasse will become binding under both of these agreements when finally agreed upon

ARTICLE VIII

CAREER DEVELOPMENT AND TRAINING

Section 1

Selection for training shall be made without discrimination or restraint due to race, color, creed, national origin, sex, age, or lawful political affiliation in accordance with FDA Field Management Directive 101 and HHS Region V Merit Promotion Plan dated November 16, 1980.

Section 2

Supervisors will confer at least once per year with individual employees concerning their career development over the next year, and their long-range goals. This discussion will include identifying and planning training opportunities and needs.

Section 3

Management will post all applicable notices of agency-sponsored training opportunities on the proper bulletin board as well as sending a copy of the notice to all resident posts. Insofar as possible, sufficient time will be given for all employees to apply. Management will contact qualified employees, at such location they may designate, while on leave or in travel status. Selection for training required for promotion will be in accordance with the HHS Region V Merit Promotion Plan, dated November 16, 1980. (Copy available for review in District Administrative Office).

Section 4

Employees may take advantage of outside training which management feels will be of benefit to the agency and the employee. Employee request(s) may be granted on a case-by-case basis and will be dependent upon Management's and Employee's needs and current work scheduling. Within the limits of Management's authority, reimbursable expenses will be authorized. Travel obligations may be adjusted for employees participating in such training. course(s). The employee will submit documentation to Management demonstrating successful completion of the course.

Section 5

Any employee who submits a written request with rationale for training and is denied, will also be given in writing the rationale for the denial if requested in writing.

Section 6

Management will attempt to establish a budget for funding attendance at professional meetings and will solicit a list of such meetings from the employees.

ARTICLE IX

TRAVEL

Section 1

Management and the Union recognize that the nature of the mission of FDA is such that bargaining unit employees will be required to travel from their official duty station on temporary duty assignments.

Section 2

Except in emergency situations, there will be no travel scheduled the week of Thanksgiving or within five (5) calendar days before Christmas, and New Years' Day. This can be waived for those employees who are willing to travel at those times.

Section 3

Management will assign work in two-month periods. Travel commitments will be proposed for this 2-month work period by the 10th day of the month preceding this 2-month period. This 2-month travel proposal will be posted on the Investigations Bulletin board for 10 working days. During this 10-day period the employee may request changes as to when their trips are scheduled. When the employee agrees to the travel dates proposed for the first of the 2 months or Management agrees to switching the travel to other dates within the month at the request of the employee, the employee will signify agreement with the first month's schedule by initialing and dating the travel schedule by the end of the 10-day posting period. Failure to initial or discuss will be considered acceptance of the schedule. Employees absent during this 10-day period will be given an opportunity to request changes immediately upon their return.

Travel commitment for the 2nd month of the period will be finalized by the 20th day of the first months' work period in the same manner as outlined above.

Once final travel assignments are issued, employee requested changes in the travel schedule will be allowed by Management only for emergencies which will be handled on a case by case basis.

Investigators may, with the concurrence of their supervisors, exchange their travel periods.

Employees scheduled for a road trip will depart on those scheduled trips no later than thirty (30) minutes from the conclusion of the scheduled Monday Morning Meeting. In the event no meeting is scheduled, within 30 minutes of arrival at the district office. If the meeting is cancelled on short notice, within 30 minutes of that notice being given.

Section 4

Except in emergency situations and to the extent practicable, Management will schedule assignments such that no official travel will be necessary outside the normal working hours.

Section 5

Management will normally schedule one-week road trips. In those instances where two (2) week road trips are required and when Management after cost analysis determines that the costs of reimbursing employees who are required to perform extended periods of temporary duty-for expense of traveling between the temporary duty point and official station for non-workdays. is outweighed by savings in terms of employee efficiency, and productivity and reduced costs of employment and retention of such employees, the cost of weekend return travel, may be authorized. Travel arrangements for weekend return travel must be approved by the employee's supervisor.

Section 6

Management will endeavor to reduce road trips by staffing the existing resident posts with more personnel where necessary and possible.

Section 7

All official travel will be performed using the mode of transportation which is most advantageous and economical to the government.

ARTICLE X

EQUAL EMPLOYMENT OPPORTUNITY

Section 1

Management and the Union agree to cooperate in supporting equal opportunity in employment for all persons, to prohibit discrimination because of age, race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through affirmative action plans in accordance with the objectives and principles of the Equal-Employment Opportunity Program, as set forth in applicable laws and regulations.

Section 2

It is agreed that in the policies and practices of Management and the Union, there shall continue to be no unlawful discrimination or preferential treatment based upon age, race, color, creed, sex, or national origin.

Section 3

The Union shall nominate a representative to the EEO Committee. This representative will be a full voting member of this committee.

Section 4

The Union is entitled to participate in the execution of activities and District organizations whose functions are related to equal employment opportunity. The District EEO Affirmative Action Plan is a Management plan regarding working conditions and personnel practices. Implementation of the Affirmative Action Plan will be a matter for negotiation.

ARTICLE XI

HEALTH AND SAFETY

Section 1

Management and the Union agree that applicable agency and nationally recognized sources of health and safety standards, such as OSHA, NFPA and NIOSH will be used to implement the District Safety and Health Program. Both Management and the Union will promote the maintenance of a safe and healthy working environment by actively pursuing and supporting the current Minneapolis District and Minneapolis Center for Microbiological Investigations Safety and Occupational Health Program.

Section 2

When the use of special safety equipment such as glasses; shoes, work clothes and other protective devices is required, Management will furnish such items at no cost to the employees. Employees will use such equipment when required or when appropriate and will be responsible for proper use and care of such items.

Section 3

Management will provide, as needed, first-aid training to those interested.

Section 4

Management will provide first-aid kits in each unit. These kits will be maintained so as to assure that its contents remain stocked.

Section 5

The procedure for emergency building evacuation will be communicated to the employees and posted in a conspicuous place in each unit. Management agrees to develop procedures to assure that all

handicapped employees are provided appropriate assistance to evacuate buildings in case of emergencies. There shall be a building evacuation drill on official time at least once each year.

Section 6

The names of all individuals currently certified in CPR will be posted in a conspicuous place in each unit. Management will encourage these individuals in keeping certified. Management will attempt to assist those individuals interested in obtaining initial CPR training.

Section 7

Management will attempt to provide proper ventilating and/or procedures to eliminate extreme odors from dishwashing room and autoclaving. To insure proper laboratory hood ventilation, Management will establish and follow a schedule of routine maintenance and checks for the-hood venting system.

Section 8

In the event a health or safety inspector or consultant visits the District for the purpose of making a compliance review, the Union will be notified and may participate in the entrance and: exit discussions between Management and the inspector/consultant.

Section 9

When an investigation is made of an occupational accident, injury, or illness by a representative of the agency or outside authority, the Union shall be invited to participate in the entrance discussion.

Section 10

The Management will maintain and provide to the Union, copies of statistical reports on health and safety as required by the Department of Labor.

Section 11

Any employee who is assigned duties which he or she reasonably believes could possibly endanger his or her health or well-being will notify the supervisor of the situation immediately. If the supervisor cannot solve the problem and agrees with the employee, the supervisor shall delay the duty.

Section 12

The parties support a comprehensive employee physical program sponsored by the Agency which the Agency assures will be available at the District level. If this program does not become available at the District level, the parties agree to reopen the contract to negotiate on this issue--employee physical.

Section 13

Nothing in this agreement will limit the right of the Union or any employee to pursue whatever action they deem necessary to address any concern the Union or employee may have concerning Health & Safety.

ARTICLE XII

DISCIPLINARY/ADVERSE ACTIONS

Section 1

Management and the Union agree that primary emphasis should be placed on preventing situations which may result in disciplinary or adverse action. The parties agree to the concept of progressive discipline designed primarily to correct and improve employee conduct rather than to punish. The sequence of steps should be, where possible (1) counseling and assistance; (2) admonishment; (3) reprimand; (4) short-term disciplinary suspension and. (5) long-term suspension, reduction in grade, or termination. Excepted from the above sequence of steps shall be those cases of serious or criminal misconduct warranting formal disciplinary or adverse action in the first instance; in such serious misconduct cases, the charge shall not cite other instances of misconduct not related to the current issue in which no disciplinary action was taken.

Section 2

When any of the sequences in Section 1 above are taken, the employee will be notified of his/her right to representation.

Section 3

Management and the Union agree that disciplinary or adverse action, if taken shall be for such good and sufficient cause as shall promote the efficiency of the service and subject to the provisions of Title II of PL 95-454, Civil Service Reform Act of 1978, and under regulations prescribed by the Office of Personnel Management.

ARTICLE XIII

UNION ACCESS TO EMPLOYER'S SERVICES/FACILITIES

Section 1

At the request of the Union, Management agrees to provide the union available facilities for the purpose of union meetings and/or conferences during non-working hours. The Union will leave the area in a clean and secure condition.

Section 2

One bulletin board will be provided to the Union for its use. The union will not post material that is justifiably objectionable to Management.

Section 3

Union representatives shall have access to the Federal Personnel Manual, DHHS Personnel Instructions, FDA regulations and all other official DHHS and FDA manuals maintained in the District.

Section 4

Authorized union representatives shall be allowed to make reasonable use of office equipment and copying equipment in the performance of representational functions as provided by this agreement. The Union will obtain prior approval of Management. Management will provide space for storage of one file cabinet for the storage of official union documents.

Section 5

Management will allow employees and their Union representative reasonable use of the Federal Telecommunications System (FTS) in the performance of their functions authorized to be accomplished on official duty time in accordance with this agreement.

Section 6

Management will forward to the resident posts within the District a list of Union officers as provided and as updated by the Union.

ARTICLE XIV

WORKING ENVIRONMENT

Section 1

Management will attempt to provide a work environment free from distractions due to office noise and visual distractions caused by the existing traffic patterns through the use of modular work stations.

Section 2

The Union will be kept updated on the following:

- a. Building modifications proposed or planned for the District.
- b. Lease renegotiations for the District.
- c. Relocation proposals or plans for the District.

Management will consult with the Union on these matters.

ARTICLE XV

PART-TIME CAREER & JOB SHARING

Management acknowledges the existence of part-time careers and job sharing and will consider requests for such employees on a case-by-case basis. Management will consult with the Union on this matter.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

Section 1

a. The Union and Management agree that at times, overtime may be necessary to carry on the work of the office in an efficient manner. An employee's preference to work or not to work overtime will be given consideration. Unless otherwise directed by an emergency, an employee may be excused by his supervisor from overtime work. Compensation for overtime will be granted in accordance with appropriate rules and regulations.

b. The Union shall have access to bargaining unit employees overtime records in exercising representational responsibilities.

Section 2

Management will assist employees eligible for retirement in obtaining information on retirement benefits.

Section 3

Orientation of New Employees: Management will furnish all new unit employees a copy of this agreement and a list of all Union officers, branch representatives, and their duty location, as provided by the Union.

Section 4

After approval of this Agreement, Management will provide one legible copy to each covered employee and 10 copies to the Union.

Section 5

Management will annually provide the Union with a list of employees excluded from the bargaining unit.

Section 6

The Union agrees to cooperate with Management in truly voluntary charity drives and to lend its support to these worthy causes.

Section 7

Upon the presentation of a meaningful agenda, Management will determine the need to hold a branch meeting.

ARTICLE XVII

GRIEVANCE PROCEDURES

Section 1

The purpose of this section is .to provide a mutually acceptable method for prompt and equitable settlement of employee, Union, and Management grievances. Most grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. Management and the Union agree that every effort will be made by Management and the aggrieved party(ies) to settle grievances at the lowest possible level and as quickly and reasonably as achievable. Inasmuch as dissatisfactions and disagreements arise occasionally among people in any work situation, the filing of a grievance will not be construed as reflecting unfavorably on an employee's good standing, work performance, loyalty or desirability to the Food and Drug Administration.

Section 2

A grievance means any complaint:

- a. by any bargaining unit employee concerning any matter relating to the employment of bargaining unit employees; or
- b. by the Union concerning any matter relating to the employment of any bargaining unit employees; or
- c. by any employee, the Union, or the Management concerning the effect or interpretation or a claimed breach of this Agreement.

Section 3

This Article shall not apply to grievances concerning the following:

- a. Any claimed violations relating to prohibited political activities; or
- b. retirement, life insurance, or health insurance or

- c. a suspension or removal in the interest of national security (5USC7532); or
- d. any examination, certification or appointment; or
- e. the classification of any position which does not result in the reduction in grade or pay of any employee.

Section 4

The Negotiated Grievance Procedure shall be the exclusive procedure available to Management, Union, and the employees of bargaining units for resolving grievances which are described below.

Section 5

If an alleged grievance also constitutes an alleged Unfair Labor Practice, the aggrieved party has the option to seek redress under this Article, or the unfair labor practice procedures established by the Federal Labor Relations Authority (FLRA), but not both.

Section 6

An employee affected by discrimination, a removal or reduction in grade based on unacceptable performance, or adverse action (*)¹ under Section 7512 of the Civil Service Reform Act of 1978 may, at the discretion of the employee, raise the matter under a statutory procedure or this negotiated grievance procedure. An employee will be deemed to have exercised the option to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance under this procedure.

The following procedure shall be followed in all employee-initiated grievances:

- Step (1)(a) an adverse action, or a removal or reduction in grade based on unacceptable performance;

¹ (*) NOTE. Adverse action is defined as: suspension for 15 calendar days or more, reduction in grade or pay or removal for reasons other than unacceptable performance, and furlough of 30 calendar days or less.

Step (1)(b) discrimination

Step (1)(a) Adverse Action or a Removal or Reduction in grade based on unacceptable performance

The grievance will first be introduced orally or in writing by the affected employee and his/her representative, if any, with the appropriate management official who issued the decision within ten (10) workdays after the final notice of action. The management official will provide an answer in writing no later than ten (10) workdays after receipt of the grievance.

Step (1)(b) Discrimination

Discrimination grievances will be filed with the first level of management which has clear authority to decide the issue within ten (10) workdays of the occurrence of the incident or event; from which such grievance arose, or from the date the employee became aware of such matter. This management official shall give his/her written decision within twenty (20) workdays from receipt of such grievance. Any grievance initiated at the District Director's level will be considered to be initiated at the second step of this grievance procedure.

Step (2) Both (a) & (b) as referenced above

If a satisfactory settlement has not been reached at Step (1), the grievance may be presented in writing by the employee and his/her representative, if any, within ten (10) workdays, to the next management official within the district, with line authority to decide on the matter grieved. That management official shall give his/her written decision within twenty (20) workdays after receipt of the grievance

Step (3)

If the matter in either (a) or (b) is not satisfactorily settled at Step (2); the Union can invoke arbitration within ten (10) workdays of receipt of the Step (2) decision.

Selection of the Negotiated Grievance Procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to 5 USC 7702 in the case of any personnel action that could have been appealed to the MSPB, or where applicable, to re-quest the Equal Employment Opportunity Commission to review a final decision in any matter involving a complaint of discrimination of the type prohibited by the EEOC.

Section 7

- a. If either Management or Union determines that there is a difference of opinion concerning any particular provision of this agreement, that party shall notify the other so that a meeting can be arranged for the purpose of arriving at mutual understanding of the particular provision. The party calling the meeting shall notify the other party in advance of the meeting which provisions are to be discussed.
- b. During the meeting so called, the parties will endeavor to arrive at agreement on the intended meaning of the questioned provision, referring to the plain meaning of the agreement language, to the negotiations surrounding that provision, the past practices of the parties, and any collateral laws and regulations. If agreement on the meaning of any provision(s) is so reached, the parties shall reduce their common understanding to writing and consider it a supplement to this Agreement.
- c. Either Management or the Union may initiate a grievance against the other over the effect or interpretation or a claimed breach of this agreement involving employees across branch lines. Such grievance will be filed in writing with the Union President or the District Director, respectively, within ten (10) workdays of the event giving rise to the grievance. The parties or their designees shall meet to discuss and attempt to resolve the grievance within five (5) workdays after the receipt of the grievance. The responding party must issue a written decision within ten (10) workdays of the date of the meeting. If the aggrieved party does not receive a satisfactory resolution, it may proceed to arbitration not later than ten (10) workdays following receipt of the other party's decision.

Section 8

A grievance involving any request for relief which is not within the authority of the FDA Minneapolis District Director shall be processed under the Department of HHS Grievance Procedure.

Section 9 (NON-DISCRIMINATION ISSUES)

Negotiated Grievance Procedure for Employees and Union

An employee's use of his/her grievance or appeal rights shall not be the basis for punitive or retaliatory actions on the part of Management. An employee may pursue a grievance without Union

representation. In those instances, when union representation is not chosen, the Union reserves (1) the right to be present at any meeting concerning the grievance, (2) to obtain copies of all documents related to the grievance, and (3) to submit the Union's position for consideration, as authorized by 5 USC 7121 (b). The following process shall be followed in all employee initiated or group-initiated grievances except as provided for in Sections 6, 7, and 8 above.

Step (1). Any employee having a grievance within the scope of this article should take it up first with the immediate supervisor within ten (10) workdays after occurrence of the act or, if a group grievance, within twenty (20) workdays after the occurrence of the act. The grievance will be made in writing. The employee must state the basis for the grievance, the corrective action desired, the name of his/her representative, if any, and any other pertinent information. If requested by either party a discussion will take place concerning the matter grieved in an effort to resolve the matter. The supervisor will issue his/her written decision within ten (10) workdays after this discussion, or receipt of grievance, whichever is longer, to the employee and his/her representative, if designated.

Step (2). If the grievance is not resolved at the first step, the employee shall submit his/her complaint, and a copy of the response, to the Branch Director. The second step grievance must be submitted in writing within ten (10) work days after receipt of the first step decision by the employee's immediate supervisor. If requested by either party a discussion will take place concerning the matter grieved in an effort to resolve the matter. The Branch Director will issue his/her written decision within ten (10) workdays after this discussion, or receipt of grievance, whichever is longer, to the employee and his/her representative, if designated.

Step (3). If no satisfactory settlement has yet been reached and the employee wishes to pursue the grievance the employee will present his/her third step grievance, along with copies of the first and second step responses, to the District Director within ten (10) days after the receipt of the second step response. After review of the grievance record and having made any inquiry deemed necessary, the District Director shall issue his/her written decision within ten (10) workdays to the employee and his/her representative, if any. Under the negotiated grievance procedure, the District Director is the highest level of review. If no satisfactory settlement has been reached, the Union may refer this matter for arbitration.

Section 10

All time limits at various steps in the grievance procedures may be extended upon mutual agreement of both parties.

ARTICLE XVIII

ARBITRATION PROCEDURES

Section 1

If Management and the Union fail to resolve any grievance processed in accordance with the procedures outlined above in Sections-6, 7, 8 and g of Article XVII the subject grievance. shall, upon written request be referred to arbitration.

Section 2

However, prior to either party requesting arbitration: the parties agree to a pre-arbitration meeting in an attempt to resolve the grievance. The pre-arbitration meeting 'Will be held five (5) workdays after Management or the Union, whichever the case may be, has issued its final decision to the grieving party. Either party may by mutual consent have an advisor/counselor of its choice in attendance, at its own expense, to help facilitate possible settlement. If no settlement is reached, and the grieving party wishes to proceed to arbitration, they must notify the other party in writing five (5) workdays after the pre- arbitration meeting of the decision. Only the District Director and the Union President will have the authority to seek arbitration. Such written request must be submitted not later than ten (10) workdays from receipt of the decision at the last step of the grievance procedure used. The request will be submitted to the Federal Mediation and Conciliation Service to provide a list of seven available arbitrators.

Within five (5) workdays from the date of receipt of the list of arbitrators provided by FMCS, Management and the Union will meet to select one from the list to serve as the arbitrator. If mutual agreement is not initially reached on any one of the listed arbitrators, the parties shall each in turn strike one name from the list of seven and repeat the procedure until one name remains who will be the duly selected arbitrator.

Section 3

Management agrees to pay travel expenses for the grieving employee or, in the case of a group grievance, the designated representative for that group. The following cost of the arbitration will be shared equally by Management and the Union:

- a. cost of the arbitrator's fees and travel expenses.
- b. Transcript of hearing, if mutually requested.
- c. Facilities if a no-cost facility is not available.

Arbitration hearings will be held, if possible, at the District Office during the regularly scheduled work week and all employee representatives, employee grievants, and employee witnesses will be in a pay status without charge to annual leave for the period of participation in the arbitration proceedings.

Section 4

The arbitrator will be requested to render a decision as quickly as possible but in any event no later than thirty (30) calendar days after conclusion of the hearing unless the parties agree otherwise. Both parties will be served with copies of the decision. It is recognized and agreed that the arbitrator's decision is final and binding. Either party may file an exception to the arbitrator's award with the Federal Labor Relations Authority, in accordance with Section 7155 of the Civil Service Reform Act of 1978.

Section 5

All time limits at various stages in the arbitration procedures may be extended upon mutual agreement of the parties.

Section 6

By mutual agreement the parties shall waive the regular arbitration procedures and have any grievance arbitrated by the American Arbitration Association under their rules on expedited arbitration.

ARTICLE XIX

DURATION OF AGREEMENT AND CHANGES

Section 1

This agreement will be in effect for a period of three (3) years from the date of its final approval. Unless either party gives written notice to the other party between ninety (90) and sixty (60) days prior to the end of this period, of a desire to renegotiate all or' part of the agreement, it will automatically renew itself each year on its anniversary date. By mutual agreement the parties may modify or amend the agreement at any time.

Section 2

Unilateral notice may be given only at the end of the three-year period or on any anniversary date thereafter to modify, amend, or renegotiate this agreement. When notice is given, all proposals of the party giving notice shall be submitted within thirty (30) days thereafter. Negotiations on the proposals shall be scheduled to begin within thirty (30) days of their submission. Prior to the start of the negotiations, Union and Management will establish the ground rules for the negotiations through pre-negotiation meeting(s).

Section 3

The current agreement will remain in effect until approval of the new, modified, or amended agreement.

Section 4

Amendment of this Agreement may be required because of changes in applicable laws, Executive Orders or regulations of appropriate authorities which are made after the effective date of this Agreement. When either party becomes aware of any change of law, regulation, or policy affecting any provision of this agreement, the parties shall meet at the earliest mutually agreeable time to interpret the effect of such change and negotiate language that will meet the requirements of such law.

ARTICLE XX

REDUCTION-IN-FORCE

Section 1

Once authorization to conduct a Reduction-in-Force (RIF) is received, Management will notify the Union of the impending RIF. The Union reserves the right to negotiation on the impact and implementation of the reduction-in-force on the employees in the bargaining units. Information provided the Union will include rationale for the reduction, the number of specific positions affected, and effective date when known.

The Union will be provided a copy of the initial retention register and have access to subsequent updates upon receipt by the District.

Section 2

Management may utilize existing vacancies to the extent possible to place employees affected by the reduction-in-force. All reductions-in-force will be carried out in compliance with applicable laws and DHHS regulations in force at the time the RIF is conducted.

Section 3

Employees to be separated by reduction-in-force will be advised as to the method of contacting the Minnesota or Wisconsin Job Service regarding unemployment compensation and placement assistance.

Section 4

A career or career-conditional employee separated by reduction-in-force will be placed and retained on the reemployment priority; list under applicable laws and regulations. Such employees will be given appropriate preference for rehiring as provided by statute and regulations. It is understood that acceptance of a temporary position does not alter the employee's right to be offered permanent employment.

Section 5

Subject to the limited exceptions under appropriate OPM and DHHS regulations, an employee affected by reduction-in-force must meet the minimum qualification requirements of any position Management may offer that employee.

Section 6

Any employee affected by reduction-in-force has the right to inspect the retention register available in the District Office applicable to that employee, and the employee may elect to be accompanied by a representative. In addition, the employee may elect to have his representative inspect the applicable retention register for him\her. However¹, this representative must be designated in writing by the employee if the employee does not accompany his\her representative.

ARTICLE XXI

FLEXITIME

Section 1

The "flexitime" policy presently in use will remain in effect except as modifications are approved by appropriate authority or negotiations.

Section 2

Management and the Union agree to request approval to amend the existing plan to include additional options which are mutually agreeable.